Wednesday, 28 October 2026

(9.56 am)

THE USHER: Good morning. This is an open hearing of the Independent Inquiry into Matters Relating to Afghanistan. Please ensure that all mobile phones and other personal electronic devices are either switched off or in silent mode.

Please may I also draw your attention to the fact that the Chair of the Inquiry, the Right Honourable Lord Justice Haddon-Cave, has made a General Restriction Order for Inquiry Hearings which applies to the conduct of those who are attending and/or viewing this hearing. The relevant parts of that order are contained within the specific Restriction Order made in respect of these hears, which is displayed on the Inquiry website and on the door of this hearing room, but I will summarise its purpose.

The first part of the General Restriction Order for Inquiry Hearings prohibits any person from making an audio or video recording of Inquiry proceedings without the express permission of the Chair. Furthermore, no person may take a photograph in any room in which Inquiry proceedings are taking place and at a time the Inquiry is sitting, without the express permission of the Chair.

The second part of the General Restriction Order for Inquiry Hearings, which applies to this hearing, arises as the live stream of these Inquiry proceedings via YouTube will purposely be subject to a 10-minute delay. Where those who have supplied evidence to the Inquiry have applied to restrict information from publication outside of the Inquiry, in some instances the Chair has made Restriction Orders, the effect of which is protect that information.

The Chair has also made a Restriction Order prohibiting the use, publication or dissemination of certain information that is contained within the evidence and documents associated to these hearings. That Restriction Order is displayed on the door of the hearing room and copies are available on request. Where material is restricted, it is redacted and, where appropriate, a gist of the evidence is provided.

In the event that something is said during the course of this hearing which may breach a Restriction Order made by the Chair, the evidence may be halted and the hearing room may be cleared for closed legal submissions as to whether any Restriction Order has been breached and the live stream YouTube recording will temporarily be stopped for this period.

Counsel to the Inquiry or the Solicitor to the

Inquiry must be informed of any request to make an application for a Restriction Order. If an application is made for a Restriction Order in relation to anything that has been said or done in the Inquiry hearing room in the preceding ten minutes, anything that was said or done during that period is subject to a Restriction Order prohibiting its disclosure, repetition or duplication until the Chair has finally determined the application.

For the avoidance of doubt, where material or identities in documents shown on screen or subsequently published have been redacted, with or without an overwritten gist, the redacted material is restricted and it is a breach of the Restriction Order to disclose what is thought to have been redacted.

All of the above orders are subject to a penal notice. This means that any breach of any element of the Restriction Orders may be certified to the High Court or the Court of Session who will have the power to fine or imprison anyone found to have been in breach of the Order.

(10.00 am)

(Proceedings delayed)

(10.04 am)

SIR CHARLES HADDON-CAVE: Good morning, Mr Evans. Thank you

very much indeed for coming to give evidence to me and the Inquiry team. Thank you very much for your very detailed statement, which I read very carefully.

I couldn't say I'd read all of the three bundles of documents. This isn't in any sense a memory test. Counsel will take you to those parts of your evidence in the bundles which are particularly pertinent. We've got plenty of time and we'll take some breaks, all right?

THE WITNESS: Thank you, sir.

SIR CHARLES HADDON-CAVE: Thank you very much. Could the witness be sworn, please. Thank you.

CLIFFORD EVANS (sworn)

Questions from COUNSEL TO THE INQUIRY

SIR CHARLES HADDON-CAVE: Thank you. Mr Polnay.

MR POLNAY: Can you state your name, please?

A. Clifford Alfred Evans.

Q. Mr Evans, you've provided a witness statement to the Inquiry dated 24 July 2025; is that right?

A. That is correct, sir, yes.

Q. As well as that, you provided the Inquiry with a number of exhibits, many of which are in the three red folders that you've got in front of you.

Mr Evans, as you understand, I'm going to ask you some questions about just some of the matters that are in your witness statement and are in your exhibits but

all of the documentation that's here will be published -- will be entered into the Inquiry's record and published in due course.

A. Understood, sir.

Q. Can I ask, please, with your help, just in setting the scene with some of your experience, particularly as may be relevant to your work on Operation Northmoor. Now, I think it's right you joined the police in 1972; is that right?

A. That's correct.

Q. You retired from the police in 2012 and you obtained the rank, I think, of detective chief inspector; is that right?

A. Detective superintendent.

Q. I'm so sorry, detective superintendent?

A. Yeah.

Q. After that, you worked for around eight years, in particular as a review officer; is that right?

A. Yes.

Q. So can I just hopefully relatively briefly deal with some of the work you did in the first part of your career.

A. Sure.

Q. As you put it in your witness statement, you said for the first half of your career you were the Senior

Investigating Officer on homicide investigations. Whilst I'm sure you had a very illustrious career path, you weren't an SIO on homicide investigations right from the start, I imagine?

A. No, sir. I graduated obviously from the uniform branch eventually into the CID and obviously got promoted, detective sergeant and then detective inspector, and that's essentially the period I was an SIO on serious crime and homicide investigations.

Q. I think, as you've explained very clearly, this was with Merseyside police -- formerly, I think, Liverpool and Bootle but then Merseyside Constabulary; is that right?

A. That's correct.

Q. Some of your work, and we'll come to why this may be relevant in a bit, was on the central drug squad -- is that right --

A. Correct.

Q. -- in CID and then in the Major Crime Unit; is that right?

A. That is correct, yes.

Q. I think you were the DCI, the detective chief inspector in the Major Crime Unit?

A. I was, yes.

SIR CHARLES HADDON-CAVE: Could I ask you, Mr Evans, to keep your voice up as much as possible --

THE WITNESS: Sure.

SIR CHARLES HADDON-CAVE: -- so everybody at the back can hear clearly? All right? Thank you.

MR POLNAY: You also carried out, whilst you were still in the police, some postings abroad; is that right?

A. Yes, I was in the Caribbean, yeah.

Q. As a detective superintendent, I think, in the British Virgin Islands building capacity there for techniques; is that right?

A. Yeah, my job was also, obviously, interdiction and I was a practitioner too in that regard, you know, liaising with the US and the French and the Dutch to try to limit the amount of cocaine that was coming through the islands to the US.

Q. I think it's also right, in 2002, you were seconded to a force outside of England and Wales as a DCI, and that was to conduct a review, I think. Was that with Phil Jones?

A. It was, sir, yes.

Q. Now, that, I think, takes us to around in 2002 and, in 2002, did you join the National Crime Squad?

A. I did, yes.

Q. Later I think that became SOCA, the Serious Organised Crime Agency?

A. It did.

Q. You worked there as Branch Commander; is that right?

A. Yes.

Q. That meant you were, amongst other functions, a controller in kidnap and extortion cases?

A. Yes.

Q. Then later, when it came to SOCA, I think you were a senior grade 2 agent region manager; is that right?

A. That's correct.

Q. Without going to any of the detail you set out, I think in paragraph 5 of your witness statement -- I'm not going to ask you or anyone to turn to it because it's got a large box put over it in black so it may not be, for good reason, as informative as it might be -- but in paragraph 5 you set out, I think, whilst you were at Merseyside, some of the covert policing tactics that you had experience of; is that right?

A. Yeah, I think those covert tactical experiences started in the central drug squad. You know, we were very progressive drug squad in those days and Merseyside was noted as being, you know, very much ahead of the curve in terms of techniques. So I was fairly aware of all the available covert techniques at that point, which would have been, you know, mid-'80s to late '80s.

Q. Then I think you say in 2002, when you were with the National Crime Squad and later SOCA, you became an

authorising officer; is that right?
A. That is correct, sir, yes.
Q. That's a very specific position or role, we'll come to it later, under RIPA, the Regulation of Investigatory Powers Act?
A. That's right, sir.
Q. You retained that function, I think, under SOCA for very particular work?
A. I did, yes.
Q. So, again, without going into any of the granular detail as to any of the tactics you may have used or the detail of those, would you say you were experienced in the use of covert techniques in a policing context?
A. Very much so, yes.
Q. Thank you.
Before we turn to some particular detail, I think it's right to say that you set out that you've received commendations, numerous commendations; is that right?
A. That is correct, yes.
Q. That's for leadership, professionalism and for your ability as a detective?
A. That's correct.
Q. That's in relation to both serious crime and covert operations and investigations?
A. Indeed, sir, and also relatable to overseas and other

foreign agencies, yeah.
Q. So you've received very specific commendation for work that, on one view, may be analogous to the type of matters that you came to assist the RMP with?
A. Yes, sir.
Q. Thank you very much.
Can I deal now, please, very specifically with homicide cases. You've set out that you were the SIO in homicide cases. Was that whilst you were at Merseyside?
A. Yes, indeed.
Q. Because I think the NCA, as a general rule, wouldn't really deal with homicides.
A. No, that would have been serious and organised crime.
Q. So as you, I think, left for the NCA in 2002, does that mean your experience as an SIO in a homicide would have been before then?
A. Yes.
Q. So the last homicide you would have been SIO on would have been 2002 or a bit before?
A. That's correct, sir, yes.
Q. Thank you very much. One of the concepts we're going to be discussing is Gold, Silver, Bronze command structure.
A. Sure.
Q. Is that something you were familiar with?
A. Yes.

Q. Had you been a Gold, Silver, or Bronze Commander personally?
A. I think during my time when I was an SIO, that would have been less of -- less inclined to be Silver and Gold command. It would essentially have been within the CID structure so I would have answered to the ACC Crime, the Detective Chief Superintendent CID, as opposed to a Gold Commander as such. But I'm conversant with the positions but certainly, in my experience, I haven't been one of those.
Q. This is going back to 2002, when it was at least policing when you were there as a doer, rather than a reviewer, during that time you didn't have that position personally in that structure?
A. I would review cold case homicides. I'd also reviewed live scenarios within a certain period of it going live. So I would have been a reviewing officer too.
Q. I'll come back to review in a moment, if I may. Just on this GSB, is it fair to say it's a concept that you know and you understand but you had never been literally Gold, Silver or Bronze?
A. That is correct, yes.
Q. Thank you very much. Now, one of the things you were asked about and so you deal with in your witness statement, is PIP, professionalising investigative

practice. You set out, it's at paragraph 55, that that's not something that you recall having experience of from your days in law enforcement; is that right?
A. That is correct, yes.
Q. I think, as you say, sir, you can't provide any further comment on that?
A. Only if I look at those that PIP 1 through to PIP 4 and try to place myself -- it would have been between 3 and 4, in terms of the work I was doing.
Q. Just to fit that with a timeline because PIP is pretty prevalent now --
A. Sure.
Q. -- throughout the police, from uniformed officers who might be sort of PIP 1, if they're dealing with routine investigations --
A. Sure.
Q. -- to PIP 4, which is the most complicated incident. I think PIP came in in 2003, if we look at it. So if you left the Home Office police force in 2002, that might explain it.
A. Yes.
Q. So at the risk of stating the obvious, not suggesting that homicide investigations and investigations became invented when PIP came into play --
A. Sure.

Q. -- but it means you wouldn't have received at least the very specific training and structure that's now in place under those accreditations and qualifications?
A. No, but I would have certainly have carried the function of PIP 3/PIP 4, in relation to the work I was doing, both for Merseyside and obviously elsewhere.
Q. The final thing I want to ask you about on your background is relating to review experience. So when you came to Operation Northmoor, this part of the IRT, the Independent Review Team, had you had experience of reviewing the work of others in the context of homicide investigations?
A. Yes, sir.
Q. Could you just set out in a few sentences what that experience was and when it was?
A. Well, review became obviously a covert, a policy, that would -- that should be kind of conducted within a certain timeframe, and that varied from force to force -- in my force, it would have been within the first week or so -- and that was really to ensure that the infrastructure was in place, the resourcing was in place and indeed the main lines of inquiry were actually correct at that particular point in time.
So it was about appraising the SIO in terms of the good practice that we'd seen so far and also perhaps

some of the learning issues that could be developed from that point onwards.
Q. So in terms of timescale, and I'm asking at the moment just in relation to your experience of reviewing homicide investigations, would that have been before you joined the NCA and then SOCA?
A. Yes, it would. But I would also have been a reviewing officer within those squads in terms of equally complex scenarios.
Q. I was going to come to that in a moment. Just so we can date it: review experience for homicide, yes, 2002 going back a few years, as you were a senior officer?
A. Yes.
Q. Then, whilst you were at NCS and SOCA, or NCA, you would be involved in review work but it would be NCA -- review of NCA work; is that fair?
A. It would be, yes.
Q. So that would be, for example, in relation to kidnaps and organised crime?
A. Yeah, witness protection, anything like that.
Q. Thank you very much.
SIR CHARLES HADDON-CAVE: Can I ask: you said, I think just now, that in your force the review would be in the first week?
A. I mean, it varies. It depends upon, I think, the nature

of the homicide, and elements of concern, perhaps. So that kind of review period would change, depending on the nature of the ingredients of the offence.
MR POLNAY: Can I ask you, Mr Evans, if it's not too much bother, would you mind just moving forward just a little bit, if it's not too much comfortable, just so you're a little bit closer to the microphone.
THE WITNESS: Sure.
SIR CHARLES HADDON-CAVE: Somebody move both mics a bit forward, please. Thank you.
MR POLNAY: I don't think there's any issue with hearing you in this room it's just that these proceedings, as you know, are being live streamed as well.
As we're going to hear, you joined the Independent Review Team of Operation Northmoor. Before we dive into the detail, I just want to take you to two places where you express your conclusions and ask, if I may, for your reflections on those.
A. Okay, sir.
Q. This is the first time we're going to go to the bundles and, if you wouldn't mind turning to bundle 1, tab 6. I'm going to use these bundles with lots of different paginations. I'm going to always use, unless I say otherwise, the numbering at the bottom. So if you go to tab 6, if I could ask you to turn to page 6 of that. So

that's the document that should say, "Evans 6-6", right at the very bottom of the last page.
Again, if you'd rather not, as I explained, it's also put up on the screen in front of you.
A. Thank you.
Q. So what this is: this is the last page of the last report that the IRT did and we can see your name at the bottom of it. So this is dated 12 April 2019.
A. Okay.
Q. We can see there your conclusion, where the IRT -- and the IRT is -- that's you and Mr Jones, isn't it?
A. That's correct.
Q. "... continue to be impressed with the positive, tenacious and professional outgoing approach by the SIO and his investigation team. They continue to be open and realistic about the investigation and always adopt a thorough and comprehensive approach to all arising tasks. The IRT are of the opinion that Operation Northmoor should now consider all aspects in connection with a suitable exit strategy."
Then there's this last sentence:
"The IRT believe that the enquiries and extensive work carried out today has been robust, thorough and will be able to stand scrutiny from any third party."
Now, if you've got your witness statement.

A. Sure.
Q. It's right, actually, at the very end, paragraph 171. You give there, in response to a question asked by the Inquiry, your conclusion. You say:

"Ultimately, however, I can say I considered that Op Northmoor was properly conducted, comprehensive and effective."

You set out two unsatisfactory elements, which we will come back to later, which relate to parts of your advice that weren't followed. I'm not ignoring that but just taking that headline comment from you, "properly conducted, comprehensive, and effective".

Now, since you wrote that report in 2019, since you wrote that witness statement, you've had further documents disclosed to you, you've had a chance to look at. You've also, I'm sure, had more time to reflect.
A. Sure.
Q. Does that conclusion -- do you stand by that?
A. That was the conclusion at that point in time, of course, at the end of our review period. But, of course, as you said, I've now reflected on other elements of those statements which -- and of course made myself aware of other issues that, obviously, Captain Wright was considering. I perhaps wouldn't say it was properly conducted or comprehensive and effective.

Q. So, whilst you say in your statement "properly conducted, comprehensive and effective", on reflection, your review is not properly conducted, not comprehensive and not effective?
A. Yeah. The work that we set out within the review documents and the recommendations, so that was properly conducted and it was comprehensive and effective. But, of course, the operation prior to that, I couldn't say was properly conducted, comprehensive and effective.
Q. Just to be clear what I'm asking you about, Mr Evans, I'm not asking you about your work. The question is about your view now, as an experienced officer, having looked at all of it and reflected on Operation Northmoor as a whole?
A. Yes.
Q. Again, I don't want to misunderstand what you're saying. Is your view now, overall: it wasn't any of those three things?
A. That's correct.
Q. Right. Well, with your help, over the course of today, I want to go through some of those matters with you that may relate to those topics and perhaps, at the end, we'll come back to what it is that's caused you to change your opinion about the effectiveness, the comprehensiveness and the conduction, if that's a word,

of it?
A. Yeah, sure.
Q. So can I deal, first of all now, please, what the purpose is, at least in general terms, of a review. Now, as with everything in policing, there's a policy for it. Can I ask you, please, to turn up tab 15. Tab 15: again, feel free to look at it on the screen. It's an extract from the Murder Investigation Manual. Now, this is the Murder Investigation Manual; is that a document that you're familiar with?
A. It is. I'm familiar with it but, of course, that's another kind of advent that didn't exist potentially when I was an SIO, dealing with homicide.
Q. I appreciate that and what we've got here is the version that was in force when you were looking into Op Northmoor.
A. Okay.
Q. Not one out there before. Again, I don't think anyone is saying this is a rulebook but I think you'd agree it's a useful guide, isn't it, as to best practice?
A. Yes, it is.
Q. So if we have a look here at 4.2, we can see the objective of a review:

"... to constructively evaluate the conduct of an investigation to ensure:

"It conforms to nationally approved standards;
"It is thorough;
"... conducted with integrity and objectivity;
"... no investigative opportunities have been overlooked;
"[And] good practice has been identified."

Do you agree with that, at least as a general statement of what a review should be doing in a homicide case?
A. Well, the Home Office police forces, yes.
Q. The paragraph below sets out:

"... the fundamental need for the review to be carried out in the spirit of cooperation between the reviewing officer and SIO. The review should always be [seen] by the SIO as being of assistance and support to the investigation and should never be seen as a threat."

A. Absolutely, yeah.
Q. Now, we're dealing with the RMP, here --
A. Yes.
Q. -- not a Home Office police force. Do both of those paragraphs apply equally to a Home Office -- sorry, to a military force as a Home Office force?
A. Certainly the highlighted paragraph set against this objective is the fundamental need for the review, I think, is absolutely correct. Perhaps there should

have been more reviews, in my opinion. But, yes.
Q. Could you just set out -- sorry, the paragraph below says:
"Reviews should be considered for both undetected and detected crimes."
Can you just explain, please, what's the difference between an undetected and a detected crime?
A. Well, a detected crime obviously is -- it's essentially about best practice and learning from how we got to the point of detection because that's the purpose of the review: to help the SIO detect the crime.
"Undetected" would refer to cold cases that still stood without somebody being charged with a criminal offence for that particular homicide. So those reviews would be carried out periodically. In the case of undetected, the file could stand until such time that new evidence then came to light. But a detected crime, it's essentially about withdrawing from that experience and obviously highlighted best practice.
Q. So in terms of Operation Northmoor, in your evidence, was that detected or undetected?
A. Very much undetected.
Q. Thank you. Could I ask you to turn to tab 16, page 2. This part of the Murder Manual relating to you. If you go right to the top of 16-2, it says:

"If one of the principal objectives of the review is to support and assist the SIO, the reviewing officer should have a career profile which includes recent and relative investigative experience."
As a statement, as a principle, do you agree with that?
A. I do, yes.
Q. In your view, did you have recent and relative -- sorry, recent and relevant investigative experience when you did this?
A. Well, depends what you mean by "recent" but it would have been. I'd been retired four years before I actually came to the IRT on Operation Northmoor. So I would have been reviewing, essentially, covert techniques at that stage.
Q. I know this is guidance, it's not the law or anything like that --
A. Sure.
Q. -- but when it says "recent and relevant investigative experience", I think one of the things you said is you'd last been an SIO yourself on a homicide in 2002, so a good 14 years before that?
A. Yes.
Q. Is that fair?
A. That is fair, yes.

Q. I just want to draw to your attention, to give you an opportunity to consider it and comment on it, if you want: Mr Cox, Major Cox, was the Silver?
A. Yes.
Q. He's provided a witness statement to the Inquiry. You can turn it up if you want but there's only one passage I want to read out to you. It's at tab 52, page 13. I'll just read it out so you can understand what he says. He's asked about the IRT and he says -- it's at letter (e) you can see on the screen -- he said that he:
"... felt that they lacked the understanding of operational murder investigations and how the RMP investigate."
That's two different parts. We'll come on to military experience later but, in terms of operational murder investigations, would you think that's a fair comment by Major Cox or would you disagree?
A. I think the -- certainly in terms of how the RMP investigate, that would be appropriate in that regard but certainly not operational murder investigations *per se*.
Q. Captain Wright, in his witness statement, and it's tab 53, page 47, paragraph 167 -- and, again, I think it'll come up on the screen in a minute -- and he's asked about your review. In fairness, I think he refers

to Mr Phil O'Connor and Mr Cliff Harrison.
A. Yes.
Q. I think we can take that and see what Captain Wright has to say about it in due course but I think that's a reference to you and Mr Phil Jones.
A. That is, yes.
Q. He states at the bottom that he was:
"... unsure of the competency and currency of the two IRT members for the purposes of such an important review."
Now, obviously, you were employed to do your job and no one's suggesting anyone was -- you were doing anything other than to the very best of your ability. But reflecting on matters, do you think you might have been hampered that your experience of homicide investigations was 14 or 15 years out of date by the time you started this?
A. Certainly not. The fundamentals of any complex investigation are pretty much the same. We're actually talking about homicide here but it could be anything. So -- and if Major Cox was actually unsure, then of course he could have asked. He could have asked me or Phil Jones, or indeed Jon Murphy, who was obviously the Chief Constable of Merseyside at one stage, and he was responsible for Phil and I actually becoming the IRT.

So I wasn't aware of that, sir, apart from having kind of read Major Cox's statement these last few days, I certainly wasn't made aware that either he or indeed anybody else was unsure about our competencies or credibility.

Q. I'm just taking you back now to the manual at 16-2 --

A. Yeah, sure.

Q. -- which is where I think we started.

A. Yeah.

Q. You would say your career profile did include both recent and relevant investigative experience?

A. Absolutely.

Q. Thank you very much. Can I just now turn please to your introduction to Operation Northmoor.

Now, just to try to unravel how it is that you came to do this job and I think we start at -- it's in your witness statement at paragraph 19, if that helps. Now, you mentioned in around 2002, you'd worked with Phil Jones on an inquiry -- is that right --

A. That is correct, yes.

Q. -- onto an investigation and, as I understood it, as you've set out, Phil Jones got in touch with you; is that right?

A. That's correct.

Q. He said that the RMP were looking for individuals to

help; is that right?

A. That's correct.

Q. And he was putting your name up for it?

A. Yes, because Phil and I had worked together previously and he knew that I had all the relevant experience, both as an investigator, an experienced and seasoned investigator on very complex matters and sensitive matters, and also as an authorised officer in terms of covert techniques.

Q. Now, you worked with Phil in 2002. This is 14 years on.

A. Yes.

Q. Had you worked with him in the intervening period?

A. Yes, we were together in the National Crime Squad.

Q. So it's not just the 2002 work?

A. No.

Q. Right. Was he a friend?

A. Of course, he's been a long-time friend.

Q. Thank you. Now, in terms of how Phil Jones became involved with it, was he recommended by Sir Jon Murphy?

A. I'm assuming so, sir. I had no idea in terms of how the initial introductions were made and who did what but I'm assuming that to be the case.

Q. Now, in terms of Sir Jon Murphy, did you know him before this?

A. Absolutely. In fact, I was his sergeant at one stage

back in Merseyside.

Q. You were his sergeant?

A. Yes, indeed.

Q. All right. So in terms of Operation Northmoor, what sort of contact did you have with Sir Jon Murphy?

A. None whatsoever.

Q. None?

A. None.

Q. Did you ever speak to him?

A. Not during the time I was with the IRT.

Q. Okay, not an email, not a call?

A. No.

Q. Nothing?

A. In fact I learnt just recently, having read part of his statement, serious things that I wasn't privy to beforehand. So I presume we will talk about those later on.

Q. Sure. Obviously, you know who he is?

A. Of course.

Q. But there's no line of communication between the two of you?

A. No.

Q. Understood. Now, in terms of what you were told by Phil Jones, can you just sort of take us back, doing the best you can, what you get a phone call from Phil?

A. Yeah, there was a phone call and then we met, had a cup of coffee and we discussed what Phil knew at that stage, which wasn't very much.

Q. Can you tell us, what were you -- from your recollection, what were you told the job was?

A. It was to obviously conduct a review with him in relation to Northmoor, that it was an RMP investigation in relation to alleged unlawful killings in Afghanistan.

Q. Were you told anything about why they wanted a review?

A. I was aware, of course, that Jon Murphy had been approached to mentor the Brigadier and that he suggested, as I would have done as a senior officer, that that should be reviewed at that stage before he considered giving advice to the IAG.

Q. In terms of how the investigation was going, what were you told, if anything, about that?

A. Nothing, really. I mean, there was obviously the allegation of unlawful killing but, of course, that was very, very sensitive. So we didn't know very much of that at all, and then there's the systemic abuse scenario --

Q. Yeah.

A. -- which we obviously had more information about in the very early stages.

Q. Now, one of the things you set out at paragraph 21 of

your witness statement is that you understood from Phil -- and that's Phil Jones -- that Lieutenant Colonel Harvey -- and he was the Gold Commander, as we're going to hear --

A. Yes.

Q. -- had flagged the potentially covert status of the investigation. "Phil knew I had a lot of experience in leading undercover ops", so it sounds like that's why your name, in particular, was put up.

A. And, of course, the business that we spoke about before, in terms of other parallel and similar investigations, where my expertise was very relevant in that regard.

Q. So noting that you've got the very relevant experience for that, does that mean you were made aware of a covert issue before you signed on?

A. I'm not quite sure that that was a -- if you like, an ingredient because -- I think we'll probably discuss it later on -- I became obviously quite surprised, in some regards, that that was the avenue that we were actually going down.

Q. I suppose what I'm asking is a homicide investigation, you know, may have all sorts of lines of inquiry and things that can be done or used, including, of course, covert techniques.

A. Sure.

Q. But I'm wondering whether you know whether we should read anything in to the fact of all of the specialisms, if you like, that someone could be recruited for, it sounds like there was a desire to recruit someone with covert specialism?

A. Yeah, I mean, it just so happened, sir, that, you know, I've had a very varied and challenging career. I had the expertise in all aspects of complex investigation.

Q. Absolutely. At the top of the -- and, in fact, it's on the screen at the minute and this is, in fairness, what you're saying Phil Jones has said:

"He put me forward as his partner on the IRT so I could ... advise on the lawfulness and, if needed, the surveillance techniques of a covert investigation."

Is that right?

A. If appropriate, absolutely, yes.

Q. Absolutely. Again, I don't want to read things into things that aren't there --

A. Sure.

Q. -- but is it fair to get from this, right at the start, not your decision, obviously, someone's -- it's been -- someone has thought: we need someone with covert experience because covert is a particular issue?

A. Yes.

Q. So going into this, not saying there's anything remotely

wrong about it, someone somewhere had flagged "It's the covert we want to look at"?

A. Yes.

Q. When we look at the wording of the statement -- and I really don't want to read things in to meanings that aren't there -- when it says, "advise on the lawfulness and, if needed, the techniques" --

A. Yes.

Q. -- did you understand there was a question mark approaching this as to whether or not any covert techniques were lawful?

A. No.

Q. So I'll come to the end of this section. When you were recruited with the experience you had, did you receive or have any steer from anyone as to whether any covert techniques were a good idea, a medium idea or a bad idea?

A. Only from the SIO himself, Captain Wright.

Q. We'll come on to that and that's obviously once you started?

A. Sure.

Q. Fine. Now, in terms of what you did, can we just look at your terms of reference, sort of, such as they were. At paragraph 23, you say, "I do not recall a document referred to" -- sorry, paragraph 22, my mistake:

"I do not recall a document referred to as 'Terms of Reference' [specifically detailing the scope of our role]."

Is that right?

A. That's correct, yes.

Q. Again, perhaps on reflection, might it have been an idea to ask for such a document or are you not --

A. I think it would have been a really good idea for Phil and I to be part of those terms of reference but we weren't.

Q. Because there's a number of parts, isn't there? First of all, it's being a part to say, "Look, here's what we can do, here's what we can't do" --

A. Yes.

Q. -- "so here's what we suggest should be in here"?

A. Yes.

Q. Then there's also quite the important part, isn't there: once you've got this written document, you know what your job is?

A. Absolutely, and indeed I think there is a reflection, sir, on each of the IRT reports that we did over our three years as the IRT, which sets out, if you like, the main ingredients of the TORs in relation to our responses and recommendations --

Q. We will come to some of the TORs because it's not that

there's no understanding of it. I suppose the point I'm asking for your reflection on is: well, if you've got a document saying, "Here's what we need to do", it's then very clear, isn't it, what's your job and what's not your job?

A. Absolutely.

Q. It reduces, doesn't it, the scope for either doing something that maybe no one wants you to do, so you're stepping over the line, or not doing something that you're expected?

A. In principle, yes, I suppose. But, of course, there's always exceptions.

Q. Now, in terms of this TOR -- we'll look at a TOR document in a minute -- at paragraph 26, you make clear you weren't engaged to provide ongoing support. Instead, you'd been commissioned to provide an independent review of Op Northmoor in light of its terms of reference on an *ad hoc* basis.

A. Yes.

Q. That's a fairly straightforward review of the sort of type you'd done before?

A. Yes.

Q. It then goes on to say, in your witness statement, this was December 2016 and '17, and then you said three more times "to provide assurance" --

A. Yes.

Q. -- "and further advice"?

A. Yes.

Q. Now, in terms of assurance, what do you mean?

A. Assurance in terms of whether the investigation was actually heading in the right direction and that the lines of inquiry were appropriate to the information at the time or the intelligence at the time. So the test, really, in terms of where this investigation was at this particular time, and indeed the recommendations that we set out in the reports.

Q. You said a few things there. Can I just ask for your help, please, in --

A. Sure.

Q. -- breaking them down? So we've got the review.

A. Yes.

Q. We'll come to that, it's what's going on. We've seen the Murder Manual, which has some general principles?

A. Yes.

Q. So then assuring -- you're seen whether it's heading in the right direction?

A. Yes.

Q. You're seeing whether your recommendations have been complied with?

A. Yes.

Q. Put into effect. I mean, that's not a typical sort of review piece of work, is it?

A. No, it's not. We were there, essentially, to assist Captain Wright in terms of investigating this matter to see if it was a criminal conduct case or a non-criminal conduct case.

Q. But in going back to look at whether your recommendations had been put into effect, because I think, if I may say, that's what it looks like was happening later on --

A. Yes.

Q. -- might that be turning your role a bit more sort of to that of an inspection?

A. No, I think, at that point in time, when we started to comply the IRT reports, particularly the second report, in January '17, it was quite apparent then that this investigation had stalled seriously because it was heading in a completely wrong direction.

Q. We'll come to that in a minute.

A. Of course.

Q. Just to confirm, if you wouldn't mind, please, having a look at tab 22, page 3. So this is headed "Operation Northmoor, IRT, version 2.0, November 2016". We don't need to have a look at the email and at page 22-4 we can see it's got a big "Draft" across it.

A. Yes.

Q. That's the version that we've been provided by the RMP. It's not to say there may not be some other version that's lurking around somewhere. If you turn over, just to page 22-5, just to be clear, is this a document that you were ever shown?

A. I can't remember seeing that document, sir, no.

Q. You've never seen that before?

A. No, I can't remember seeing it.

Q. You can't remember seeing it?

A. Yes.

Q. All right. I'm going to show you one particular part I'd ask for your views on, and it may be you're not able to assist but, if you have a look at page 22-6, right at the bottom, it's got the deliverable.

A. Yes.

Q. "The IRT must submit a written report by 22 December 2016. This report will inform, advise and aim to assure that Operation Northmoor will be fit for purpose and achieve the desired outcome in the future."

Were you aware told what the "desired outcome" was?

A. No, but it became apparent what the desired outcome had been, I suppose, directed at the time.

Q. What was the desired outcome at the time, as you understood it, from the RMP?

A. The desired outcome was to investigate, if you like, a category A+ murder Inquiry, which obviously I did not agree with.
Q. Right. So when you started in the IRT, you knew that there were other external advisers?
A. Yes, indeed.
Q. Now, there was Detective Superintendent Paul Williamson?
A. That's correct.
Q. Did you actually know Detective Superintendent Williamson?
A. No, I didn't.
Q. Because we know he was -- or worked for the NCA?
A. Yes, sure.
Q. You'd worked for the predecessor to the NCA, so --
A. Sure.
Q. -- sort of came from, to an extent, the same sort of world?
A. Yeah. I didn't know Paul at all.
Q. Then we had -- and I don't want to get his rank wrong -- Mr Bottomley?
A. Yes.
Q. A senior officer from the GMP --
A. Yes.
Q. -- who led the GMP Review Team?
A. Yes.

Q. Did you know him?
A. I didn't.
Q. You did know him?
A. I didn't.
Q. Oh, you didn't know him either? Right. So senior officers, on the face of it from, I'm sure you'd agree, relevant positions in investigations?
A. Yeah, but I think my world had actually gone in a different direction. So I'd left the police force in 2001 and never returned.
Q. Now, at paragraph 28 of your witness statement, you say you didn't have any meetings with Mr Williamson or Mr Bottomley to discuss their reports, as you didn't deem it necessary --
A. Yes.
Q. -- given our review of the reports.
A. Yes.
Q. Looking back on it, do you think that was the correct course of action?
A. I do, sir, yes.
Q. Do you think, by not speaking to them, you ran the risk of missing opportunities or to gain a better understanding of the investigation?
A. No, sir. I think it would be fair to say that, at that particular time, I was actually looking at the systemic

issues that was going on with Team 2, and Phil had actually interrogated their respective reports, so the MERT report and also Paul Williamson's report.

We did have a discussion and I scanned those documents but didn't read them to the extent that Phil did and made certain notes. We actually both felt that we had the completely open mind here, which was not -- which wasn't our -- which -- it's something that we actually reflected on. We didn't think that there was an open-mindedness to this investigation when we joined it. We felt that Paul Williamson's document was very strategic. It was very much aligned to, if you like, the Gold Commander. There was very little in his document that I would suggest was tactical, which would have been helpful to the SIO.

Q. Now, I'll come, if I may, to some of the criticisms which you raise.
A. Yes.
Q. Now, putting to one side for a minute, nothing at all wrong with looking at someone else's work and saying, "I don't agree" --
A. Sure.
Q. -- or "I'd go about it in this way" or "What about that"?
A. Sure.

Q. But they'd both been working for a number of years on this investigation; do you agree?
A. I do, yes.
Q. There were some difficult issues to canvas; is that right?
A. Sure.
Q. I'll give one example: whether to declare a linked series. That is always going to be quite fact heavy, lots of things to take into account?
A. I think there were so many things there that Phil Jones and I disagreed with that I suppose in normal circumstances we would have liaised with both agencies to see if there was any learning issues or, indeed, if there was any continuity factors that we felt would be helpful.
Q. Just thinking about that, doesn't that make it -- because you disagree, wouldn't it make it all the more important to speak to them?
A. No. We wanted to retain that very open mind and, again, we actually felt, at that stage, that that wasn't the case here.
SIR CHARLES HADDON-CAVE: Sorry, I don't quite follow that. You say you disagreed with what you'd seen already.
A. I wouldn't say we disagreed, sir. We kind of felt that GMP MERT kind of -- their perspective was very much upon

the structure and resourcing and getting things in place for a murder inquiry. Paul Williamson was there as a mentor and an adviser from the NCA.

SIR CHARLES HADDON-CAVE: Sorry, you said "There were so many things we disagreed with ..."

A. Yes, subsequently.

SIR CHARLES HADDON-CAVE: "... we wanted to keep an open mind"? I don't quite understand how you had an open mind, if you disagreed already.

A. Well, we didn't disagree already. It's just that we actually felt that we want to -- we wanted to approach this with very much an open mind because we actually did fundamentally disagree with the contents of Paul Williamson's statement, in relation to the lack of mentoring that he gave to the SIO, in terms of basic fundamentals in terms of murder investigation, if indeed it was a murder investigation.

MR POLNAY: Could I --

SIR CHARLES HADDON-CAVE: Sorry.

MR POLNAY: -- pick up with this in your witness statement in paragraph 74 because this is there you deal with this point. You say you recall you had reservations concerning Detective Williamson's reports?

A. Yes.

Q. You recall being concerned and disappointed. First, you

thought they were too strategic and, second, you disagreed with his advice about covert investigation?

A. Yes.

Q. Now, you're coming to this with an open mind, as you've said?

A. Yes.

Q. Quite right, if I may say so.

A. Yes.

Q. So surely you want to take on all views?

A. Yes.

Q. You've got someone here who is a detective superintendent. So, again, on the face of it, he's got experience like you've got. Did you not want to test your view against his, to see: well, hold on a second, he's been doing this for a couple of years, is there something I've missed?

A. No, not really. As I say, perhaps normally that would be the case but he was suggesting -- he was giving advice to Captain Wright, which I felt was materially incorrect at that particular time.

Q. So, Mr Evans, can I say, no challenge from me as to that's your view --

A. Yes.

Q. -- but why doesn't that mean you shouldn't speak to him, just because you disagree? Doesn't that make it all the

more important to speak to him, to understand the basis for his contrary view because, you never know, he may be right, you may be wrong, could be the other way or somewhere in between. Why wouldn't you want to gain the benefit of his experience?

A. I don't think this was a blurring of advice, sir. This was a kind of diametrically opposed advice, which clearly I was uncomfortable with. I didn't think there was any point in actually speaking to him about that because that's the advice he's already given. I don't know what the basis of that advice was for.

Q. Might it be said that doesn't demonstrate an open mind on your part?

A. I would prefer to actually look at what we had at that time, as the IRT, and make our minds up, in terms of what was good, bad and indifferent, and, in particular, the direction the investigation was going was on a trajectory of Mission Impossible, basically.

Q. I'm sorry, I'm going to ask this one more time in a different way and then I'll move on.

A. Sure.

Q. Entirely appreciating that but, whether or not you completely disagree, wouldn't it have been really important to at least speak to him, as he'd been doing this for a few years?

A. I kind of remain on the opinion that we actually forged at that particular time: that no useful purpose would have been achieved.

Q. All right. Now, Mr Williamson in his witness statement -- I'm just drawing it to your attention so you know --

A. Sure.

Q. -- he states -- and I'll just ask that it's pulled up on the screen to save going around just for one passage. It's at tab 54 of the bundle, page 164 -- so I think paragraph 164. It's 54-40. He says:

"I was not approached or engaged by the IRT during their review of Op Northmoor. Then as now, I considered this to be unprofessional."

A. Yes.

Q. I take it you disagree?

A. I do.

Q. So far as Captain Wright is concerned, and this is at tab 53 of the bundle, page 53-94, at paragraph 334. Then this is at the bottom of that. He says:

"I was also aware that the subsequent IRT review did not engage with the NCA or GMP MERT, which I thought was an error, given that both agencies had been closely supporting Op Northmoor ..."

Again, it follows, you would say that's -- you don't

agree?
A. I don't agree, no.
Q. Finally, it's at 53-48. This is another part of Captain Wright's statement and it's in the middle of 53-48, please, in the middle of the paragraph there. It's the sentence that starts:
"I felt a sense of organisational embarrassment as I am aware that the IRT did not engage in any meaningful way with the NCA or GMP MERT, to my knowledge. This had a perception of somewhat of an adversarial approach. By not engaging with the national experts who had been supporting Op Northmoor from its inception, [it] felt wrong to me."
Again, you would say it was, in fact, the right approach?
A. That's what Phil Jones and I agreed: that it was the right approach. And, certainly, Captain Wright never brought that to our attention.
Q. Thank you very much. Now, so far as the IAG is concerned, what did you understand their role to be?
A. Their role was obviously to advise the Brigadier in terms of the approaches and, of course, the direction of the Inquiry and whether it was actually heading in the appropriate direction, depending on the lines of inquiry.

Q. Right. Now, in terms of your role, I think, as you make very clear in your witness statement, your role, as you understood it, was to review --
A. Yes.
Q. -- and to advise; is that right?
A. That's correct.
Q. Now, you're aware that there's been suggestions made that the IRT, in fact, came to be directing matters?
A. I am, sir, yes.
Q. What's your view in relation to that?
A. I think, sir, you've only got to look at the -- we actually did -- we completed five reports during those three years. Between the first and second report, I think there's about 50-something days, and that was because the first report was all about the systemic issue.
Q. Yes.
A. The main focus of our review was clearly on Team 1 investigation, which obviously was very much around the second report we did in January. You'll notice that the time intervals between the first report and the second report is relatively short, 50-odd days, but the subsequent report from that went on between 200 and 300 days. I don't think that -- that, to me, doesn't sound indicative of Phil and I controlling this particular

investigation.
Q. One of the things that Major Cox said in his witness statement -- and I think you may have already answered the question I'm about to ask you, but I want to draw your attention to this. It's at 52-47, where Major Cox says:
"It was commonplace that the Provost Marshal (Army), Brigadier Neal, would direct that we had to wait for IRT review and recommendations before we could proceed and PM(A) would inevitably accept the recommendations and then make them directions to us. There was no room for the SIOs to challenge this direction in a way that one would usually expect in other investigations."
First of all, do you accept Major Cox's characterisation or is that something you're simply not in a position to comment on?
A. No, I don't accept it, in as much as Phil and I were very open with Operation Northmoor and, in particular, the senior officers, who were conducting the roles of SIO and Deputy SIO, and the Silver and Gold Commander. You know, they had access to us whenever they wanted to and we relied totally on them for the information that we actually gave. So I wasn't interrogating a major incident room or the HOLMES. We were actually provided with briefings and then we were provided with the

appropriate kind of documents that -- from which those briefings emanated.
So it was a very -- you know, it was a very kind of facilitative review, as it should be. It was conducted with a view to being absolutely fair to the SIO and his team, in terms of what they were achieving or not achieving, and it did -- the issue around -- perhaps they felt that it had been taken away from the SIO. You know, I can't speak for the Brigadier here but I was surprised as any when I learned that the Brigadier had actually said, "You must follow the recommendations of the IRT".
Q. Now, what Major Cox has set out in that witness statement, was that a view that was expressed to you at the time?
A. No, it wasn't.
Q. Now, when you were conducting the review, would it be fair to say there was quite a steep experience gradient between your experience -- years in a Home Office police force and then in the NCA -- and Mr Jones, who's got similar, very lengthy and extensive experience, and that of the investigators, and maybe even that of the PM(A)? Was that something you were aware of?
A. No. In what way?
Q. Well, I'm just putting it in this way: you produced your

recommendation with all of your experience behind it.
A. Sure.
Q. You've got so much more experience, on one view, than any of the RMP investigators --
A. Sure.
Q. -- than the Provost Marshal (Army) --
A. Sure.
Q. -- and like your reviews back at Merseyside, and as the Murder Manual says, where it's a peer review, effectively --
A. Yes.
Q. -- it's your colleagues?
A. Yes.
Q. You may be a bit more experienced but it's peer. This wasn't a peer ream; do you see what I mean?
A. I do. I suppose the dynamic was changed very much by -- I could say that I wasn't surprised that our recommendations were followed because they were the only recommendations that we could make in the absence of a dearth of information and intelligence on this particular operation.
Q. Can I say, I'm not challenging any of your suggestions at this point. I'm just asking, I suppose, on your reflections for the potential consequences, that this wasn't a peer review and so what you said was very

likely to be followed and the consequences of that --
A. That's fair, yes.
Q. -- in terms of maybe disempowering some of the SIO and others?
A. No, I wouldn't agree with that. We weren't there to disempower anybody. I think, regrettably, I suppose, the Brigadier in this case -- I know this from having kind of read all the documents that have been available to me -- made that very early decision which clearly sidelined the Captain as the SIO. He actually didn't feel that he had -- if you like, he was empowered to make decisions because the IRT now, in the form of Phil and I, were making those decisions and that's how it appeared. But that wasn't the case at all. Captain Wright had unfettered access to us and there was never any complaint to Phil or myself that we were actually directing the operation.

A lot of this was going on, unbeknownst to us.
Q. That's really where I was coming to, I suppose. So when we look at -- my phrase, the experience gradient, would it be reasonable that, whilst you think, well, I'm providing advice, maybe with hindsight it's not all that surprising that your advice was always going to be accepted and would effectively become a direction, even if that wasn't your intention --

A. Yeah, I think --
Q. -- or your plan?
A. No, I think that's fair, sir, because there was a clear vacuum that had been created in the investigation and, in fact, the recommendations were very basic because it was very lacking in that regard.
Q. Really, I'm doing this just for completeness, just to refer to Alan Pughsley's evidence that he's already given in relation to this. This is at 59-46. Again he refers to, at paragraph 220, that the PM(A) and Gold were directing much of the activity to be carried out by Captain Wright --
A. Yes.
Q. -- including a pause. Then over at paragraph 222, that, in his view, the roles and responsibilities of PM(A) and Gold and the SIO, that there came a time when they appeared to blur. Do you agree that that took place?
A. It wasn't evident at the time.
Q. Yes.
A. But, certainly, since reading the scope of some of the statements that have been available to me, yes, I would agree with that.
Q. Thank you very much.

The next topic I want to ask you about is when is something a crime. So I think, as you've at least

alluded to in your evidence so far, it was your view, or at least your view at some point that there was no evidence of a crime being committed.
A. Yes.
Q. Now, in terms of police investigations, there's, of course, almost an infinite number of circumstances you can look at, there are occasions where it's pretty obvious a crime has been committed --
A. Yes.
Q. -- and the role of the police is to literally find out who done it?
A. Absolutely.
Q. Bank robbery: it's not very hard to work out a crime has been committed?
A. Yes.
Q. It's just detecting it, isn't it, and finding the offenders?
A. Yes.
Q. However, there are times, aren't there, where the whole police investigation is geared up to find out whether there is an offence at all?
A. Indeed.
Q. Would you agree?
A. Yes.
Q. That's an equally valid sort of investigation; would you

agree?
A. I would, if -- and there has to be justification for that gearing up. So that's providing, of course, that there was reasonable suspicion that there was information and intelligence that would support that fact, that a potential offences has been committed.
Q. Can I just run through a number of matters --
A. Yes.
Q. -- they're not Operation Northmoor ones, and just see if it sort of helps, again from your policing experience: a missing person.
A. Yes.
Q. So if someone rings up the police and says someone's disappeared. Now, that may or may not be a police matter, but you may need to look into that --
A. Yes.
Q. -- to carry out an investigation with an open mind --
A. Yes.
Q. -- as to whether or not an offence has been committed?
A. Yes.
Q. Whether there's a risk to that person?
A. Yes.
Q. It could be they may have just decided to go away without speaking to their family; they may have been murdered.

A. Yes.
Q. But, until you look into it, you're not going to know, are you?
A. Exactly.
Q. A sudden, unexplained death of an infant?
A. Yes.
Q. That may be an absolute -- tragic natural causes --
A. *(The witness nodded)*
Q. -- it may be murder --
A. Yes.
Q. -- and those cases can sometimes be very, very difficult to ascertain whether, in fact, there is any crime being committed at all?
A. Yes, and I've certainly been an SIO in that regard.
Q. So again, you need to approach that with an open mind?
A. Yes.
Q. Sometimes there are allegations -- well, I'll call it a no-body crime scene. You may believe there has been a killing but you haven't even got a body?
A. Yes.
Q. Fatal fire: is it an accident; is it arson?
A. Yes.
Q. A drug-related death or what appears to be a drug-related death?
A. Yes.

Q. Again, all of these have to be looked at, would you agree, before you can say one way or another?
A. Yes.
Q. Can I just give one final type of example, acknowledging the limitations of this example and the references to it. In the United Kingdom, where police shoot someone dead, there will be an extensive investigation?
A. Yes.
Q. In the UK.
A. Yes.
Q. Yeah?
A. Yes.
Q. Now, the investigation, which is likely to involve many people, many different experts, is going to be extensive, isn't it?
A. Yes.
Q. And it may well result in a conclusion that no crime has been committed at all?
A. That's correct.
Q. That the shooting by the police was in lawful self-defence or some other lawful basis. It's not that the person isn't dead; it's not that they've not been shot dead; it's just that, in the circumstances, there is no crime that's been committed?
A. That's correct.

Q. There may be some cases where, following investigation, criminal proceedings are brought?
A. Yes.
Q. But you would agree, in those circumstances, again acknowledging the difference, there has to be an investigation, doesn't there, to see whether or not the firing of the shot amounts to a crime or not?
A. Yes.
Q. With that in mind, can we turn, please, to your method for the investigation.
Sir, unless anyone or you would like a break now, I was proposing to deal with the method and then perhaps if we might break before turning to some of the actual reports that you and Mr Jones conducted.
SIR CHARLES HADDON-CAVE: Indeed, Mr Polnay. Thank you.
MR POLNAY: So turning to how you did your review, how you actually went about it in the first place, and this is set out in your witness statement at paragraph 30. Now, you believe that overall, from all of the reports -- and we've got them in the bundle and we will look at them -- you spent 34 days in total --
A. Yes.
Q. -- working on Op Northmoor?
A. Yes.
Q. So the product of this is -- I'm assuming Mr Jones did

the same number of days, roughly speaking?
A. Absolutely.
Q. That's 68 days of work for these reports?
A. Yes.
Q. So it's quite clear, as you set out, you came in, you would do a very specific review, then you would leave and then you would come back then, as you set out, I think perhaps months later?
A. Yes.
Q. Did you know how much in terms of time commitment Mr Williamson was committing to Op Northmoor and how much in terms of time commitment Mr Bottomley and his team were committing to Op Northmoor?
A. No idea, sir.
Q. Right. So you explain in your witness statement, you would go to RF St Mawgan in Newquay, that's where they were based --
A. Yes.
Q. -- and it would start with comprehensive verbal briefing?
A. Yes.
Q. This would be by the SIO or Silver?
A. Yes.
Q. We say Lieutenant Colonel -- you say Lieutenant Colonel Harvey is supervising or contributing, so he's sort of

in the -- he's what, in the room as well?
A. Yeah.
Q. In terms of this verbal briefing, is it literally they're talking you through what they're doing or there are PowerPoints or how does it work?
A. Yeah, invariably, it was a verbal briefing but, obviously, if they needed to show us images then they would actually show us images on a screen or it might just have been still photographs. But, essentially, our information was gathered result of a verbal briefing from the SIO in particular and then we would always ask the SIO for all the documentation available to him, which actually informed his presentation, so that we could have a look at it.
Q. When you say "all the documentation", you don't mean all the documentation, do you, or ...
A. We would ask for the relevant documentation in terms of how the SIO had briefed us and, in fact, if you like, the kind of points of interest in relation to moving this investigation forwards.
Q. So the SIO gives a verbal briefing and then you might say, "Can I see this witness statement?" or "Can I see this document or this photo"? Is that sort of ...
A. Yes, we would actually then read the documents ourselves and make our own decisions as to what the outcomes were.

Q. Just so we understand, and you set it out very clearly in paragraph 31, by this method, which was the method that had been decided --
A. Yes.
Q. -- this narrowed the scope of your review because you're only dealing with what the SIO has decided that you're going to be presented with, or Silver or Gold.
A. Yes, because a review generally is about, if I was doing a review in force, I would generally kind of choose the team I would take with me and that team could be considerable, depending on the scope of the investigation at that particular time. And bearing mind that there's just Phil and I doing this, so we didn't have the time to proactively go into the Major Incident Room, which was very impressive, but we didn't have the time to actually conduct our own examination of the documents, other than what the SIO or Silver supplied us with, or indeed Gold.
Q. You set out that the -- you assumed that the format of the review, as in how it was going to be done --
A. Yes.
Q. -- had been dealt with by -- agreed by the SIO and the chain of command before you got there. If you had been asked, would you have said that was the best way of providing you with information for your review?

A. Well, I used the expression "*ad hoc*" earlier on in my statement and that's how this review was actually conducted. When we left Mawgan after the first review, we didn't know when we were coming back to do our second review. It very much depended upon the progress that was made as a result of any recommendations that we actually put forward. So, clearly, the SIO and his team would ensure that our recommendation -- and they didn't have to follow these recommendations. In fact, there is a good example where they didn't follow what was --
Q. I think I know the one you're talking about. We'll come to that in a minute.
As regards what I'm saying: you used the term "*ad hoc*"?
A. Yes.
Q. Now, given you didn't have your terms of reference in writing, given there hadn't been a discussion about the back and forward as to how you were going to receive the information, might it have -- would it be fair to say that it might have been a little unstructured?
A. I don't think it was -- certainly unstructured from our perspective.
Q. I just mean the method wasn't even agreed before you turned up?
A. But that became -- that became the kind of action on

process, and I was perfectly happy with that. I would have liked to have spent more time at Mawgan, rather than the five occasions that we went, but that really depended upon the progress that was being made between the review periods. There was no point in bringing us back prematurely so that -- presumably it was Gold, John Harvey, who actually made that decision. He would contact Phil Jones or we would agree beforehand. But it might have been three, four, maybe five months later, depending on what was in the recommendation.

Q. Now, you explain after you'd received the information, no doubt looked at the documents, you'd go to a private room and you'd do your typing up, effectively, with Phil? You'd do your drafting of the reports?

A. Well, we spent considerable time in that private room, obviously discussing contents of the information and the documents that the SIO presented us with and, of course, made our own recommendations on those things.

Q. Now, as you set out at paragraph 34, you really intended this to be a practical document for the SIOs receiving it. You would say in contrast to the NCA reports, which you thought before were too strategic. You wanted this to be a very practical, operational: this is what you need to do?

A. Yes, if I'd have been the SIO, I'd have welcomed the

style of the report. It was very, say, open and facilitative.

Q. Now, as you explain at paragraph 36, when you'd finalised your report, you would -- the report would be effectively addressed to, would be given to, Lieutenant Colonel Harvey?

A. Yes.

Q. He was the Gold Commander?

A. Yes.

Q. Now, just working this through, the report is at a -- and people use term differently -- tactical or an operational level. It's for the SIO, effectively --

A. Yes.

Q. -- that's the level at it. But the report is actually being presented to the Gold Commander --

A. Yes.

Q. -- who, at least in the structure we've heard about, is there to deal with the strategy --

A. Yes.

Q. -- rather than the tactics or the operations?

A. But Captain Wright would have been very much aware of every sentence in that report, because we would have discussed it. But there was no surprises here, sir. We would always discuss with Captain Wright what our views were, what our findings were. We would actually go

through -- verbally through what we were proposing to report and recommend.

Q. We can see that in your witness statement on the screen that we've got there. I'm sorry, I'm asking about just a slightly different point.

A. Okay.

Q. Your recommendations are the tactical or the operational level.

A. Yes.

Q. So why is the report going to the Gold Command? Isn't it for the Gold to deal with strategy, not tactics or operations?

A. No, that's correct but the report was also going to the IAG.

Q. Yes, and going back to what Mr Pughsley was saying in his report about the blurring of lines, which is, I think, something you accept, with hindsight, may have occurred --

A. Yes.

Q. -- if you've got a report on, I'm going to call it SIO-type decisions, but that's being sent to the Gold Commander, again, with hindsight, might that not have encouraged a little bit of the blurring of the lines because sort of SIO decisions are then being sent to Gold because he's going to think: well, I've got to do

something with this?

A. Yeah, but that wasn't without Captain Wright being fully aware of the content of that particular report or all the reports. As I say, there was no -- Captain Wright could not say, I don't believe, that anything in our reports came as a surprise to him, when he eventually saw the reports.

Q. No, absolutely but, just in terms of the timing of it -- and as you've made very clear you'd speak to him about it and it wouldn't come as a surprise -- but the report did go to Gold first?

A. He was there, so it's not as if we'd actually mail it separately to John Harvey.

Q. If we could just bring up tab 17, which is the Murder Manual again, just about reviews. Again, this is best practice guidance; it's not the law. It says, "Reports and Subsequent Actions" at the bottom, 4.9:

"Once the review has been concluded, the reviewing officer should prepare a report and submit it to the ACPO officer who commissioned the review. Before the report is submitted, however, the SIO should be allowed to read it so they can make an initial response should they wish to do so."

That should be forwarded along with the report.

Now, that didn't happen in this particular instance?

A. But I don't know what the difference is there, sir, because Captain Wright was fully appraised of every aspect of the content of those IRT reports. The fact that we actually didn't give him a copy there and then, I don't actually think makes much difference because he knew what we were going to report and we discussed it with him.
Q. It may be when Captain Wright gives evidence, I'm sure he's likely to speak for himself, accept all of that. But is it not the point sort of at the bottom: it's not just to know what you're saying --
A. Yes.
Q. -- it's the opportunity that, before it goes to Gold, the decision maker, to have the chance, if you like, to state his views --
A. Well, he had chance --
Q. -- invite him.
A. He had the chance throughout that particular week. You know, whenever we were there, Captain Wright was there. John Harvey wasn't always there but Captain Wright would have been our first port of call in discussing everything about the reports that we submitted. So I don't see -- I agree that perhaps, you know, he should have sight of the report but he certainly had knowledge of the contents of the report.

Q. No, no, I appreciate you've said that. It maybe it's just a slightly different point I'm asking you about. In fact, as we'll see, at least Captain Wright will say in relation to your second report, he didn't actually get a chance to see, in writing, the report until a number of days later.
A. Do you know what, sir, I can't remember us having any discussion around the format of that practice.
Q. Yes. Again, as you're the -- but you're the very experienced superintendent?
A. Sure.
Q. Again --
A. That might have come from Gold himself, I don't know, you would have to ask John Harvey that particular question.
Q. He'll be here in a fortnight and I'm sure we can. But what we end up with, as a matter of fact, if we look at tab 29, if I could ask that be put on the screen, this is a Captain Wright's policy file, it's his decision log, effectively, at 29-2. He says, I'll read it out because -- or we might be able to zoom in a bit here, if that's better, thank you.
A. Thank you.
Q. So this in relation to your first -- sorry, your second report --

A. Yes.
Q. -- the first one into Team 1.
A. Sure.
Q. "PM(A) has directed that [they] should be accepted in full. There has been no immediate direction to me following the decision by PM(A). I will pause the majority of the activity on the major lines of inquiry until I receive ... direction from Gold."

Then we've got his reason:

"Some of [their] recommendations differ from the investigative direction I had set and therefore I will require detailed direction with rationale from Gold on what he wants me to do and in some ways how to do it. I have articulated to Gold and Silver the issues concerning some of the accepted recommendations which may prevent a thorough and effective investigation being conducted. I have raised the [it says 'undecipherable'] and I will continue to do so in order for these to be assessed in future decision making."

I mean, that's not, from a team perspective, a fantastic outcome, is it, with that sort of note?
A. No, and I would have a great deal of sympathy for the SIO's point of view here but, at this particular stage, Phil and I didn't know that the Brigadier had made that decision, that all our recommendations.

Q. Yes.
A. I mean, I can't imagine for one minute that what he meant was that it was going to apply to every recommendation we made. I'm assuming, perhaps, that logically that what he was doing it here was looking at our recommendations in that report and was saying that they should be followed in full. But that was unbeknownst to Phil and I at the time. As I say, I was surprised to read that myself.

And I have a great deal of sympathy. If I was the SIO, I would have made a very similar entry in my policy book.
MR POLNAY: Thank you very much.

Sir, I wonder if that would be a convenient time to take our mid-morning break.
SIR CHARLES HADDON-CAVE: It would. Thank you, Mr Polnay. We'll break now, please, for 20 minutes. Right.
(11.33 am)

(A short break)

(12.06 pm)
SIR CHARLES HADDON-CAVE: Apologies for the delay, there were some Internet problems, I gather.

Right, thank you, Mr Polnay.
MR POLNAY: Mr Evans, just before we move on, can I just take half a pace back, just relating to one of the

things you were saying before. Just to understand the order of events, IRT is instructed and you prepared a number of reports; is that right?
A. That's correct.
Q. In particular, in relation to your second report that we're going to look at in detail, you made a number of recommendations?
A. Yes.
Q. Those recommendations were all accepted in their entirety?
A. I believe so, yes.
Q. You were then brought back to report on progress against those recommendations?
A. Yes, and any new information that had been gathered so we could actually then construct even further recommendations.
Q. Then I think you were brought back again to further assess progress against those recommendations?
A. Yes.
Q. Now, the terminology may or may not be important but isn't what you've described almost the exact process of an HMIC inspection?
A. That's a fair comment, yes.
Q. I know we've looked at the Murder Manual which sets out sort of best principles of reviews and we've also --

you've explained just before the break how you might have felt as an SIO with the events that took place. Again, might there have been a risk by not clearly defining, in your own minds, the terms of reference that this slippage or movement might occur and it might have some of the potentially adverse effects that we've discussed?
A. You mean, in terms of routing the report?
Q. I mean in terms of the report, in terms of the team dynamics, in terms of the roles blurring, in terms of the perception that you were directing or perhaps maybe inspecting, rather than reviewing or recommending?
A. You see, I would say from my perspective, sir, that those things just didn't happen.
Q. Okay. I want to turn now to the actual reports, please, and ask for your help in relation to those.
A. Sure.
Q. So it will help if you actually have the report open in front of you, if that's all right, and these are in bundle 1 and the first report which you and Mr Jones prepared is behind tab 2.
Now this report, we can see, is dated 2 December 2016. I think you've got the right page open there, Mr Evans.
A. 2 December '16, yes.

Q. This related exclusively or pretty exclusively to Team 2?
A. Yes, indeed. We hadn't been security cleared by then so we couldn't deal with the sensitive issues.
Q. Right. The report's behind tab 3. Can I just deal with timescale.
A. Sure.
Q. Now, this report, we can see, it's from the last page, 24 January 2017.
A. Yes.
Q. That's the date of the report.
A. Yes.
Q. Just a few date things I'd like your help with, please. It's pretty clear, I think, from workbooks and documents that the actual review was undertaken as in the time of St Mawgan on 5 and 13 January 2017. Does that coincide with your recollection?
A. Certainly, the document I'm looking at now, we're talking about 3 January 2017, yeah?
Q. Yes, but if you were there between the actual 5th and the 13th, you left on the 13th, this is dated 24 January. You wrote it all up whilst you were there?
A. We wrote it up at the end of our period at St Mawgan. So we wouldn't have gone away and wrote it up subsequently.

Q. And you probably wouldn't have had the IT to write it up somewhere?
A. No, that's correct.
Q. Did you or Mr Jones actually type it up yourselves?
A. Yes, we both did it together and I would normally do the typing because Phil isn't very IT happy -- friendly.
Q. You're the IT expert of the team?
A. Well, I wouldn't say "expert", sir, but I know more than he does.
Q. Again, looking from the notebooks, it appears that the actual review part was undertaken over around seven days?
A. Yes.
Q. Does that, again, roughly coincide with your memory? We can go to notebooks if we --
A. Yeah, sure.
Q. Over those -- I should say seven working days; we're not including --
A. Weekends.
Q. -- weekends. In fairness, it is something that you refer to in your witness statement but, given you've spent sort of seven days, there or thereabouts, on an investigation that had been going on for years, were you confident that you'd been able to produce a comprehensive review?

A. Well, we had a very comprehensive presentation from the SIO, and we had then all the supporting documents from the SIO. And that was our main focus, to actually understand what the SIO was briefing us on and, of course, understanding the content of the documents they supplied to us.

Q. Just you say -- and it's not a criticism, I just want to understand the constraints, if any, because you say at 49 of your witness statement, you said:

"The IRT was being asked to produce each of its reports only after a limited time spent in RAF St Mawgan."

As detailed, the timeframe was directed by Gold and above.

A. Yes.

Q. You were reliant on the briefings and, therefore, you meant, as you said in your report, it's not been possible to examine all of the available material?

A. That's correct.

Q. Now, that's understood --

A. Yes.

Q. -- but notwithstanding the timeframe, the volume of material that lay behind, were you confident that you had been able to produce a comprehensive review?

A. Based upon what we were told and based upon what we read

at that particular time, as somebody who was reviewing this particular investigation, I would have liked to have spent longer periods at Mawgan. I'm somebody who really doesn't accept anything at face value or presume, and I do like to kind of go back to basics and look at foundations and, in this case, obviously, time didn't permit that.

Q. Understood. Just give me one moment. *(Pause)*

Okay, just turn to tab 3, and the first point -- and it's perhaps an important point -- I want to ask you about, is your recommendation 9.3, which we find at tab 3, page 8. Have you got that --

A. I have, sir, yes.

Q. -- which is the categorisation of suspect status currently applied to N1141 and N1201 is removed?

A. Yes.

Q. I think, as you said, that's a recommendation that lay at the heart of your views on the inquiry. Is that fair?

A. That's fair, yes.

Q. So sir, suspect designation is the topic. So what's the test for classifying someone as a suspect?

A. Well, there has to be reasonable suspicion based upon reliable information graded intelligence.

Q. Just say that again, so we -- reasonable suspicion --

A. Based upon graded intelligence and reliable information, and they play a role, maybe a significant role, in the potential crime.

Q. So let's go thorough. So --

A. A reasonable suspicion.

Q. Reasonable suspicion.

A. Yeah, based upon information which is credible and not vague. Perhaps actionable intelligence that would suggest that this particular person is playing an active role --

Q. An active role?

A. -- an active role in the offence, in the potential offence.

Q. Where does that definition -- is that your personal working definition, or is that a --

A. That would be my personal working definition of a suspect, yes.

Q. Right. Okay, well, we'll come back to that in a bit, if I may.

If we just have a look at paragraph 4.5, so this is about suspect designation. So have you got that?

A. Yes.

Q. It says here:

"Until we are sure what specific roles each member of SF [played] at the scene the IRT take the view that

any suspect designation is incorrect."

A. Yes.

Q. Why do you need to be sure?

A. Well, because in this particular case there wasn't sufficient credibility or indication of any active role in this particular investigation. We didn't find anything that supported the fact that these two people were suspected of being involved in some way.

Q. Okay. I'll come to that in a minute.

A. Okay.

Q. I'm sorry to take you back to it. What you say here is: until we are sure what specific roles SF played, the suspect designation is incorrect.

A. Yes.

Q. Well, that's not right, is it?

A. It is.

Q. You don't have to be sure of someone's role before they can be a suspect?

A. We have to be sure of the information that supports that suspect status.

Q. I'm sorry, Mr Evans, but that wasn't the definition that you gave us before. Your definition was couched in reasonable suspicion?

A. Yes.

Q. You don't need to be sure?

A. No, we need to be sure that there is information which arouses reasonable suspicion.
Q. Is that what you mean?
A. Yes.
Q. You've got to be sure that there's information, so you're saying this was a two-part test?
A. Well, you can't designate somebody as a suspect if there is no supporting material --
Q. Mr Evans --
A. -- available --
Q. -- that -- I doubt there'd be a police officer in the country who'd disagree with you.
A. Yes.
Q. But what you've said here is that until -- and this is your rationale, isn't it, your key rationale --
A. Yes.
Q. -- that "Until we after sure what specific roles each member of SF performed, the designation" -- I mean, that's not right, is it? That's not the right test?
A. Well, I believe it to be the right test because, at that point in time, sir, we actually didn't have a clue what roles these two people were playing.
Q. Mr Evans, again, it may be that we don't hugely disagree. Let's say, well, I've got no idea about anything, even if they were there: fine. But let's say,

for example, you've got a -- let's forget a case -- a case very different from the one you were looking -- you've got a shooting. A man is shot in a room, yeah? Shot dead. There's two people, right, who fired -- there are two people -- other people in the room, in a closed room, yeah? One gun. You've got two suspects, haven't you?
A. Yes.
Q. Right? You're not sure who the shooter was but they're still a suspect?
A. But that very much relied upon the background that you've just supplied to me, in relation to that example. We didn't -- we could not discover properly where the basis of the suspect status came from.
Q. But, again, Mr Evans -- and I'm sorry, I appreciate that's an important point and one that we're going to look at -- but what you say at paragraph 4.5 is you can't have a suspect designation until you are sure of the role that someone played at the scene. My suggestion to you: that can't be right, can it? Until you're sure of their role, someone can't be a suspect?
A. Well, it may well be that there wasn't any criminal conduct in that particular example. So you have to be, based upon reasonable suspicion, sure about the information that supports the suspect status. Maybe the

word "sure" is causing a problem here but I would say that I would need to be satisfied that there is -- there are reasonable grounds for suspecting somebody as a suspect because it then narrows the field of further inquiry in relation to that suspect or it can do.
Q. Mr Evans, again, if you were saying that without reasonable suspicion. But in your 4.5, the rationale, you're talking about being sure of something and I'd suggest that's not correct, is it?
A. Well, sir, this investigation thus far had been based upon vague assertions there wasn't any real credible information which would support some of the lines of inquiry that the Captain was taking, the SIO was taking. So we were unsure as to why these two people were actually designated suspects.
Q. Mr Evans, understood. But what you've said here, what it says here, "Until we are sure what specific roles [they] performed at the scene", they can't be a suspect.
You're not saying "We don't know if there's an offence being committed". You're not saying "they're unsupported". You're saying here, what it appears to say, "Unless we're sure of the role, they can't be a suspect". That's what I'm asking you about.
A. I can't see the problem with that.
Q. All right. Would you agree that it might be described

as perhaps unfortunate language or loose language --
A. No, I think --
Q. -- or you stand by it, as it's written on the page?
A. I do, on the basis that, in the absence of anything credible, everything thus far was vague.
Q. We'll come back to the vagueness or otherwise in a minute.
A. Okay.
Q. I'm not going to keep knocking at this door. You think, unless you can be sure of what specific role a person played at the scene, game over; suspect designation incorrect?
A. I think the implications of this particular -- of course, you do have to look at the gravitas of this particular investigation. If you're going to call somebody a suspect, then you need to be sure that there is sufficient background information to come to that.
Q. So sure that there's sufficient background information?
A. Yes.
Q. All right. If I were to suggest that the test, or the more usual one, for designating someone a suspect might be there's reasonable suspicion?
A. I did say reasonable suspicion but, in this case, I don't know where the reasonable suspicion has come from.

Q. Again, I understand that. I think I've asked you about that. We'll come back to it later, though, if I may.
SIR CHARLES HADDON-CAVE: Can I just ask you: you just said to counsel you have to look at the gravitas of the allegation --
A. Yes, sure.
SIR CHARLES HADDON-CAVE: -- before you make any decisions. Can you just help us with what you meant by that, as a relevant criteria --
A. Yeah.
SIR CHARLES HADDON-CAVE: -- or designation?
A. I think what I'm trying to say, sir, is the seriousness of the investigation in this particular case, the assertions were that unlawful killings took place. The RMP seemed to be applying, if you like, a kind of a threshold that we would perhaps not agree with, in terms of the evidential test or their suspicions around a suspect's status here.
If I was the SIO on this particular case, I would want to be sure that what's been said is correct, and we can prove it because the implications are -- because the implications are quite grave.
SIR CHARLES HADDON-CAVE: So are you suggesting that if there was a less grave alleged offence, whether it's an assault or shoplifting, then you would apply a different

criteria, would you?
A. No, sir. It's just that I would want to be absolutely -- it wouldn't be a minimum test for me. It would have to be something that I was sure about and satisfied that we were actually performing suspect status -- that there was sufficient information or intelligence behind that, or indeed evidence.
MR POLNAY: Isn't "sure" -- that's the criminal standard of proof, isn't it: you've got to be sure?
A. Well --
Q. That's a role for the jury, isn't it, maybe in some trial a long way down, not when you're deciding whether or not to --
A. Well, sir, I was always taught to actually provide the best evidence that was available, not the minimum standard.
Q. But, Mr Evans, if you don't investigate, you're not going to get the evidence, are you?
A. Well, that's what we're doing here: we're investigating to see if there's a criminal offence here or not.
Q. Precisely, and that's the whole point, isn't it, because there is -- at least when you start an investigation, there's going to be uncertainty, isn't there, and the whole point is, of an investigation, to find out what happened?

A. But that investigation had stalled at this point.
Q. Well, we'll come to the stalling. So we've got -- looking at 4.5, we've got your view, which you stand by, that, unless you're sure of the roles that SF performed, suspect designation is incorrect.
A. Yes.
Q. Then you go on to say the suspect designations of N1141 are "premature" --
A. Yes.
Q. -- and, you say, "without foundation"?
A. Yes.
Q. Again, with the benefit of hindsight, and we're a few years on, do you think that might be putting it a little bit high to say "without foundation"?
A. No, I don't. I don't. I kind of -- I stand by the word "foundation".
Q. "Without foundation"?
A. Without foundation. It seemed to me at the time that these two nominals had been suspected because there had been a vague assertion by the complainant that there'd been killings, of which there is no dispute. But whether those killings were unlawful or lawful had yet to be discovered.
Q. Do you mind turning to tab 43, page 5. We can put it up on the screen because it's a one-page document.

A. Yeah, sure.
Q. So, had you seen this?
A. Yes, I think that was part of the Captain's presentation to us.
Q. But you did actually see this document?
A. I feel confident that I saw the document.
Q. I very much hope you would have been shown it. So this is a document that's typed up. It's called a statement. Yes?
A. Yes.
Q. It's not a statement under Section 9 of the Criminal Justice Act 1967 --
A. Yes.
Q. -- but on the face of it, it appears to be a firsthand account --
A. Yes.
Q. -- written by the person who's saying it:
"During a conversation with a soldier from SU1A [we'll come on to who this is], he stated that it was standard [practice] to deploy regularly to hit [something redacted] in the Helmand area. During these operations it was said that 'all fighting-age males are killed' on target regardless of the threat they posed, [including] those not holding weapons."
Yes?

A. Yes.
Q. "It was ... indicated that 'fighting-age males' were being executed on target, inside compounds, using a variety of methods after they had been restrained."
A. Yes.
Q. "In one case it was mentioned that a pillow was put over the head of an individual before [they'd been] killed with a pistol. It was implied that photos would be taken of the deceased alongside weapons that the 'fighting-age male' may not have had in their possession when they were killed."
A. Yes.
Q. Right. So you were aware of this?
A. Yes.
Q. Were you aware this statement was provided in writing by an officer?
A. Yes.
Q. Can we go back to the report because you helpfully set out the information, or at least some of the information that you received from the briefing. If you've still got that open at 3.6. Now, the SIO outlined the categorisation of the two suspects, so we know who we're dealing with here.
N1141, who was the OC, commanding Op Tyburn, yes?
A. Yes.

Q. N2101, who was on the team.
A. Yes.
Q. Yes? Right. Then, if we go over the page to 3.10, yes --
A. Yes.
Q. -- we've got -- the SIO has outlined the meeting and his account -- he's given an account of being on the course with 1201.
A. Yes.
Q. Yes, so we've put it together. It's 1201 who is meant to have said those things.
A. Yes.
Q. Yes?
A. Yes.
Q. We've got a statement of those, yes? Admittedly, not one that we'd like to have for court but it's a statement, and we have an incident that is being questioned as to whether or not it might be a homicide, and we've got N1201, who was on that. Do you agree?
A. Yes.
Q. Right. "Without foundation": you stand by that?
A. It's an account. It wasn't -- in fact, I think it was -- not withdrawn but it was discontinued because they didn't want to cooperate with the RMP further.
Q. We'll come to that.

A. So we're talking about potentially a hearsay account from one person to another. I would still suggest that's quite vague. I would need considerable follow-up inquiries.
Q. "Quite vague" is one thing but it's not "without foundation", is it, to say that N1201 may have been involved in --
A. Well, it would be so until I was given the opportunity to actually enquire into that further.
Q. Again, no one is suggesting there wasn't a necessity or an importance of further enquiry.
A. So the corroboration required here is one of detail and, again, there's not too much detail there at all.
Q. On that, we agree.
A. Yes.
Q. But what I'm bringing you back to, your 4.5, which contains your rationale?
A. Yes.
Q. You're not sure, you can't be sure of the specific role, and you said it's without foundation. That's just putting it perhaps too high? Maybe it was a bit vague or not supported by admissible evidence in court but do you not think -- would it be fair to say you were perhaps being overly dismissive?
A. It wasn't being dismissive, sir. It's a question of

trying to make best use of that particular information. If you are tracking down the path that the Captain was actually tracking at this particular time, it would actually reduce, if you like, opportunities of trying to expand upon that PSA assertion.
Q. We'll come to that. Well, you say hearsay or a confession, on one view?
A. Well, we don't know.
Q. No, but it could be a confession?
A. Well, it could be anything.
Q. Confessions aren't hearsay, are they?
A. It could be hearsay from another member of staff. It could have come from anywhere.
Q. But it's not without foundation, is it, Mr Evans?
A. At that point in time, because I think the implications are so serious that you'd want to be sure -- and I'm using that word again -- you'd want to be sure that the information had been exploited to its full extent.
Q. On the last part, no disagreement but, on the first part Mr Evans, with respect, it doesn't matter, does it, the seriousness of the allegation? Whether it's a shoplifting or it's war crimes, the same test applies to designating someone a suspect?
A. Well, I think the implications are different. I think, the ramifications are very different in that regard.

Q. Yes.
A. So I am somebody that would want to be absolutely sure and would want to make further enquiries before I designated them suspects because, once you've designated somebody as a suspect, you then have to handle them differently.
Q. Agreed, and we'll come to that handling. But, just so I'm clear, it's your view that, because of the ramifications, that, bluntly, a higher standard applies before designating someone a suspect?
A. Higher standard from my point of view, yes.
Q. From your point of view, yes.
A. Yes.
Q. I mean, in this case, isn't that special treatment for Special Forces?
A. No, it's not.
Q. Why should they be treated differently?
A. No, they're not being treated differently. It's being absolutely fair to all parties here that we actually get to --
Q. How can it be fair that a different test is applied to them whether or not they're designated as a suspect? I don't understand.
A. It's not a different test. All I'm trying to do is get to the bottom of that particular assertion. It's

another potential hearsay and that was actually sprinkled throughout this investigation. It was kind of -- it lacked credibility, it lacked probative value in terms of whether this hearsay had any kind of veracity or not.
Q. I'm sure you would agree, though, that one of the key purposes of an investigation into something difficult is to investigate these things, to see where they lead?
A. But why make it difficult for yourself to investigate when there's an alternative to actually follow? And that's what's behind this. We'd already discovered, you know, in this particular IRT report, from the documents supplied by the captain and his presentation, that he was dismissing, if you like, keeping an open mind on the best approach to elicit the kind of information that you would want to actually support these vague assertions.
Q. Mr Evans, just so I can be clear, it's not my suggestion I'm putting to you either the suspect designation was right or wrong; it's just that my question to you is to see whether, in fact, you were applying the right test or maybe you were being overly dismissive?
A. It wasn't being -- as I say, I think the word "dismissive" is incorrect. I think I'm trying to be thorough and trace any credibility to what's been said.
Q. Just to complete this little part with the other

information that you were presented, we can see at paragraph 3.7 there's information provided by N1466, that Tyburn was one of 11 similar incidents all carried out by the SF team, and this is effectively more bodies than weapons?
A. Which again, you know, in terms of the premise for identifying these 11 incidents, I think was incorrect, just because you find fewer weapons than perhaps bodies that have been deceased, and I don't understand where you get that criteria from.
Q. I'm just going through at the minute the information that you had at the time?
A. Sure, okay.
Q. Then you've got at 4.3, you refer to the available information as being "judgement/statistics", that's what we've looked at, and "third-party disclosure". Then we've got the ones you described as "speculation, rumour and chit-chat" --
A. Yes.
Q. -- at various levels. Falling within the category you described as "speculation, rumour and chit-chat", were these emails that you were told about?
A. Yes, it was certainly the event that we've just discussed, and that could have been hearsay. But that information could have come from anywhere.

Q. Yes.
A. There's also a transfer of emails from SF to SF.
Q. It's just a couple of these I just want to refer you to, just briefly, just so again so we understand what you're being presented with. It's in bundle 3, tab 61. Now, can I just make clear there's just two emails I'm going to ask you to look at. These emails actually only came in to the RMP's possession and seen, I'm going to say in hard copy, electronically in this form, in 2018, after you'd written the report.
A. Yes.
Q. However, it seems, I'm going to put it lightly, that the RMP had seen these on a computer screen somewhere and had been able to take a note of them, all right?
A. Okay.
Q. So I just want to highlight that it's not sort of -- this was a document in this form that would have been placed in front of you at the time.
A. Okay.
Q. Okay? I just want to make that clear. So if we look at tab 61 of bundle 3, 61-4, have you got that?
A. I have.
Q. So this is the one in the middle of the page. It's already on the Inquiry website. There's the one in the middle where you've got one Special Forces officer

saying, "Is this about SU1 latest massacre! I've heard a [few] rumours."

Then at the top of it, there's the reply "Yeah, mate", and then there's:

"Basically, for what appears to be the 10th time in two weeks, when they sent a B back into the A to open the curtains, he [appeared] ..."

It goes on:

"... this is the 8th time this has happened. And finally they shot a guy who was hiding in a bush who had a grenade in his hands. You couldn't MAKE IT UP!"

For example, at tab 62-5, this is an email from another Special Forces officer -- from one to another, sorry.

"Yeah ... right!"

Then they describe what's happened on an operation. It goes:

"Whilst murder and the UKSF1 have oft been regular bed-fellows, this is beginning to look bone!"

Is this is the sort of communication you're talking about which you would put in your -- you classified as "rumour and chit-chat"?

A. Speculative, I suppose, yes.

Q. Now, can we agree that's, obviously not in front of a jury or a Court-Martial, going to be any sort of

admissible evidence as to what may or may not have taken place?

A. Sure.

Q. But as someone looking into something, as an investigator, the fact that you've got Special Forces officers making this type of comment, does it raise a suspicion that something may not have been right?

A. It certainly raises concerns.

Q. Yes. That's why -- this is the last time I'll come back to this sentence -- when you say "without foundation" --

A. Yes.

Q. -- you're not submitting this for a charging decision, are you? But "Without foundation", is that actually, a fair description?

A. It demanded further enquiry.

Q. All right. Now, can we just look at some of the things that flow or may not flow from suspect or non-suspect designation. Now, you set out at paragraph 109 that:

"The benefit of declassifying someone is that you can more easily approach them for information that may have led to actionable intelligence."

A. Yeah, that was set against, of course, the other possibility.

Q. Can you just explain what you mean by that?

A. In relation to the "other possibility"?

Q. Well, no, no. When you say "The benefit of declassifying them is that we could more easily approach them for information", what do you mean?

A. So you could knock on the door and ask them questions. You could ask them about those emails. You could ask them to declare the emails. You could ask them anything you wanted about those emails.

Q. Sorry, but I don't think anyone is suggesting the people sending the emails were suspects.

A. So you're talking about the two suspects from previous?

Q. It may be my misunderstanding, Mr Evans. I am just wondering what -- could you explain what the benefits are? What do you mean?

Approach them for information? Do you mean the authors of the emails or do you mean the individuals?

A. Well, if their suspect status remained, then, of course, approaching them would mean that you'd have to approach them under caution before you could actually ask them any questions.

Q. What's wrong with that?

A. Well, there isn't anything wrong with that, it's just that there is, in our view, a better way of doing it, because the track that this particular investigation was on at that stage was one of being purely covert.

Q. Sorry, we'll really come to the overt/covert divide in

a minute. But there's an important reason, isn't there, why you have to caution someone, if, before you speak to them, there are reasonable grounds to suspect they've committed an offence?

A. Exactly.

Q. They've got rights?

A. Of course.

Q. The whole point is they need to understand that they have a privilege against self-incrimination?

A. Yes.

Q. Yes?

A. Yes.

Q. So it's actually quite -- it's quite serious, isn't it, to speak to someone without a caution when you should caution them?

A. But, in this case, if they were categorised as suspects, yes.

Q. Sorry, can you just explain what you mean by that last?

A. Well, if they'd have been categorised as suspects, then to approach them, they would have required cautioning, whereas, if they weren't suspects, then you could approach them unfettered and ask them anything you wanted.

Q. Yes. Have you had a chance to just have a look at -- well, I'm sure you discussed it with him at the time --

Jason Wright's view, Captain Wright's view about this? The suspect designation?

A. *(No audible answer)*

Q. Then he strongly thought they should be designated as suspects, yeah?

A. That is probably because it satisfied his -- the direction in which he was taking the operation.

Q. So you thought, to be blunt, that he was just plain wrong?

A. At that point in time the operation, or the investigation, rather, was going down a covert route. There wasn't an awful lot of credible information or intelligence or even evidence to support the assertion that anything was unlawful here, until such time you can actually gather, you know, the information and intelligence and evidence to support the possibility of a crime being committed. And then, of course, it would be very appropriate to designate people as suspects and approach them from an arrest and interview situation.

Q. Can we just have a quick look at Jason Wright's statement in this regard because there's a couple of matters. It's at tab 53, page 76. Again, we can bring it up on the screen.

So this is where Jason Wright deals with this position, and he says:

"The decision to declare N1201 and N1141 as suspects was mine, in consultation with Detective Superintendent Williamson. Gold agreed this designation and rationale."

He states:

"The decision was not arrived at in haste and a [great] deal of thought had been given to [it]."

His view, it was:

"... based on logic, rationale and supported by reliable information and evidence."

He says:

"There were reasonable and objective grounds for suspicion, based on known facts and information available to me at that time."

I don't know if we can do this, if we can look at the footnote. Because can we see "suspicion" has been footnoted in the witness statement, and he references, in footnote 1, the case of *Hussein v Chang Fook Kam 1970*, as to the meaning of suspicion and the *Service Police Code of Practice, Code G, Notes for Guidance B*, as to what he appears to be setting out the correct test to apply. Do you agree that his description there, that there needed to be reasonable and objective grounds is correct; that he's applying the right test?

A. Er --

Q. Reasonable and objective --

A. Reliable information and evidence?

Q. Yes.

A. I don't, no.

Q. You don't?

A. I don't agree, no.

Q. Your test is you need to be sure that there's credible and -- what's wrong?

A. Well, I think what I'm trying to say is I would want to make further enquiries and satisfy myself that the information was reliable and there was evidence. We don't believe that there was any reliable information and evidence at this point to categorise them as suspects.

Q. So, as we see at 4.5, your view, without foundation, and that found its way at page 3.8, still in your second report, to your recommendations, recommendations 3 and 4. So the categorisation of suspect status is removed.

A. Yes.

Q. But you go on to say:

"The ten similar events identified by N1466 should continue to be investigated."

A. Yes.

Q. Yes? So then, if we move on to tab 4, this is your next report, which is November 2017. So it's sort of ten

weeks --

A. Sorry?

Q. 10/11 months on.

A. Sure.

Q. At 1.1, you set out what you're doing here: you're looking to assure -- you're carrying out an assurance here?

A. Yes.

Q. Discussed, and as you've put it, its compliance with the recommendations?

A. Yes.

Q. Yes? Also -- well, compliance with your first report and your second report?

A. Yes.

Q. If we go to 3.10, which is at page 4-5, we can see what you put here:

"The scoping of the ten similar [incidents] identified by N1466 and outlined in the Op A report ... has been thorough and appropriately focused with still images being recovered along with some associated reporting. The SIO has indicated he would prefer to prioritise efforts towards the most interesting of these images, ie those concerned with Ops 2 and 1. The IRT and the SIO have had lengthy discussions with regards to the significance and ongoing management ... [Whilst the

... scoping is ongoing] the IRT take the view that unless there is additional material, intelligence or evidence obtained, then there would be little value in exposing what has been achieved to date. It must be borne in mind that witnesses and/or other material may emerge in the future and the integrity of the material which has been gained to date does not need to be exposed to SF without a compelling argument or other reason to do so."

So we've taken away the suspect designation --

A. Yes.

Q. -- so we can pursue overt lines of inquiry. An example, you can show people the email?

A. Yes.

Q. But here you're saying, no, not with the photos, yes?

A. Yes.

Q. Then, when we go to action 4 which is just over the page at 4.6, you're saying, effectively: continue scoping before you go any further; is that right?

A. That's correct, yes. The rationale behind that, sir, was that Tyburn should have priority, that that be the kind of central to the focus. The scoping of these other incidents, bearing in mind these other incidents came from SF themselves, where there was ten other DDOs within a similar period and based upon, obviously, the

killing ratio and the amount of weapons that were actually recovered or dropped, we felt that, certainly on discussion with Phil and I, that the -- we actually didn't know what the criteria, in terms of the other ten incidents, were.

Q. What do you mean by the criteria?

A. The criteria, how did the SF come to identify ten other DDOs that actually fit this particular sub-unit? Because other sub-units were operating, you know, in the area on rotation and --

Q. I'm just going to pause you there and, if I may, we'll come back to that point after lunch.

A. Okay.

SIR CHARLES HADDON-CAVE: Thank you, Mr Polnay.

We'll break now, please, until 2.05. All right? Again, please don't discuss your evidence with anyone. It's time for some lunch, all right?

A. Sure, sir, yes.

SIR CHARLES HADDON-CAVE: Thank you. 2.05, please, thank you.

(1.03 pm)

(The Short Adjournment)

(2.05 pm)

THE USHER: Good afternoon. This is an open hearing of the Independent Inquiry into Matters Relating to

Afghanistan. Please ensure that all mobile phones and other personal electronic devices are either switched off or in silent mode.

Please may I draw your attention to the fact that the Chair of the Inquiry, the Right Honourable Lord Justice Haddon-Cave, has made a General Restriction Order for Inquiry Hearings, which applies to the conduct of those who are attending and/or viewing this hearing. The relevant parts of that order are contained within the specific Restriction Order made in respect of these hearings, which is displayed on the Inquiry website and on the door of this hearing room, but I will summarise its purpose.

The first part of the General Restriction Order for Inquiry Hearings prohibits any person from making an audio or video recording of Inquiry proceedings without the express permission of the Chair. Furthermore, no person may take a photograph in any room in which Inquiry proceedings are taking place and at a time the Inquiry is sitting, without express permission of the Chair.

The second part of the General Restriction Order for Inquiry Hearings, which applies to this hearing, arises as the live stream of these Inquiry proceedings via YouTube will purposely be subject to a 10-minute delay.

Where those who have supplied evidence to the Inquiry have applied to restrict information from publication outside of the Inquiry, in some instances the Chair has made Restriction Orders, the effect of which is to protect that information.

The Chair has also made a Restriction Order prohibiting the use, publication or dissemination of certain information that is contained within the evidence and documents associated to these hearings. That Restriction Order is displayed on the door of the hearing room and copies are available on request. Where material is restricted, it is redacted and, where appropriate, a gist of the evidence is provided.

In the event that something is said during the course of this hearing, which may breach a Restriction Order made by the Chair, the evidence may be halted and the hearing room may be cleared for closed legal submissions as to whether any Restriction Order has been breached and the live stream YouTube recording will be temporarily stopped for this period.

Counsel to the Inquiry or the Solicitor to the Inquiry must be informed of any request to make an application for a Restriction Order.

If an application is made for a Restriction Order in relation to anything that has been said or done in the

Inquiry hearing room in the preceding ten minutes, anything that was said or done during that period is subject to a Restriction Order prohibiting its disclosure, repetition or duplication until the Chair has finally determined the application.

For the avoidance of doubt, where material or identities in documents shown to on screen or subsequently published have been redacted, with or without an overwritten gist, the redacted material is restricted and it is a breach of the Restriction Order to disclose what is thought to have been redacted.

All of the above orders are subject to a penal notice. This means that any breach of any element of the Restriction Orders may be certified to the High Court or the Court of Session, who will have the power to fine or imprison anyone find to have been in breach of the order.

(2.09 pm)

SIR CHARLES HADDON-CAVE: Thank you. All right?

THE WITNESS: Yes, sir. Thank you.

SIR CHARLES HADDON-CAVE: Mr Polnay.

MR POLNAY: Mr Evans, can we pick up the tab 5, please, which is then the next report, and this is the second assurance, if I can call it that. Would you mind turning, please, to 5-4, and do we see Action 3, this is

dealing with the progress of the ten DDOs, yes?

A. Yes.

Q. So, you set out at 2.5(d) that:

"Two key participants were 1466 ... and 1788 ..."

Yes?

A. Yes.

Q. You're setting out that there's their statement and their respective roles but you weren't clear as to the criteria which resulted in them being selected; is that right?

A. That is correct.

Q. You asked that they are then re-interviewed, yes?

A. Yes.

Q. Thank you.

Then, if we look below, we've got the operations and we've got effectively the -- it's been gisted here for open, as you can see: the number of operations EKIA versus detainees for those different periods.

A. Yes.

Q. Do you see that?

A. Yes.

Q. You can see how they change. Now, if you'll take it from me -- I know I'll be corrected if I've got this wrong -- this information, in terms of the figures, was obtained by the RMP in July 2017?

A. Yes.

Q. All right? Were you aware of that?

A. Yes, because it was available to us.

Q. Fine. So this just restating, at least in terms of the figures, the position?

A. Yes.

Q. Understood. Then, when we look at paragraph (e), we've got the additional matter about the course, yes?

A. Yes.

Q. And N1201 has been interviewed about his participation in Operation Tyburn, yes?

A. Yes.

Q. It appears this is the catalyst, and the IRT and the SIO are of the view that this should be addressed expeditiously, yes --

A. Yes.

Q. -- with an interview strategy?

A. Yes.

Q. So, again, this takes things a little bit further forward but not a lot further forward, yes?

A. Yes, that's correct.

Q. Fine. Then (f):

"Upon completion of the above interviews the IRT and the SIO consider it would be prudent and proportionate to invite the participants in Objective 2 and

Objective 1 for interview under caution."

Yes?

A. Yes.

Q. Can you just explain: when do you invite someone for an interview under caution?

A. When you feel that there are -- there's further information to be gained and perhaps that there isn't another method in which to actually obtain further information.

Q. Could I give a suggestion of a different formulation?

A. Okay.

Q. You interview someone under caution where there are reasonable objective grounds to suspect their involvement with the commission of an offence.

A. Yes.

Q. Right. So we've reached the point here where you say the participants in Objective 2 and Objective 1 should be invited for interview under caution?

A. Yes.

Q. That means they are suspects?

A. Yes, perhaps.

Q. Well --

A. Yes.

Q. Yes. Right. Now, you know N1201, he's the person who we spoke -- who gave the information right at the start,

which led to that.
A. Yes.
Q. We know he was on Operation Tyburn?
A. Yes.
Q. Was he on Objective 2 or Objective 1?
A. I can't recall, sir. I know one of them was actually on one of those objectives.
Q. I don't think there will be any dispute that the records show that N1201 was on Operation Tyburn and on Objective 2?
A. Yes, okay.
Q. He's the person who is meant to have said "We've got the detail of it"?
A. Yes.
Q. All right, so what's changed?
A. I think the discussion with the SIO is what's changed.
Q. Because in January 2017, you said the available information was third-party disclosure, speculation, rumour and chit-chat?
A. Yes.
Q. You have said that the suspect designations were premature, without foundation --
A. Yes.
Q. -- and profoundly unhelpful?
A. Yes.

Q. But here you're saying he should be treated as a suspect?
A. That was in discussion with the SIO, who clearly wanted that particular course of action because we'd go on to talk about duty statements later on.
Q. We'll come on to that and it's an important point but what I'm -- I'm sorry to ask you again, what's changed from it being without foundation to being a course that you are recommending?
A. Well, that's in conjunction with the SIO, who actually recommended and wanted that course of action, just as, when we wanted to do duty statements, it needed to be criminal justice active statements.
Q. Understood. Mr Evans, I'm sorry, if I can keep to the suspect status at the moment.
A. Sure.
Q. We absolutely will talk about the duty statements. When we are in January 2017, the SIO had already designated N1201 as a suspect, hadn't he?
A. Yes.
Q. It was your recommendation that that was without foundation and should be reviewed?
A. Yes.
Q. In fact, your advice was accepted, as we've heard. So the SIO's position hadn't changed at to all, had it --

A. But he --
Q. -- other than maybe the identity of the SIO?
A. Well, I think what's important is the nature of the investigation had changed at that stage.
Q. Well, could you explain that because what I was trying to take you through was to see what new information had been uncovered by the investigation, which meant, on one hand -- and it's quite -- you weren't saying before: well, it's finely balanced but, in my view, not suspect; you're saying it's out of the question, it's without foundation, profoundly unhelpful.
A. Okay.
Q. Can you explain what caused the --
A. Because I think I actually said that it limited the opportunities to obtain further information and potential evidence, if indeed that suspect status remained at that stage because the investigation was actually being directed towards wrapping around the various elements of this investigation with covert tactics and, of course, we didn't agree with that.
Q. Just sticking with suspects.
A. Sure.
Q. In terms of the evidence or the information or the intel or whatever, what had changed?
A. The nature of the investigation.

Q. Is there a piece of information you'd like to draw my attention to, which says, "Well, hold on, at this point there is no foundation" -- remember, we spent a fair bit of time and that's the description you adopted and you stick by -- to say: well, now it's the right decision?
A. Because a further approach in terms of just asking further questions obviously didn't appear to be now a fruitful way of getting further information. Maybe a kind of interview under caution might have, if you like, triggered further information.

The nature of the investigations have changed, you know, 360 degrees by this stage.
Q. Can you explain why --
A. Why?
Q. -- and in what way did it change 360 degrees?
A. Okay, that's if we were going to, if you like, direct this investigation around purely, simply -- purely covert activities, then of course you would have required a lot more convincing, more credible information and intelligence to support the ingredients of covert investigations and the degree of intrusiveness would generate even more information to be obtained.

So that element of the operation, we decided that it was absolutely pointless going down this avenue of covert, wrapping the investigation around with covert

techniques. We had to go to overt to actually try and open up further opportunities to get people to talk.

Don't forget, this was -- these offences occurred years and years earlier where we'd lost golden opportunities to actually collect all kinds of important information, which would have informed our suspicion in relation to whether there was a criminal offence or no criminal offence. I was still operating on the view that this was a critical incident. It wasn't a category A+ murder inquiry, as far as I was concerned.

At that stage, we hadn't even obtained a statement from the complainants in this case. We had no detail, no corroboration and very little credence in terms of some of this hearsay which definitely needed to be explored further.

So that was a tactic to put the two individuals under more pressure, with a view to --

Q. What was a tactic to put people under pressure?

A. Doing them -- interviewing them under caution.

Q. Sorry. Just so I don't misunderstand you here: you're saying they didn't really justify the suspect designation but you were going to do that as a tactic?

A. Well, that's what the SIO wanted at this particular stage.

Q. Well, if that's right, that's outrageous, isn't it?

A. In relation to what?

Q. Well, to write up someone as a suspect when they're not?

A. Of course, and that's what --

Q. That's what happened?

A. What happened early on in the inquiry.

Q. Right. When you did support the interview under caution -- I mean, it says here, "The IRT and the SIO consider it".

A. Yes.

Q. I mean, in terms of evidence or intelligence or material, nothing had changed, had it, of significance?

A. Except, obviously, the exchange of emails, the TTP review.

Q. So you --

A. Those things obviously were involved in the process.

Q. We knew about the TTP review before. The emails may have been sort of got in paper but isn't that still speculation, rumour and chit-chat?

A. Well, it certainly needed to be explored further, yes.

Q. I just want your help with what justifies such taking this from "without foundation"? Were you sure of the roles that they had in these DDOs?

A. Except that they actually were in the DDOs.

Q. Are you sure about all of this, Mr Evans? Are you confident in your recollection of the reasoning at the

different times?

A. I'm relying on obviously something I wrote up eight years ago with Phil Jones.

Q. I appreciate that and on one view it's quite a dramatic change of advice and change of position --

A. Well, I would suggest that the RMP actually do exactly this with the bare minimum of evidence. There's an evidence threshold, which is quite low and they arrest and interview under these conditions, frequently.

So I covered about minimum standards earlier on, which, in relation to the ramifications of this particular investigation, I didn't believe that you could proceed in that way. I wanted to be absolutely sure, wherever information that we'd gathered, was actually corroborated with, in detail, so we could actually believe that information.

Q. You were sure, by 2 August 2018, hence, effectively, the suspect interview under caution?

A. Well, a great deal more had happened, of course.

Q. So you were sure?

A. I was happy that it took place.

Q. Can I ask you about the photographs, please?

A. Sure.

Q. Now, one of the lines of inquiry, that there was a disagreement on approach about, was what to do with

photographs; is that right?

A. Well, a still image in itself doesn't say very much, of course.

Q. Some people say a picture paints a thousand words?

A. Well, it might do but you'd certainly want, from an evidential point of view, to be sure of what happened before, during and after.

Q. Well, let's get to that. There was a disagreement, wasn't there, between you, the IRT, and Op Northmoor team as to how to proceed; is that fair?

A. In what way, sir?

Q. As to whether they should get an expert to look at these photos?

A. Oh, okay.

Q. Is that right?

A. Yes, we were shown -- in fact, this particular episode, I think the RMP or the SIB actually thought they had a photograph which was materially very important, and the image was actually shown to us on a big screen. My reaction to that photograph was one where I thought it was an interesting photograph but there was no context given to us in terms of, you know, the credibility or the credence of that photograph.

Q. What do you mean by the credibility or the credence of a photograph?

A. Okay, the context before the photograph and why it was taken, by whom and where, and for what reason. The photograph itself, which was clearly a very sterile photograph. For example, it didn't show a deceased body or bodies in a room where they'd been effectively shot. It showed just a group of bodies that had been placed there for whatever reason in a very sterile environment.

And we said or we actually discussed it at the time with those gathered, in terms of this image, that, in order for it to be useful, then obviously we need the context of who, why and where and what, before, during, and after the photograph. Otherwise, it just remains a photograph. It doesn't show us whether these people had been unlawfully killed or lawfully killed.

Q. Well, I mean a photograph could never show that, really, could it?

A. Well, I wouldn't like to say that. It would depend. But certainly this photograph that we're talking about in question, like everything else in this in inquiry, it lacked credence and context.

Q. Right, so we've got a photograph --

A. Yes.

Q. -- and, on the face of it, the RMP believed it was of the incident they were investigating, yes?

A. Well, I don't know how they could, because they couldn't

satisfy any questions around who took the photograph, and where it was taken, when it was taken.

Q. We'll get to that in a minute.

A. Okay.

Q. But is it right that -- when I say the surrounding context, I don't mean necessarily the one that is put up on the screen, but UKSF were saying this came from the objective -- from their SSE, it's called?

A. Yes, it did come from a server somewhere, yes.

Q. So that's the base -- I mean, it's not just a random photo -- I'm being slightly facetious -- that's been found on the street?

A. Yeah.

Q. It's a photograph that is stored in a way -- I think it may well be on some of the official staff work documentation, which, on the face of it, says it's from that DDO. It doesn't mean you shouldn't investigate it or check it or want evidence, but that's the context of it.

A. I think that was the assumption.

Q. Yes, so you'd want to check that assumption?

A. Of course.

Q. Yes, and see if it's right and see if it's, in fact, wrong. Maybe it's been mislabelled or someone dropped the wrong photograph into a document. These are all

possibilities that obviously need to be looked at. Do we agree on that?

A. It could have come from a another sub-unit operation.

Q. It could have been a mistake?

A. It could have been anything.

Q. It could have been wrongly labelled, all of that sort of stuff.

A. Well, it wasn't labelled.

Q. All right. So you said that this really needed to be looked into, yes?

A. Absolutely.

Q. Right. They did in fact look into it, didn't they?

A. They did.

Q. Do you recall what they got from that?

A. I think it was the "where" but nothing else. It was really lacking any real context.

Q. So 50 -- and, again, I'll have it put up on the screen, it's the easiest way, I think, of doing it. We've got Major Cox's witness statement at 52-63. Paragraph 152. This is Major Cox, yes:

"We did review the metadata of the photographs and establish when and where they were taken but were unable to establish who took them."

A. Yes.

Q. Yes?

A. Yes.

Q. So in your view, there's no point sending them to an expert?

A. Well, I think what we wanted was what the when and where. He actually states that but, of course, I still don't know the when and where.

SIR CHARLES HADDON-CAVE: Sorry, I didn't catch that. You still didn't?

A. I still -- the IRT, sir, didn't know the when and the where.

MR POLNAY: That's what the data said.

A. I don't recollect seeing that data. I know it's been mentioned in Major Cox's statement because I've read it.

Q. Well, we'll look at tab 40 on the screen. Tab 40, page 2. We'll bring it up on the screen. Policy decision, SIO policy report:

"The IRT conducted a review ... They recommended that without proving the Who? How? and Where? the photos were taken, they should not be submitted ... I have been unable to prove the Who? ..."

And it won't be looked at.

A. But the nature of the photograph -- I mean, I've obviously had and still have, experience of this kind of request. Of course, I've got the benefit now of reading the policy entry by the Captain but we didn't have that

benefit beforehand. What we were -- what we had was an image based on a screen which clearly the investigation thought was very material in substance, and I was able to say that I disagreed with that because -- and I was able to give a couple of explanations of what happened there but, of course, that's only my opinion.

So what we wanted before -- we wanted context so that, when a forensic expert, ballistics expert, looked at the images, there would be context and he would then be able to kind of, perhaps more completely, profile what's potentially happened here. This is not a shooting scene where you've got blood spattered walls. This is -- looks like a very controlled area, where bodies have been placed after they've been shot. They haven't been photographed in situ with any weapons or anything; it was just bodies.

Q. Sorry, Mr Evans, it may be that we're missing each other slightly here.

A. Okay.

Q. The investigation team have got a photograph.

A. Yes.

Q. It looks that they can sort of prove from the metadata that it was taken at the right place at the right time --

A. Yes.

Q. -- so it relates to what they're looking at. Yes?

A. But does it tell us why?

Q. No.

A. Of course not.

Q. You're saying no point sending it to an expert?

A. Well, I think it would be better -- it would have been money better spent employing an expert once we had context, further context, so that at least then it may provide more information. It may not.

SIR CHARLES HADDON-CAVE: Did you understand the meaning of SSE?

A. SSE? No, I didn't sir, no.

SIR CHARLES HADDON-CAVE: Counsel will no doubt explain.

MR POLNAY: Sensitive site exploitation.

A. Sure, okay.

Q. So they are meant to take photos after, and this photo was said to be, by SF, one of the SSE photos, so one of the photos they took there.

SIR CHARLES HADDON-CAVE: They were required to take photographs after each operation, as part of the site exploitation.

A. Yes, I understand that, sir, yes. Thank you.

MR POLNAY: So --

A. So this was one photograph, which was very different.

Q. So, as you said in your report, no probative value or

context can be established by opinion, no evidence or intelligence to append such an opinion, so nothing of value would emerge that would assist the reconstruction of each scene?

A. Yes.

Q. You said "Don't even submit this to an expert"?

A. Not at that stage, no. Perhaps at a later stage, if we were able to discover more. And, clearly, there was discoveries of a like nature, perhaps not photographs, but with little bits of information from out of servers, but if you find that photograph, then you would expect to find other, similar images because this was just one photograph of one. It's not about, you know, what they're obliged to do and what they're obliged to kind of record at the time of the shootings. This was one solitary photograph.

Q. You're an investigator and this is a difficult investigation that you're reviewing.

A. Sure.

Q. Yes? You've not got tonnes of evidence; you've not got loads of people stepping forward to give detailed accounts, for whatever reason; it's not really progressed, you've said?

A. Well, there's very little evidence.

Q. What you have here, in this photograph, and there may be

other photographs, is perhaps an absolutely -- well, a clear, objective record of what it shows. Yes?

A. *(No audible answer)*

Q. All photos have limitations?

A. It shows -- I think there were nine bodies. That's what it showed. Nothing else.

Q. Did you get an expert to look at it?

A. No.

Q. Did you think maybe you might be able to tell something from the nature of the wounds?

A. Possibly.

Q. I mean, let me give you some examples of what you might be able to look at with a photograph and, again, just so you know, this is the process that, in fact, this Inquiry is conducting with the photographs, so you understand. These are some of the things that are being looked at.

A. Sure.

Q. Who knows what, if anything, it might be able to say but possible to look at, for example, where a person is shot.

A. Where?

Q. Where?

A. In this regard?

Q. Yes.

A. No.
Q. No? Don't photographs -- might you not be able to see from a photograph where someone has been shot?
A. They might have been shot somewhere else.
Q. No, no, but, for example -- and can I say, I'm giving an example, if everyone is shot in the head right between the eyes, that might tell you something. I'm really not saying that's the case but you could say -- you could learn something from where someone has been shot.
A. You could learn a lot more if you actually understood the context before, during and after.
Q. As you've explained, no one has given you the context. You haven't got the context?
A. Well, you've got to keep on looking and that, again, was kind of a prime example of where we were with this inquiry. There was bits and pieces that just lacked kind of credibility or probative value or, indeed, even evidence.
Q. You might be able to tell, would you agree, what type of weapon someone had been shot with, from looking at a photograph?
A. You might be. I can't recall, sir, that when I looked at this photograph, that it actually did show those things. I can't say, I can't recall.
Q. But you're not a ballistics expert?

A. No, but --
Q. You're not a trauma pathologist?
A. No, but --
Q. You're not --
A. What I'm saying is, when I actually looked at that photograph, I can't recall now, saying here and now, that they'd been shot in the head once or twice, or indeed anywhere else. They looked very sterile, as if everything else had been done, and they'd actually been moved to a location, and maybe it wasn't even an SSE photograph. Maybe it was, you know, something else. I don't know.
Q. You might be able to tell the distance that someone has been shot at -- shot from?
A. It's possible.
Q. You might be able to tell, for example, whether wounds were inflicted on people with other items, not guns?
A. This image clearly showed that they hadn't been shot in situ. These bodies had been moved to a sterile area for whatever reason.
Q. All right, but you still might be able to tell, for example, if a gun had been placed in someone's mouth?
A. Sir, listen, our view was that it lacked probative value. It lacked, if you like, the kind of images that an expert could actually look at and actually agree with

some of the things that you've said. But the RMP, the SIO in this case, we actually went before and spoke about the IRT -- we were not directing this operation. Now, you seem to be saying to me that, perhaps, you know, what we actually recommend was -- you know, it could have -- the RMP could have easily said, "Okay, well, actually, we hear what you've said but we'll get this examined by an expert".

I'm not going to disagree with that. I would not disagree with that. But I actually felt, at that particular stage, if there was other information to be gleaned from somewhere else or the same server, and it was continuing all the time, then that would be a better time to actually employ an expert.

Q. Mr Evans, as a professional investigator, you're not even wanting a forensic expert to look at this; are you not showing a remarkable lack of professional curiosity?
A. In fact, quite the opposite, really. I'm trying to do what's best for this investigation, by trying to produce the best information, the best intelligence and the best evidence.
Q. You seem to be saying that what's best for the investigation is not investigating?
A. That's not the case. That's not the case at all. I mean, it could have easily been that, by the time we

came back for a further review, they might have obtained that, that context, they might have obtained further information and that certainly would have been opportune then for an expert to look at that.
Q. Well, we'll later go to your close-down, you know, the very last report that we started with.
A. Yes.
Q. Do you remember, right at the start? You didn't say, "Let's go back to it now", did you?
A. Let's go back to which?
Q. The photographs.
A. Because nothing else was found.
Q. That's because you didn't look. If you don't look, you're not going to find anything.
A. I'm not --
Q. You're telling them -- you stopped them from looking. They wanted --
A. No, no, no, that's not the case at all. We didn't stop. Look, there's a draft terms of reference there for Northmoor and it actually specified that they are not obliged to actually agree with the recommendations of the IRT --
Q. No --
A. -- and that is to serve as police investigation.

I don't disagree with that. We were there to

advise. If they chose not to take our advice, then that's their decision. We were there to assist and we just felt, on this occasion, that to pen that just for the possibility of obtaining more information, that it would have actually provided more probative value from an expert.

Now, the fact that they were kind of frustrated with perhaps that answer is something to be considered.

Q. So if we could just have a look at tab 16. I'll put it on the screen. 16-2. This is the murder manual.

A. Yes.

Q. Because we're putting a few competing suggestions as to whether or not it was a good idea to have a look at the photographs. This is from the murder review and it says -- sorry, the Murder Manual. It says:

"In most cases it will be necessary to appoint a team of officers to work with the reviewing officer."

A. Yes.

Q. Different ranks and skills. It says:

"Ideally, the review team should also include an analyst and an experienced scenes of crime officer or science capable of carrying out an incisive review of forensic issues."

A. Yes.

Q. That was not you, was it?

A. No.

Q. You'd not been a murder detective for 15 years by this point?

A. No.

Q. And Phil Jones?

A. I don't know.

Q. Well, we can ask him about it later.

A. Yes.

Q. So before you shut the door --

A. We didn't shut the door.

Q. Before you advised that nothing could be done about this, did you think of saying, "Why don't we get an expert in to look at it because do, you know what, I might not be able to tell very much from this but an expert might have a" -- would that be best practice?

A. Well, you seem to be suggesting that we hadn't -- we actually didn't say, for example, this should never be examined by an expert. What we're saying is that perhaps it would be useful to actually probe further and then allow an expert to actually view the image. In that way, it's more likely we'd have got better feedback from the expert.

Q. I mean, just to bring you back to your witness statement, paragraph 101, you said:

"Phil and I would emphasise the images ..."

I think you were shown a number of images.

A. Yes, all the same, basically, no context.

Q. Lots of bodies, no context, I agree. But that's a photograph, isn't it, and photographs don't speak?

A. There weren't lots of bodies, no, there were other images, yes.

Q. "Phil and I would emphasise that images should not be subject to expert opinion until their provenance was properly established."

A. Yeah.

Q. Right? But once you've got the date and the location, that's good enough, isn't it?

A. Well, properly -- properly provenanced. I think, you know, you expect, if you find an image like that on a server, then you would expect to find additional information.

Q. I mean, additional information would be great but let's say you don't.

A. Okay.

Q. You've got the photo?

A. Sure.

Q. You can say when it was taken, where it was taken, we could say, eg this must be for Op Tyburn because we've got the date and the time and we've got the location because we've got, you know, the metadata, or whatever

it might be. Well, that's enough, isn't it, to then say: right, this is a photo of what we're looking at, this is first -- this is real evidence?

A. Real evidence of?

Q. Well, it's real evidence. I'm talking about it in evidential terms; it's called real evidence. It is just evidence of itself.

A. Okay.

Q. Yes?

A. Well, it's certainly evidence, but it's very limited in its scope.

Q. I'm sorry, Mr Evans, I'll put it one last time and I'll move on: how on earth could you know, without asking an expert to look at it? You may be entirely right; it may show nothing.

A. That was at the discretion of the RMP too, you know. They could have easily employed an expert if they wanted to. They chose to follow our advice and obviously didn't revisit it because further information wasn't gathered.

SIR CHARLES HADDON-CAVE: Mr Evans, I'm interested in your -- you use the word "provenance".

A. Provenance.

SIR CHARLES HADDON-CAVE: As counsel has said the metadata: you understand what metadata means?

A. Yes, I do.
SIR CHARLES HADDON-CAVE: Dates and location?
A. Yes.
SIR CHARLES HADDON-CAVE: You've also said that you understood the nature of SSE --
A. Yes.
SIR CHARLES HADDON-CAVE: -- that Special Forces were required to take photographs?
A. Yes.
SIR CHARLES HADDON-CAVE: And you understood at the time that these photographs were ones which Special Forces had supplied --
A. Yes.
SIR CHARLES HADDON-CAVE: -- because they were taking photographs because of SSE.
A. Yes.
SIR CHARLES HADDON-CAVE: What other provenance --
A. Well, this was one --
SIR CHARLES HADDON-CAVE: -- did you require?
A. Well, this particular image that we're talking about was one of one and what we wanted, preferably, was to establish if there was any further information in relation to who had actually taken that photo and why they'd actually taken the photo because it wasn't about -- it wasn't where somebody has been shot and are

laying now in a position with a weapon at the side of them, or wherever. These bodies have been moved.
SIR CHARLES HADDON-CAVE: Sorry, you were shown several photographs, as you've explained?
A. This particular image.
SIR CHARLES HADDON-CAVE: But you were shown several photographs, as you explained in your witness statement.
A. Yes.
SIR CHARLES HADDON-CAVE: What I'm not understanding is that you knew that Special Forces had taken them and they'd taken them because they were required to under SSE.
A. Not --
SIR CHARLES HADDON-CAVE: What other provenance? Can you help me with that?
A. Yes, indeed. At the particular time of showing the image, we didn't have that data, that metadata.
SIR CHARLES HADDON-CAVE: Which data?
A. The metadata in relation to the photograph. What we wanted was further information, and that's what they got.
MR POLNAY: Then you said, "We should now" -- you really need to review these now. Where do we see that?
A. Well, it should have been reviewed. If, on the basis of -- I mean, it could have been more fully exploited, of course. There's a limited amount of information

there, which still doesn't suggest, you know, that somebody has been lawfully or unlawfully killed.
Q. Looking back on it now, do you think it might have been better to support the SIO in his view that the photograph should have been examined by an expert?
A. I think we were supporting the SIO, sir. We were supporting, with the best interest of best information, best evidence.
Q. We've got page 5-4 of your report. I don't want to misquote you:
"Photographs of both Objective 2 and Objective 1 remain a concern. No continuity. Considered by IRT not to be viable evidence at present. Little prospect of gaining this continuity independently and in a timely fashion."
A. Are you asking me a question, sir?
Q. Yes, I mean, that's what you're saying. Yes?
A. Yes.
Q. Then 5-6, page 5-6, point 2.7:
"The IRT take the view the photographs relative to Ops 2 and 1 should not be subject to expert opinion until the continuity has been established who, where and when."
A. Yes.
Q. Yes, but they did establish where and when. We've been

to that?
A. Later, yes.
Q. But then you didn't think then they should be submitted?
A. No, I haven't said that. I'm saying that I don't think we actually reviewed that.
Q. So no one told you that?
A. I can't remember that being the case, up until my reading of Major Cox's statement where they actually did discover the where and the who, I think.
Q. Would you agree this is perhaps a bit unsatisfactory?
A. Which?
Q. Well, where we are with these -- what was happening with these photographs?
A. This was, again, just one example of so few examples where that could be actually exploited. It seemed that not to exploit them further would have been a lost opportunity. So going back into the server to look to see if there's further information seemed to be a useful piece of advice.
Q. Then, really, just the final thing I'll ask you about this for the moment: putting aside the metadata, these were, as said by SF, SSE photos. Isn't that enough to start the line of inquiry? To say, look, why doesn't an expert look at this? Have a scoping exercise, see what might be able to be said from it?

A. Sir, they could have done that. Our advice was that it lacked context at that particular time. If indeed further information came to light, which gave greater context, either what happened before, during and after, and why those bodies were actually where they were and the condition that they were, it would have been more useful to have information. It's only a question of continue to search and, if you find something, then you reveal the fact.

Q. I don't know what the SIO might say but one could see the argument being taken, well, there's your second report, the first one with Team 1, where you say, "This is all sort of secondhand and a bit hearsay" --

A. Yes.

Q. -- "Go away and get some proper evidence".

A. Yes.

Q. And then they come back and say, "This, on the face of it, is a photo of the scene"?

A. Yes.

Q. And you're saying "Don't look at it"?

A. Well, it's a scene. Of course -- we don't know what the context is of that scene.

Q. But you weren't advising that steps be taken to find out what could be said about the context from the photos?

A. Of course we were. We said to them: you need to go away

and make further enquiries.

Q. Sometimes the photos might have clues in it?

A. Of course, but this particular image didn't strike me as being of that kind of like nature.

Q. That was your opinion?

A. My opinion, absolutely. And, of course, the RMP didn't need to follow our opinion. They didn't need to follow our recommendations if they felt that it was improper or perhaps they didn't agree.

Q. Today, again, with the benefit of hindsight and the documents, you stand by that advice?

A. Absolutely, yes.

Q. If you were there making that advice now, you'd say, "No, don't bother"?

A. Sir, if I'd have been the SIO, I would have automatically tried to provenance that particular photograph.

Q. In the state it was, where they go "Here's what is meant to be an SSE and a photo of the scene" --

A. No, we actually -- what we had was an image with no background information at all, other than what the image showed, and that clearly wasn't the scene of the crime. It was another scene.

Q. Right. Let's move on to covert tactics.

A. Okay.

Q. Now, can I just be clear, there's intel in respect of this I may ask you about on a later occasion in CLOSED, because they relate to details and tactics and matters that are covered by a restriction order. Now, the -- I think you put in your witness statement, at paragraph 120, the gap between where the investigation was and where they needed to be to justify a covert investigation was "outrageous".

A. Yes.

Q. Is that the -- does that -- do you stand by that?

A. Yeah, it's a very strong word but, of course, if I contextualise it, if I may?

Q. Yes, absolutely.

A. On the January visit to the investigation, Captain Wright did a presentation to us in relation to all the sensitive material.

Q. Yes, and I --

A. Okay.

Q. In fact, I appreciate you want to give some context. Would you mind if I take you through some questions I've got. If there's matters you want to add at the end, then you'll have the opportunity but I just want to make sure that, inadvertently, you don't step into matters that are covered either by a national security Restriction Order or an investigative matters one.

A. Sure.

Q. But I'll make sure you've got the chance, obviously, to give your account and can I make clear there may be matters that we can't deal with in OPEN and we'll have to therefore appreciate that part of your evidence may have to be in CLOSED --

A. Sure.

Q. -- because of the explanation.

So in terms of your view, the gap was outrageous.

A. Yes.

Q. I asked you before, this is about report 1, about there being no foundation, and asked whether that might be a bit of over the top language. You said no. You also say no to this. This is your witness statement you made for this Inquiry?

A. Yes.

Q. You stand by "outrageous"?

A. Yes.

Q. Right. Can we just have a look, please, regarding to the report by Alan Pughsley, which is at tab 59 and again I can save you going through the bundles if you prefer --

A. Thank you.

Q. -- by asking that's brought up on the screen -- because Alan -- if we can have page 59-38, please. So I just

want to give a little bit of the context, rather than just chuck this in. At paragraph 175, Alan Pughsley discusses, and he gives his opinion, about this suspect designation. Okay?

A. Yes.

Q. He says that from the documents he, Alan Pughsley, has seen, it's his view that "Captain Wright has thought this through carefully and chosen a legitimate course of conduct" to declare them suspects.

A. Yes.

Q. You said you considered a course, that course was without foundation.

A. Yes.

Q. Alan Pughsley goes on to say at 176 it's not the line of investigation that he would have followed. So I think he, if I may, agrees you on balance regarding the designation, though puts it in somewhat more moderate terms.

A. Yes.

Q. In terms of the covert line of inquiry, he sets out at 174 the rationale but developing intelligence in support of his covert strategy and problems that he's got regarding ITS1, which we'll come to in a little bit, and the consequences of any other arrest.

At paragraph 190 of his report, which is at 59-41 --

we've got Mr Pughsley's conclusion -- and this is about the decisions as an authorising officer. Alan Pughsley's view is:

"... making decisions as an Authorising Officer ... I believe there's an equal argument that would support ongoing covert activity."

So whilst it's not the course that Mr Pughsley says he would have taken, it's his view that there's an equal argument that would support it. Okay?

You would go, I take it, somewhat further than Mr Pughsley?

A. I would. It's -- you know, it's appropriate to use covert activity in a case where the investigation is overt in many ways because the fact that it's kind of covert does change your -- the complexion of strategising, in that often you're afraid to do something because it leaks or, you know, the word gets out that this is what's happening.

Q. Sure.

A. Therefore, it sometimes can freeze you into doing very little and very much relying on covert strategies but it's essential to actually develop a strategy around covert strategies because they demand an awful lot of managing and you need, obviously, specialist resources sometimes to do that.

Q. I think Mr Pughsley's view is that it wouldn't, a covert strategy wouldn't have been the course that he would have taken.

A. Yeah, I --

Q. But as he's setting out, it would be one, it was a legitimate one, albeit finely balanced. Your view, though, was that it was outrageous?

A. Well, it wasn't legitimate at that point in time. I mean, Mr Pughsley is doing a document review and he's not spoken to people.

Q. Yeah, absolutely.

A. We were speaking to Captain Wright continually, and the kind of covert activity he was trying to pursue --

Q. I don't want to get into the --

A. I understand that but it would have required the things that I spoke of earlier, in terms of more information, more intelligence, to actually build a picture that there is a suspicion here of a serious crime being actually committed or prevented.

Q. Sure. But on that part, there comes a point where at least you'd agree there was reasonable grounds to suspect that a number of people were involved with the commission of an offence because your recommendation was that they should be interviewed as suspects?

A. Yeah.

Q. Yeah.

A. The --

Q. So if it's reasonable to interview them as suspects, why is a covert strategy outrageous?

A. Okay, because this was kind of a moving picture really. It wasn't like an awful lot of operations or investigations where you've clearly got criminality. There was very little information or very little, shall we say, actionable intelligence or evidence to actually show that a crime or crimes -- and of course we're talking more than one crime here, had been committed.

Q. Well, perhaps that's a convenient point to go into in -- and I'm asking you in general terms about the tests under RIPA as an authorising officer --

A. Sure.

Q. -- which is the reason you were brought on board.

So the first is, before you could get -- and I'm talking about any type of authorisation under RIPA, it's got to be for one of the statutory purposes, is that right?

A. It does, yes.

Q. One of them is detecting serious crime?

A. Or preventing.

Q. Absolutely. So the allegation -- murder, war crimes -- plainly is, if true, a serious crime?

A. Yes.
Q. The way that the Act is phrased is "detecting serious crime"?
A. Yes.
Q. Because, as we talked about before, sometimes the whole investigation is: is there a crime that is committed?
A. Indeed.
Q. So for example, you don't need to say, "I'm sure there's a crime that's been committed" before we go to say, well, we're looking at a covert strategy. So is that fair?
A. Yes, it is. I think in this case, though, sir, you kind of have to look at there are two different perspectives here. Philip -- Phil Jones and I were looking at, from a home force kind of perspective, in as much as the evidence threshold would have been significantly higher than what was practised with the RMP. There were minimum requirements. So they --
Q. I'm so sorry, what were minimum requirements?
A. The minimum -- the kind of threshold test for actually arresting somebody and actually interviewing them under caution.
Q. That's a statutory matter, isn't it, arrest?
A. It --
Q. In service law and under --

A. It is but, in their world, there is a minimum requirement. All I'm saying is that the requirement, in our world, within the Police Service, that threshold would have been higher. That's all I'm saying.
Q. Isn't it the same?
A. No, it's not the same.
Q. Okay. Can we --
A. Coming back to --
Q. We can go back to that later if we need to. So statutory purpose is the first thing --
A. Yes.
Q. -- and that's there. It's not sort of -- it's not covered by -- so the next part is whether it's necessary.
A. Yes.
Q. Can you just explain, as an authorising officer, what "necessary" might mean in this particular context?
A. You'd that have show whether you'd actually employed other methods, first of all, and shown to be obviously not fruitful or gaining the kind of information that you required.
Q. So you can't just go straight to compared to tactics because it's easy. You've got to see if there are other methods that mean you obtain the same information?
A. Of course. And of course, it's also about the

intelligence and, for something like this, the references to information that we've spoke about, wouldn't satisfy that intelligence picture that a serious crime had been committed.
Q. Well, I mean, we'll come to that in a minute. You've got -- in this particular case, you've got an issue that people aren't coming forward and giving statements; is that fair?
A. That's correct.
Q. Yes.
A. But, of course, that was when -- I mean, I think you would agree that the investigation moved on quite considerably once we switched it to an overt operation because that allowed us then to break open the fact that there was an investigation and we could actually approach people and attempt to obtain further information to build on what we already knew.
Q. Sure. Just -- I'm sorry, to take it step by step, and I'm, as I say, putting the view that might have been advanced by the SIO, you've got a difficult investigation?
A. Absolutely, the most difficult.
Q. You've got people who aren't sort of talking?
A. Sure.
Q. You've got people who you've asked to give witness

statements, who aren't giving witness statements, maybe as witnesses, we can go through some of those that are set out relating to meetings, for example the statement we looked at right at the start about the conversation.
A. But these are very selective opportunities.
Q. Yes.
A. We're not talking about an overt operation now where you've got the opportunity to really knock on anybody's door in SF and ask for the information. You might not get it but at least you can do that. And, of course, it depends what kind of covert authority you want because the more intrusive it is, the more you reinforce the necessary.
Q. Absolutely.
A. Yes.
Q. And I suppose all I'm asking for your views on, they're, as you say, looking at less, is there an easier way of getting it?
A. Yes.
Q. We have some people not talking. We've got photographs of -- can we put it this way, photographs of concern?
A. Of course, yes.
Q. We've got emails of concern.
A. Yeah, but that depends upon the degree of concern there because they actually didn't -- the TTP wasn't kind of

as a result of their concerns. The --
Q. I think it might have been, Mr Evans.
A. Well, it was but, of course, if you were actually serious about those concerns, then the TTP wasn't as meaningful as it could have been.
SIR CHARLES HADDON-CAVE: Sorry, I'm not understanding what you're saying.
A. Sir, the --
SIR CHARLES HADDON-CAVE: Forgive me.
A. No, the TTP was obviously a collection of DDOs in relation to this particular sub-unit. The SF, in actually compiling those ten incidents plus Tyburn didn't look any further within SF as a whole to compare, if you like, like for like in terms of kill ratio and weapons recovered. It was purely about this particular sub-unit. And in going to theatre and actually testing the TTP, the technical, tactical procedure here, I don't think much is actually gained from actually doing that and I think it was more a warning to SF and theatre that there's clearly been some concern expressed and, if there's some wrongdoing being done here, then we need to actually -- you know, we need to stop it, basically.
But the TTP, in terms of the criteria, we still don't know what that was, other than the number of -- the kill ratio compared to the weapons dropped. Some of

the shootings that allegedly occurred, you know, you might have a number of bodies but you might not have, you know, a requisite number of firearms per body. It might just be a number of bodies and maybe one firearm or two firearms and, don't forget, of course, they are going to these compounds because they've had intelligence from somewhere that clearly indicates that something untoward is going on there, whether it be the manufacturer of IEDs or a cache in weapons or whatever.
So it doesn't necessarily follow that, that this is unlawful, just because there were fewer weapons. In fact, it was shown that on another sub-unit there was actually more -- there was a bigger kill ratio with the same kind of weapon drop but nothing was done about that.
SIR CHARLES HADDON-CAVE: I think it's rather more complicated than that but I'll let Mr Polnay deal with that in due course, if he wishes to.
A. Sure.
MR POLNAY: I was just asking you, and just seeking to identify -- and if we can sort of try and keep it focused, it might help -- matters that might be relevant to the question of necessity.
A. Sure.
Q. So we've got people not talking.

A. Yes.
Q. We've got people not providing witness statements, we've got emails of concern, we've got photographs that are of concern. You'd heard -- I'll deal with this later, about some forensic wiping tools being used in circumstances, and it's in one of your reports there's some intelligence which has been received.
Now, given this inquiry wasn't really going anywhere, it had been a bit stalled, as you said -- and I entirely take the point, as Mr Pughsley sets out, that this is a finely balanced thing -- that there is a case, though, isn't there, to say there was a necessity to use covert tactics?
A. Well, it depends which tactics you're talking about. I think the tactic that Captain Wright had in mind --
Q. Okay, and I'm asking not to go --
A. I accept that, sir, but there is -- obviously, the necessity grounds will actually need to be far more comprehensive, depending on how intrusive you want your --
MR GOSS: *(Sotto voce)*
MR POLNAY: One minute, Mr Goss. I think we might deal with that under proportionality in a minute.
MR GOSS: We're skirting very near the edge.
MR POLNAY: I'm about to move on.

So the third limb is proportionality and, as a matter of general principle, the more serious and the more intrusive the method, the greater cogency you're going to need the proportionality to the aim -- sorry, the proportionality of the measure to the benefit.
A. Sure, I agree.
Q. So again, looking at all of these matters in the round and going as far as we can go in OPEN, and appreciating there's more that can be said on the topic in CLOSED, was the gap outrageous?
A. When I think of the tactic that Captain Wright had in mind, yes.
Q. If it were a bit more finely balanced, if we could just take that, as Mr Pughsley seems to suggest in his report. Let's say it is a bit more on the one hand this, and on the other hand that. If you wouldn't mind just working on that benefit for a minute. If that were the case, is the recommendation whether to go ahead with it or not something that properly falls within the province of a review, or should it really be left to the SIO?
A. Well, I think in this case, sir, I have had six years of being an authorising officer, dealing with this stuff every day, through the night, you know, urgent applications. So I had significant experience of

dealing with major and organised criminals and the sensitivities that go with applications and authorities.

And as I said before, I know what Captain Wright had in mind, as did Mr Murphy, when he did a presentation to Jon Murphy. I think his reaction was similar.

Q. I've got one last thing to ask you about regarding photographs.

A. Yes.

Q. If you wouldn't mind just turning back to tab 3, page 8. This is really just photographs. Have you got the --

A. I've got the --

Q. It's 8. It's the one that says, "Additional issue"?

A. Yes.

Q. "On 5 January, the IRT were advised by Sir Jon Murphy that when he was originally briefed ... by an MoD official he was advised the same weapon had been recovered at two different operational scenes."

Did you ever advise that photographs ought to be looked at to sort of see if you could see the same weapon twice?

A. We obviously had that in mind. I'm not sure that it was just towards photographs but certainly that was part of the corroboration that we were looking for in terms of whether a firearm had been used on two separate occasions.

Q. Do we see in your recommendation anywhere that photographs will be reviewed for weapons comparison?

A. I'm inclined to agree with that, yes. I think so.

Q. Okay. My apologies if it's a part that I missed. There's a lot of papers, so I may have done.

A. Sure.

Q. But I don't think that's a recommendation we seek but --

A. On that particular score, though, sir, that was actually incorrect information, as it turned out.

Q. I know. We'll finish that bit in a minute. I'm just talk about the general did you advise that weapons ought to be compared?

A. Oh, absolutely.

Q. You did?

A. Yeah, that was an obvious thing to look for. In fact, I think the answer that came back from that, that was attempted, but there was no evidence of that being the case.

Q. Okay, we'll come back to that in a minute.

In this note, you say you were advised by Sir Jon Murphy. When he was originally briefed, he was advised. How were you advised by Sir Jon Murphy?

A. That wasn't within my kind of knowledge. I think that came from Phil Jones.

Q. When it says "the IRT advised", that means Phil?

A. I kind of -- I wasn't aware of this additional issue until it was raised with me.

Q. So all of this additional issue, this is something to ask Mr Jones about?

A. Yes, I think so.

MR POLNAY: Thank you very much.

Sir, would this be a convenient time to take a break?

SIR CHARLES HADDON-CAVE: Indeed. We'll break now, please, for 20 minutes. All right, thank you.

(3.19 pm)

(A short break)

(3.40 pm)

SIR CHARLES HADDON-CAVE: All right. Thank you, Mr Polnay.

MR POLNAY: Mr Evans, just the last session of questions. I think I've got maybe around another hour or so. Okay?

A. Sure.

Q. Can I just go back to two matters just briefly before we move forward because they are potentially important and I just want to make sure we have your best evidence on the topic, first of all the question TTP, which you've mentioned on a number of occasions and we've discussed.

A. Yes.

Q. You've highlighted in your report the issue potentially regarding more bodies than weapons but you do understand

the basis for the -- or at least perhaps the main basis for the TTP review, which is it was said that people were captured, effectively, they were then under the control, they were detained by Special Forces, they were then sent back in to a building and then something happened: it was said they picked up a grenade or something or other, and then were killed. You do understand it was that particular TTP -- technique, tactic and procedure -- that was cause for concern?

A. Sure. I mean, there's still an awful lot of detail which is missing but I understand that, yes.

Q. I just want you to understand that was the specific reason for a review that had been conducted --

A. Yes.

Q. -- and questions that were being raised regarding that tactic?

A. Yes.

Q. The second thing I just want to ask you about, just going back, relates to the photographs we were talking about and context. Now, the photographs that were shown by -- I think it might have been by Major Cox, potentially with others, they were at the end of an SIR, weren't they, a shooting or a serious incident review; do you remember that?

A. I remember being shown some photographs.

Q. Yes. So I'm going to hopefully jog your memory in a minute but, just for the context, there was sort of a -- well not sort of, there's a report prepared by Special Forces saying this is what they say happened, and their review of it. There were then -- I'm talking about for Objective 1 here, very specifically.
A. Okay.
Q. There were then some statements from some of the people involved with it, as to what they said happened at varying levels of detail, okay, including people who fired the shots, so they believed. Then there was an appendix to it, where -- and I think it was the matter the Chair was raising with you before, the SSE forces?
A. Yes.
Q. Okay? So that's the context. I'm just going to ask you to have a quick look at them in a moment just to jog your memory and ask you a few questions about them generally. Can I just highlight for you but also everyone in the room and any of those that are watching on the link, some of the images on any view are quite graphic and that's really just a warning for everyone. If they decide they don't want to look at the screen or if they're viewing remotely to turn it away or turn it off.
A. Sure.

Q. So what I'm going to do is I'm going to ask -- and this is the annex to Objective 1 -- is just put on the screen and I'm just going to ask if it would be possible, please, just to scroll thorough them without lingering on any particular one because we can see what we've got, we can see the context. We see they are labelled "EKIA", enemy killed in action, 1, 2, 3, keep going.

This last one, you see it's called "Stab shot of room" that's the whole room. We can take those off, please.

Does that jog your memory of the photographs?
A. Some of the photos, particularly the last one, yes.
Q. Now, there's quite a bit of context there, isn't there?
A. There could be more.
Q. No, I've no doubt there could be a lot more. But wouldn't it be reasonable for photographs being presented in that form to at least have, as a working basis, that they in fact were taken during the DDO, during Objective 1, because they were an official documentation which said they were?
A. I can't say that, sir, because I don't know what's supposed to happen when they do the SSE -- the exploitation. So I can't really say that, you know, a process or a procedure was actually followed. I can see the photographs.

Q. You see where we've got them labelled and we've got some close up, where you can see.
A. Yes.
Q. At least it looks like you can see types of injuries?
A. Sure.
Q. Why did you advise against them submitting that to an expert to see, well, is there something we could gain from that? Wasn't that a sensible course of action by the SIO?
A. We're talking cross purposes here, because I was talking about an image with nine bodies on it that were laid out. That was the one that I suggested kind of lacked probative value by an expert. It wasn't all those other photographs. We were -- on this particular occasion there was an image on a large screen and the actual room where it was being shown was full of officers. And they clearly felt that this was very material in substance. And all I was saying was that it was a very interesting photograph but lacked context. That was the image I was talking about.

In relation to those other images, I certainly hadn't said they shouldn't be seen by an expert. There was one photograph in particular which, if you like, caused that discussion and that debate to be had.
Q. Sure. But if we have a look at tab 5, we've got your

report there. 5-4, 2.5(a). Again, I'm not tying to go over with sort of a ruler, I hope not taking an unfair point but at 2.5(a), 5-4, you say the photographs in both objectives 2 and 1, present a concern, no continuity, blah -- you're not talking about one photograph; you're not saying submit all the rest but not that one, are you?
A. I can't say they were the photographs that I'm referring to because, unfortunately, within the IRT report, we actually hadn't specified what photographs they were but --
SIR CHARLES HADDON-CAVE: Was the one photograph you're referring to now any one of those photographs or can't you now remember?
A. The last one was probably more likely, sir, because there was multiple bodies --
SIR CHARLES HADDON-CAVE: The last one? The stab photograph?
A. Yes, and if it was a sterile room then that would the photograph I'm referring to, that are meaning clearly the shootings didn't take place there because there was no indication of corroboration, there was no blood spatter in the room. It looked like the bodies had been moved from a shooting scene to a sterile scene. That was the photograph I'm referring to.

MR POLNAY: But your report talks about photographs --
A. We might have seen other photographs and I can't remember whether the issue of whether an expert should actually look at all those, I was talking about one particular image before and I was very clear on that.
Q. But if we look at 2.5(a) because it might be what's put in writing at the time is going to help us a bit more and it's obviously difficult to look back and remember the detail of exactly what you might have been shown then. You put "the photographs in both" present a concern, there's no associated continuity, lengthy discussion between the SIO and the IRT.

That does rather -- wouldn't that tend to suggest you were probably shown quite a few of these photographs?
A. No, the lengthy discussions really, we had to kind of repeat ourselves, time and time again, in terms of the importance of continuity and context and, obviously, credibility, which was seriously missing. I don't deny there were photographs but what I'm trying to say was that there wasn't sufficient context to actually say that they came from a particular SU, kind of, DDO, or who had actually taken the photographs or why they were taken.
Q. Just finally, if we just look at page 5-6,

paragraph 2.7:

"The IRT take the view that the photographs relative to Ops 2 and 1 should not be subject to expert opinion until the continuity has been established ..."
A. Sir, I am very clear in what I'm trying to say here. When I refer to not advising an expert, it was about a particular image, which --
Q. One image?
A. One image. We might have seen other photographs but the conversations that we were having was we had to repeat it time and time again, that continuity and context was seriously lacking.
Q. Mr Evans, is that really your evidence, your advice was only about one photograph?
A. No, I'm saying we actually saw other photographs but, in terms of the expert opinion scenario, I am referring to that one still image that --
Q. If we look at page 5-6, which we've got up, 2.7:

"The IRT take the view that the photographs [relevant] to Ops 2 and 1 ..."

That suggests, doesn't it, a number of photographs on each?
A. It does.
Q. Yes. So at least four photographs, I suppose, probably a lot more:

"... should not be subject to expert opinion ..."
A. Okay, that was clearly our view at the time, then, in relation to photographs, for the same reason I've said before: that they lacked provenance, they lacked probative value, they lacked context and credibility. So it was our view, and the RMP could have easily decided to actually have an expert look at the photographs. There wouldn't have been an issue. We just felt, at that point, where further investigation was actually -- you know, was ongoing in relation to collecting more information, that it was a bit premature. That's all.
Q. Can I ask you now, today, how good a recollection do you have of the detail of what you did on Op Northmoor? Do you have a good one or are you relying on the documents and working out what you think you might have thought?
A. Sir, this was eight years ago. I've been retired four years. I can retain plenty of information at the particular time. Eight years later, I'm being asked about things which I have a good recollection about and I'm just trying to be as precise as I can be, in terms of what I remember. And, of course, it's not at variance with what we've said in the IRT reports.

What I'm trying to say to you is the difference is, as far as I'm concerned, I was of the view -- and Phil

was too because we agreed -- that the one image that I saw, which they explicitly asked for expert opinion on -- not other photographs, that one image -- and I said "It's interesting but I'd like to know what happened before, during and after, first", which seemed to me to be a very reasonable request.
Q. Sure. Let's work on the basis of that. How do we then reach what we see at 2.7?
SIR CHARLES HADDON-CAVE: I think counsel's point is that in 2.7 and in 2.5, you say very clearly "photographs" in the plural, in relation to objectives 1 and 2.
A. Yeah, sure. I do, I do.
SIR CHARLES HADDON-CAVE: I think that's the point that counsel is putting to you.
A. Sure. I do and, of course, the photographs -- we did see other photographs and they were exactly the same.
SIR CHARLES HADDON-CAVE: The recommendation is that these photographs should not be subject to any expert examination: photographs.
A. At that particular point in time, sir.
SIR CHARLES HADDON-CAVE: I think -- I'm not understanding why you keep reverting to you had a discussion about the one photograph. If we just put that to one side, the point that counsel is putting to you is that the clear recommendation you make in 2.5 and 2.7 is that none of

the photographs should be subject to any expert examination. I think that's the point.
A. Of course. I understand, sir.
SIR CHARLES HADDON-CAVE: Can you help us with that?
A. I can't help you any further with that.
MR POLNAY: I'm sorry, I don't want to keep going on about the same point because there comes a point where it's just not helpful but there is just one last part I'd like you to look at, please, and it's tab 6, page 5.
So this is your final report, where you say the inquiries have been robust, thorough, and can stand scrutiny, and you're going back again:
"The IRT [at paragraph 10.0] take the view that the photographs ... should not be subjected to expert opinion ..."
We've got the response:
"As previously stated continuity ... has not been established. The IRT are aware that some members of the Northmoor investigation team believe that there would be merit in tasking an 'expert' to examine and provide an opinion on each scene."
You say it would be "futile". Do you stand by that now?
A. Yes, at that particular time, yes.
Q. Well, we'll come on to this right at the end but, as we

can see at 6-6, this is where you're talking about an exit strategy, and it sort of implies you're getting to the end.
A. Well, the end of our review, yes.
Q. Well, no, the ending of Northmoor?
A. No, because there was outstanding inquiries in relation to Northmoor when -- when we'd left it but we had not left it for good. We thought we were going to be advised to --
Q. Will deal with exit strategy later. Going to 10.1, there was -- it makes it pretty clear, doesn't it, you're saying don't look at any of the photographs and the team are arguing with you.
A. Can you highlight that on the screen?
Q. Yes, 10.1 -- thank you.
A. Yeah, I think that's -- we're just repeating what we've discussed previously there.
Q. Do you think you might have made the wrong call on this?
A. No, I don't.
Q. No doubt in your mind at all?
A. No, there's -- as far as I'm concerned, sir, there was ample occasions where there was information that needed to be exploited and we needed more information. We're talking about the possible consequences here of SF being accused of unlawful killing, and I'm looking for the

best evidence to actually either show that or, in fact, disprove it.
Q. Well, on that, I suspect you're having an argument --
A. It's not --
Q. The photographs could do either of those. That's the point. An expert might say, "I've looked at these and I've looked at these soldiers accounts in their witness statements and the operational summaries and they're completely consistent with it", which would lend support to what SF say about these being lawful killings being absolutely true and would lift any cloud of suspicion, or, going in with an open mind, they might say, no, this doesn't stack up and this injuries look like they might have been -- but this is -- if you don't ask, how are you going to find out?
A. Well, I don't think that alone would have actually satisfied the issue of whether it was or not a criminal offence, clearly.
Q. Yes --
A. It was our opinion based upon our experience and it was a piece of advice.
Q. Sure.
A. They needn't have taken that advice. They could have -- as they didn't take our advice on at least one other occasion.

Q. All right, ITS1. Now, ITS1 was the Special Forces computer system.
A. Yes.
Q. One of the things that -- and this is -- sorry, SF -- RMP were quite keen on seizing it, or at least the SIO was; do you recall that?
A. That would have been very proper in the circumstances, I suppose, if they'd had the justification for doing so.
Q. I think, is the way you put it at paragraph 79 -- and, again, I don't want anything approaching playing word games, you said:
"I [understood] UKSF's reticence to hand over material to the RMP. Given the passage of time since the alleged crimes had taken place, Op Northmoor did not have actionable intelligence or evidence. From my perspective, their requests to UKSF were therefore perceived by UKSF as essentially fishing expeditions."
A. Sure.
Q. Now, in fairness, UKSF probably wouldn't have known what evidence the RMP would have had, would they?
A. Of course. Similarly, I would imagine, because of what they do and the way they do it, that they were trying to protect that information as best they could, at least until it was justified that perhaps that information was required.

Q. We'll come on to in a minute any legal test may or may not have been met, but UKSF aren't really going to have a take, are they, on whether or not there's actionable intelligence or evidence?
A. Well, they're going to be reluctant to give any information, unless you can justify the request.
Q. Well, just as a sort of a matter of abstract principle, why wouldn't UKSF want to give material to help the police carry out an investigation?
A. You'd have to ask the SF that, sir.
Q. Well, it's just -- I'm only asking you about it because of the way you put --
A. Sure, all I know is that operations that I've conducted -- and there have been hundreds over the years -- if they are covert operations, sir, then there's very much a need-to-know basis and you want to protect that need-to-know doctrine as best as possible. And so, if anybody came wanting information from you, you'd certainly want to know what that information was and how they justify wanting that information. You're not going to volunteer that information readily on request.
Q. Now, at paragraph 99 of your witness statement you set out your recommendation that it would be prudent and more expeditious if data was recovered by consent,

rather than seizure.
A. Yes.
Q. Yes?
A. Yes.
Q. Your view was that there was no appropriate foundation to enable seizure; is that right?
A. Well, that's right, again in the context of the SIO, Jason Wright, was clearly frustrated, and rightly so, sometimes, that his kind of continued request for data wasn't met, and all kinds of excuses were given. So, as far as the evidence in the investigation goes, I would be reluctant to have provided information on the basis of what Northmoor had at that particular time.
Q. Sure, I mean but you're on the side of the police here, aren't you? You're trying to advise them in their investigation?
A. I've been a police officer 40 years. Clearly, I'm looking for evidence and evidence really doesn't change, as far as, you know, the police and the army are concerned. I think their threshold is lower than Home Office forces but that's what the pursuit is.
Q. Sorry, let's talk about this ITS1 server and the recommendation you gave, which we see in your second report, the first one in relation to Team 1.
So we've -- you knew about -- that some of the

emails, which were said to be relevant, I think I've shown you some of those earlier --
A. Sure.
Q. -- which plainly had some reliance to the issue?
A. Yes.
Q. I wonder if we could just have put up on the screen for a moment tab 50-2, one of the decision logs from Captain Wright. This is following the IRT, where Captain Wright says:
"I am to take no action in the recovery of ITS1 until directed otherwise.
"... no action in respect of DSF deleting potential evidence ..."
What about SDelete, what about the forensic deletion tool that had been used on it when the RMP went to recover it by consent? What did you think about that?
A. Well, obviously, we weren't aware of why, in fact, it was deleted.
Q. But you're a very experienced copper, organised crime. You've got a server that's got evidence.
A. Yes.
Q. You're saying you'll cover it by consent. I mean, it's not great, though, is it, when a forensic deletion tool is has been used?
A. No, that's certainly of concern but, of course, there

wasn't just one server that actually contained some of this information, it was a variety of servers in different locations.
Q. Yes, and --
A. And, of course, that would have -- they would have contained not just the DDO or the DDOs in question here, but other operations.
Q. If we turn to tab 8, page 25 -- and again, I'll do it on the screen because it's just easier -- this is your notebook --
A. Yes, okay.
Q. -- or part of your notebook?
A. Yeah, sure.
Q. I am going to ask if we can zoom in on the left-hand page and can I apologise if I've misread your handwriting?
A. Sure.
Q. If we can --
SIR CHARLES HADDON-CAVE: Can I have the reference?
MR POLNAY: 8-25, sir.
SIR CHARLES HADDON-CAVE: Thank you very much. Thank you.
MR POLNAY: So, these are, I suspect, notes from briefings that you've got or information you've got when you're down there. Then do you see in the left-hand side

you've got "Sestro" *(sic)*.
A. Yes.
Q. "Similar to this job. Target list names afterwards".
If I can help you, I think that might be a reference to Operation Cestro --
A. Yes, of course, yeah.
Q. -- one of the RMP investigations?
A. But it's not something we actually looked at.
Q. Absolutely. And we've got one below "Pavo"?
A. Yes.
Q. Operation Pavo, which was another RMP investigation.
A. Yes.
Q. So again, I may be wrong but it rather looks like you were being briefed on a bit of the context and some of the general background.
Then we've got "SFHQ(A)" Special Forces Headquarters Afghanistan. You've put SF, something redacted and then dash "closed down".
Then you've got "SFHQ(A) server -- covers raid". You've got an arrow pointing up from ITS1.
A. Yes.
Q. Question Mark, live SF and then something 19 December '15, "deleted stuff -- against agreed protocol".
A. Yes.
Q. Indeed, the suggestion is that in relation to Operation

Pavo there was -- I think, a forensic wiping tool had been used there.
Now, we've got this server that contains at least some relevant evidence, yes? We've got two occasions where it appears -- or on one view -- wiping tools may have been used. Why was it such a bad idea for the RMP to seize it?
A. If they could seize it. I'm not sure they had the power to seize it.
Q. Right. In fairness, you, at paragraph 100 of your witness statement, you make that point, and you say:
"While I do not know the extent of the RMP's power for seizure, the IRT gave this advice from our perspective as experienced police officers."
Now, if we go back at tab 3 to where you provide this advice, and we've got -- it's at 3-8, at 9.2 we've got your efforts to recover datasets proceed by consent and not seizure. Then going back to 3-5, at 3.5 on page 3-5, you say:
"Consider it may be prudent and more expeditious if you sought consent of those currently have custody of these datasets to allow relevant and appropriate inquiry to take place."
Then you say:
"At the present time the IRT consider there is no

appropriate foundation to enable seizure."
If you didn't know the RMP's powers, how could you come to that view?
A. I think we're actually -- well, clearly there would have been discussions around that particular topic and I still don't know whether the RMP had actually power to seize -- I think what we were saying is that this particular request for data had actually gone on for over a year, maybe even two years, without success, albeit it was bits and pieces found sitting alongside SF personnel, and I think, at one stage, they considered some kind of liaison between SF and the RMP but Captain Wright didn't want that. He didn't want somebody embedded within the inquiry from SF to act as liaison.
Q. Just picking up on something you said before: the investigations point wasn't making progress?
A. Yes.
Q. You've had these two years, back and forth, in requests and then SDelete being used. Didn't that, well, really sort of cry out to say: look, you need to seize this; get on with it and have a look at it?
A. Well, if they could seize it, yes, but our information was that they didn't have the power to seize and, therefore, you know, going back to my perspective as a police officer, we would always ask for the

information but, in asking, obviously you're also disclosing obviously what you want and why you want it, otherwise you're not going to get it, and perhaps Jason didn't want to do that -- Captain Wright didn't want to do that.
Q. He'd already been asking for the data. We know about that because he'd seen it. He'd seen some of the emails --
A. Yeah, sure.
Q. -- to be preserved and SDelete was run, so ...
A. Yeah.
Q. It's one of the things you put in your witness statement at paragraph 100:
"The principle remains that you cannot seize data without consent if you do not have a strong case to justify the seizure."
A. That's in usual circumstances, yes.
Q. I mean, again, just going back to PACE, which you'll be very familiar with, I think the test at least under Section 19, is about reasonable grounds for believing, not strong case; is that fair?
A. Yes.
Q. So, again, do you think you maybe were, perhaps with hindsight, slightly overstating the position?
A. No, because I think there was ongoing efforts to try to

seize the information. What we were trying to say is, in the meantime, let's not lose time but let's request it instead and see if -- because of course we were going more overt, as opposed to now covert, and that was with a view to trying to, if you like, identify further opportunities for collection.

Q. I mean, we've got Captain Wright at this point, Major Cox later, and it seems they want to try to progress the investigation?

A. Yes.

Q. ITS1?

A. Yes.

Q. Photos, interviews under caution; and you're saying no --

A. No, we're not --

Q. -- surprisingly.

A. No, we're not saying no. We're actually saying let's expedite the time and the opportunity that we have, while ongoing requests are made and, of course, it would be prudent, wouldn't it, that if the SIO is meeting a bit of a brick wall in relation to his requests, that others more senior than the SIO in the military would have actually pursued -- would have supported him and pursued that with other senior figures within the military. That's what would happen in a Home Office

force.

If I was being met as the SIO, based upon a reasonable request, with some resistance from somewhere within the police, then I would obviously go to my Assistant Chief Constable crime and report that fact and I would hope that he would support me and try and facilitate that request.

Q. Did it not ring alarm bells when you heard that a forensic tool had been used on ITS1, despite a gentlemen's agreement it would be preserved?

A. Well, I think the -- wasn't the -- the excuse was that it was deleted because the data was actually being transferred to another server and that was the protocol: that the data was erased, as is, if you like, by design, as it were, by procedure.

So it's clearly a concern, sir, but all we are saying is that, in the meantime, you continue to make the requests.

Q. Do you think you maybe might have given -- given it was SF that was being investigated here and SF individuals, do you think maybe you gave a bit too much deference or were slightly too unquestioning of some of the things SF said?

A. No, I don't. I realise the task that SF has to achieve and I would want to be absolutely sure that if I was

doing anything with SF, that I had sufficient information and justification to do what I'm doing.

Q. Because of the important job they do?

A. Absolutely. I mean, to be fair, they are owed that fairness. This -- I wasn't in the least biased by any of this. My job with Phil Jones was trying to pursue the best evidence and that best evidence, at the very minimum, was sporadic and vague and lacked, you know, sufficient credence. So we were always looking for other ways of achieving that, hence the duty statement scenario.

Q. Let's talk about the duty statements briefly, then we'll finish up with the FDHC. So you set out at paragraph 40 of your witness statement your recommendation that duty statements should be taken, yes?

A. Sure.

Q. Can you just say in a couple of sentences what's your understanding of what a duty statement is?

A. Well, a duty statement in the police would be -- it's not under caution, it's a free narrative by the officer in terms of what took place and if it's a kind of a chaotic scene and there's many officers involved, then it's a very quick way of actually getting some kind of operational summary.

Q. One of the things you say, in fairness, at paragraph 40

of your statement:

"The purpose of the statement was to collect information and intelligence from those on duty at the time of a crime. Crime scenes can be hectic and so duty statements allow police officers to cut through the chaos and note down any information or intelligence whilst it's fresh in their mind."

A. Sure.

Q. So this used by the police, for example, maybe in a -- well, perhaps a public order type situation and, though maybe times have changed and it might be exactly how things are done, perhaps in a police shooting type case. Formally, people might be asked to write down straightaway what happened?

A. Well, of course they should have done, SF should have done this at the time and they didn't report any of this, so what we're left with is what we're left with, basically.

Q. That's sort of the rationale, isn't it?

A. Yes.

Q. Let's sort of cut through all this, let's get it all down. But would it be fair to say we're quite a long way away from that scenario here in Op Northmoor?

A. Well, it was considered not to be a viable initiative, because that's not what the RMP do.

Q. Yes.
A. And, of course, it was levied at us that it would be more than proper to take a Section 9 CJR statement. But what we were trying to do here is inject some stimulus into this investigation, to actually scope it far wider than it had been, with a view to asking questions and, hopefully -- I mean, what we were missing here was classically a whistleblower, somebody who actually saw something credible, relevant to the investigation to come forward.
Q. Can we just take N1201 for a minute, who was a suspect, then de-designated following the IRT's advice --
A. Yes.
Q. -- and, it would appear, at least later, in one way, re-designated. Would it have been right, correct, proper to speak to N1201 and say, "Look, write here a statement", as a duty statement? Because isn't the point about duty statements, at least in the police you can be ordered to give them?
A. I think, in that particular context, maybe not but, in the context of, if you like, officers who actually went to a compound to do a clearance to search that compound as a result of intelligence receive, then what we were trying to do was reconstruct the scene as best we could by actually identifying just who was there, what they

actually did, what responsibility they performed, what they saw, what they heard, what they recorded, whether they took photographs.

In my opinion, I would have imagined, in terms of the call-out scenario, that there would have been interpreter present throughout most of it because of --

Q. I'd rather not ask you about any of the details of the specific DDOs in case we step into something in OPEN that we shouldn't.
A. Sure.
Q. But for whatever reason, good, medium or bad, we're a number of years on, yes?
A. Yes.
Q. There's an investigation into whether or not, and let's be blunt, war crimes have been committed, yes?
A. Potentially, yes.
Q. That's what the investigation is to find out. On one hand, incredibly serious criminality.
A. Of course.
Q. On the other hand, an outrageous and unfair slur, yes?
A. I agree.
Q. It's a very serious investigation?
A. Which is why I was very careful to be collective and corroborative of everything that took place.
Q. So, again, given we were where we were, as in years on,

I don't understand -- if you could explain -- wouldn't the most obvious course to be either say, "Right, those who are witnesses, there's no grounds to suspect, you need to provide, please, a Section 9 statement, setting out what you can remember"; and those who were suspects, they should have their right and their entitlement to be cautioned beforehand and then, if they wish to, to exercise their privilege against self-incrimination?
A. Yeah, I don't think it was that simple, really. I think the idea of the duty statement, which was obviously a non-starter from an RMP point of view, but the sole intention around that was to actually widen the scope of potential persons who were involved in these DDOs with a view to getting some additional information that we could then action on that might lead to something else, and so on and so forth. Where we were at was obviously a situation where it was almost a stalemate, there was no new information coming in at all.
Q. The lines of inquiry that could have yielded new information, your advice was those were inappropriate or not justified, covert, ITS1, photos?
A. Well, just because you're not getting information, just because information is being refused, doesn't mean to say that you can switch to covert, because what information is going to be relied on then for the covert

applications?
Q. So, can I turn to, please, the end of Operation Northmoor, and your involvement in the end of Operation Northmoor, and tab 3, your second report, the first one on Team 1.
A. Yes.
Q. This is sort of right at the start.
A. Yes.
Q. At 3-7, one of the things you're asked about -- and I just want to go back -- is whether the current systems are viable, an accountable investigation of allegations made, balance of effort, time and budget, and, if not, how Op Northmoor might better support and be supported for these objectives. Application of the proposed simple investigative strategy to Op Tyburn and the ten other alleged offences should permit decisions as to resources, staffing and likely duration of the inquiry, and the anticipated products sought from datasets is believed to be available in the summer of 2018.

"The IRT do no [I think it's meant to say 'do not'] believe it would be necessary to maintain a Major Incident Room and staffing at the current levels between now and the summer of 2018."

A. Yes.
Q. Do you remember providing that advice?

A. Yes.
Q. So am I right you're advising on your first review of Team 1, a wind down in terms of numbers or reduction in terms of numbers?
A. At the outset, the MIR was obviously fully staffed.
Q. Yes.
A. But, of course, I wouldn't have known what the expertise was within that Major Incident Room.

Obviously, Team 2 was actually putting data onto HOLMES and it was felt really that HOLMES should actually be serving the SIO and Tyburn should actually be the focus of that, with the potential of, if you like, including the scoping of the ten DDOs. So that was going to be the focus and, of course, there came a time when this summer of '18, and I think John Harvey, the Gold Commander, actually gave us that date when, in fact, datasets would be available.

Q. The reason I ask you about it is -- and it's something we're hearing with another witness, there was, on one view, pressure -- or another word might be a view -- from senior people that staffing should be reduced. At one point I think that 25 was the number. Did you ever hear that?
A. No, I don't because, clearly, we wouldn't have been privy to kind of the resources and indeed the quality of

those resources.
Q. No, no.
A. I imagine that Lieutenant Colonel Harvey would have been, if you like, perhaps better appraised of those kind of judgements.
Q. It's just I was wondering sort of how it was you came to express an opinion on staffing in here, as in was this asked, was this prompted for or did you just independently come to that view and decide to express it?
A. I can't really say, sir, except clearly we had given it some consideration, and it was felt that the HOLMES system was perhaps appropriate for the information that was actually coming in, and the focus of that information, which has obviously now been somewhat kind of condensed into ask a proper objective.
Q. Okay. If we then turn to tab 5, page 6, so we're jumping on two reports, and it's your paragraph 3.2:

"It has been agreed between Gold and IRT that a further assurance visit should take place if a positive outcome is achieved ... Conversely if no substantial progress has been made the IRT should return with a view to developing an 'exit strategy'."

A. Yeah, I think that was our exit strategy we were talking about because I was quite disappointed in many ways that

we actually weren't there right at the very end, because there were ongoing lines of inquiry which might have made a difference. We don't know and we weren't invited back.
Q. Sorry, just so where you say here, this might be important, "no substantial progress has been made", when you say "with a view to developing an 'exit strategy'," you mean an exit strategy for the IRT?
A. For the IRT, yes.
Q. Right.
A. Not for the -- not, obviously, the operation is a different matter; that's a matter for the RMP.
Q. So can you explain what that might have meant or what would be an exit strategy for the --
A. What we -- I would normally have done, as the reviewing officer, a comprehensive report in terms of, you know, the status of the investigation at that time and what was outstanding. So we would have normally done that, as a Review Team but, of course, I think it was done by Major Cox in the end.
Q. So where you say that, your evidence is that's talking about an exit strategy for you?
A. For the IRT.
Q. For you, yes?
A. Yes.

Q. All right but you'd need to return to do that?
A. We would have liked to have returned to do that because, of course, we might have had some conclusive information around the outstanding enquiries that were in play and, just being professional, we'd like to have done a covering report.
Q. I don't want to mislead you. This isn't your final report, you know.
A. Sure.
Q. This is the penultimate one.
A. Yes.
Q. Right. So if we turn to tab 6, page 6, this is the last report.
A. Yes.
Q. "The IRT continue to be impressed with the positive, tenacious ..."

Have you got the right page? It is 6-6?

A. Yes, thank you.
Q. "... the positive, tenacious and professional ongoing approach by the SIO and his investigation team. They knew to be open and realistic about the investigation and always adopt a thorough and comprehensive approach to all arising tasks. The IRT are of the opinion that Operation Northmoor should now consider all aspects in connection with a suitable exit strategy."

A. Yes, I think that was referring to Colonel Harvey, in relation to us as the IRT, not the -- but, similarly, if no progress had been made, then of course you could read that too, I suppose.
Q. I know it is difficult to look at these documents a bit later: does that not refer to an exit strategy for Northmoor rather than for the IRT?
A. No, it was definitely meant for the IRT.
Q. I mean, you didn't need an exit strategy. They could just not invite you back?
A. Exactly, and that's what happened.
Q. What would be the strategy?
A. Well, the strategy was, in terms of, you know, what had been achieved and what was outstanding and what more could have been done. And of course, that's the question: what more could have been done? If nothing more could have been done then, clearly, an exit strategy would have been appropriate at that particular time, until such time that other evidence came to light.
Q. Right.
Now, at paragraph -- we've got that page open, that's 13.0 on page 6-6, we've got your conclusion. That:
"The IRT believe that the enquiries and the extensive work carried out date has been robust,

thorough and will be able to stand scrutiny from any third party."
Then, at paragraph 171 in your witness statement, you said:
"I considered Op Northmoor was properly conducted, comprehensive and effective."
A. Yes.
Q. Save -- you say, and I'm paraphrasing -- you thought the covert enquiries were a bit of a waste of time and you consider they should have taken duty statements?
A. Well, it was a consideration with a view to trying to obtain more information. I think it was very apparent at the start of our review that this was always going to be -- there was always going to be a wraparound covert dimension to this and an overt enquiry wasn't considered by the SIO.
Q. You thought there was always going to be -- there always should have been a covert or no covert?
A. No, I think there should have been basically an open-mind scenario in relation to how best to achieve best evidence.
Q. So you think there maybe, in this case, should have been an overt and a covert strategy?
A. Well, that happens because, when you obtain more information, then that might lead to the necessity and

the proportionality issues being --
Q. It's not a binary choice, is it? Sometimes you can have an overt strategy run alongside a covert strategy?
A. Sometimes you have a disruptive strategy running alongside an overt and covert strategy, where you --
Q. *(Unclear)*
A. -- where you exploit other opportunities, absolutely.
Q. Sir, at the start of your evidence, I asked you about paragraph 171?
A. Yes.
Q. You gave you -- you said, and I'm summarising, whilst you meant it when you wrote it at the time, now, in court today -- sorry, in this hearing today and having had a chance to look at a far wider range of material, you were no longer of the view that Northmoor was properly conducted, comprehensive and effective?
A. Well, I think it was in two parts, really. I think that was the initial -- certainly, the initial situation but, of course, it changed because the nature of the investigation changed. If I can give you a taste of when Captain Wright presented to us on our second visit to the investigation, the sensitive data, both Phil Jones and I were actually really disappointed at the content of what he would describe as being sensitive, and we were very disappointed, on the basis that that

just wasn't a viable strategy at all.
Q. I think we've dealt with that part.
A. Sure.
Q. It's your conclusions I was going to ask you about now, if I may?
A. Yeah, sure.
Q. When you wrote your witness statement, you said it was properly conducted, comprehensive and effective?
A. Yes.
Q. You said you're not of that view now?
A. Well, I am in relation to when there was a change to kind of overt because I think the actual investigation actually made headway. And, in fact, they -- those expressions I used in relation to those inquiries that the RMP made, they were thorough and robust and professional.
Q. Okay. I'm sorry if this is me, so here we are sort of today -- and I appreciate it's been a long day -- in your view, yes or no: was Northmoor properly conducted, comprehensive and effective?
A. Yeah, when there was a change of -- yes, when there was a change of dimension, direction. Prior to that, I can't say that because it was actually tracking along a very difficult and challenging route that was just impossible to achieve.

Q. You're saying, so we're clear, it wasn't properly conducted, comprehensive, effective. IRT came along. With your recommendations, it became properly conducted, comprehensive and effective; is that fair?
A. It was certainly improved, yes.
Q. Standing right at the end, with all of the documents, looking back, with all the benefit of hindsight that you wouldn't have had at the time --
A. Sure.
Q. -- with the benefit of far more material that, again, you wouldn't have had at the time, is it your evidence you believe Northmoor was robust, thorough and able to stand scrutiny from any third party?
A. In accordance with what I've just said, yes.
Q. Yes?
A. Once it became overt.
Q. Would you accept even the possibility that the advice of the IRT, in relation to photographs, in relation to ITS1, may have prompted the investigation to take a wrong turn?
A. No.
Q. A wrong turn that was always going to lead to closure because the questions wouldn't be asked, to see whether or not there'd be evidence?
A. I think we actually improved the potential to actually

obtain further information, intelligence and evidence, whereas if it had remained the way it was, there would have been less opportunity, because the tactics that was attempted to be used, we are talking about an incident going back a number of years, and you have to have -- you know, there's got to be an objective here, that, if you're going to wrap something covert around an initiative, then what's the likely outcome of that initiative?

I imagine, and this is only my opinion, that these guys in the SF are doing countless operations like this and just like operations, as far as I'm concerned, you know, going back over the years, I've done countless and I can't remember them all. I remember some because they stand out for other reasons. But, you know, to actually assume that, because you wrap some covert techniques around an initiative, that you're going to get product which is going to be, you know, gainful, better than you had before. And often, if you're not careful, it can actually be worse, because you need all the tools in the toolbox to do a particular thorough investigation and not just rely on a single strategy.

Q. Do you consider that you approached the question as to whether Special Forces may or may not have committed misconduct with an open mind, with an investigative

mindset?
A. I think my open mind was still very open, even towards the end, in terms of this, I believe, was a critical incident that demanded thorough investigation. I think the investigation was actually thwarted in many ways, not at the behest of RMP in particular, but by other obstacles and challenges that obviously existed in these very special and difficult circumstances.

You know, I would say -- I was clear to say, I think somewhere in my statement, that, you know, I really appreciate how challenging and complex this was but that doesn't mean to say, just because it's complex and challenging and you're not getting anywhere with it, that you can suddenly turn to covert techniques because you can't justify it because the information isn't there.

So I didn't have a bias towards the RMP in terms of what they were trying to achieve and I think what the Captain was trying to achieve was covert status because I think he thought -- he certainly wasn't open, as far as I was concerned. I actually did think at one stage that, when he gave the presentation to Phil Jones and I, I wondered how many times he'd actually given that presentation because he didn't have to rely on to documents and paperwork. The presentation was very

eloquently presented to us from him in doing this countless times.

And we discussed with him the covert strategy, and he wouldn't be moved on that. We say he was open and he appeared to be open. He was very respectful to us, very professional, very supportive. What -- I thought we had a really good relationship with him but, clearly, he was frustrated -- I now realise he was very frustrated, for good reason too, on many occasions. But I think his experience around covert techniques, I think he showed a degree of naivety in terms of what was required and what actually can gainfully be produced, depending on what you do and how you do it.

So from that point onwards, really, I don't think we had any alternative but to press on and keep on pressing for further information and, in particular, the things that we've discussed today, the few and far -- you know, the few and far kind of things that you can actually hang something onto.

You know, when you look at the totality of the possible consequences here, they are minuscule. I would want, as the SIO, far more information than that. Far more creditworthiness and continuity and evidence to actually support something that the SF had done.

So, as far as I'm concerned, this was indeterminate.

It wasn't whether they had committed crimes or not committed crimes. There was just no evidence that I would suggest that you could rely upon to say one or the other.

MR POLNAY: Those are the questions I've got, Mr Evans. Sir, do you have any questions?

Questions from THE CHAIR

SIR CHARLES HADDON-CAVE: Thank you, Mr Polnay.

Just two. It's been quite a long day, so I can be quite short, Mr Evans.

A. Sure.

SIR CHARLES HADDON-CAVE: Firstly, you said a little while ago to Mr Polnay, at 16:02:11, that you thought the reasonable there has for investigation was lower than the Home Office police.

A. Yes.

SIR CHARLES HADDON-CAVE: A little while earlier, at 15:05:31, you said that the Home Office police threshold you thought was higher.

A. Yes.

SIR CHARLES HADDON-CAVE: Can you just help us with that observation and what you base that on?

A. I think that that was based upon conversations with Colonel Harvey, the SIO, Major Cox.

I think they accepted that the threshold was

a minimum requirement, whereas, you know, in such cases where the serious nature of these assertions was such that I would want, sir, I would want far more than that. It was kind of -- it wouldn't be professional otherwise to want far more than that, for the sake of, you know, the reputation of SF and the army and the RMP.

It's no small measure when you start arresting SF personnel for, you know, serious crimes when you don't have what I believe to be sufficient grounds, and I never did think that there was sufficient grounds.

SIR CHARLES HADDON-CAVE: Thank you.

Secondly, in paragraph 136 of your witness statement, it's tab 145, you say very clearly:

"We did not see a pattern."

A. Yes.

SIR CHARLES HADDON-CAVE: There were ten DDOs, weren't there, in Tyburn that were in play --

A. Yes.

SIR CHARLES HADDON-CAVE: -- as it were?

A. Yes.

SIR CHARLES HADDON-CAVE: You told us you were aware of the TTP, which was taking somebody back in --

A. Sure.

SIR CHARLES HADDON-CAVE: -- Bravo and they ended up being shot.

You were aware, were you, that quite a number of these DDOs, which were of the 11, had a similar pattern to them?

A. Yes.

SIR CHARLES HADDON-CAVE: So I don't quite understand why you say, "We did not see a pattern" in your statement --

A. I think the pattern, sir, was in relation to either linking these investigations together or actually keeping them separate, so that the focus was essentially on Tyburn because that had the most information around it, and then exploiting that, then, perhaps to include the other operations. But it's a serious issue when you kind of -- when you link kind of investigations. It obviously puts a lot of pressure on the personnel and the HOLMES system, unless you can actually justify linking them.

So there might have been a pattern and the pattern was that obviously there was, you know, 11 DDOs with the same sub-unit kind of dealing with them, and there was a certain pattern, but that doesn't mean to say that it was unlawful.

SIR CHARLES HADDON-CAVE: So, Mr Evans, to be clear, you accept that there was a pattern?

A. Yes. I mean clearly, it was the same sub-unit. Obviously, the -- the kind of -- the killings were

actually done or committed with a view to obviously taking an elder or somebody else that was selected back inside the compound. I accept there was kind of similarities there but I still can't make the leap that, even though there was sort of a pattern, the credibility behind what happened each time that they went into these compounds was seriously lacking.

SIR CHARLES HADDON-CAVE: So I don't understand as to why you say, in paragraph 136 "we did not see a pattern" because you now accept that you do see a pattern?

A. Well, when I say a pattern, the pattern was, I think, either towards linking these investigations or not linking them and we didn't feel that the criteria for linking them was justified.

SIR CHARLES HADDON-CAVE: Okay, thank you very much for that.

Mr Evans, it has been a long day. Can I thank you, first of all, very much for coming to give evidence and for all the work you've put into preparing for this hearing. Can I thank you for the very careful way in which you've answered all Mr Polnay's and some of my questions. Your evidence has been very helpful and I'm very grateful.

THE WITNESS: Thank you, sir.

SIR CHARLES HADDON-CAVE: It's been a long day, so I think

it's time for a cup of tea and a piece of cake. All right.

MR POLNAY: Can I just mention, sir, I think it's likely that we'll ask Mr Evans to return at a date -- it won't be a date particularly close to now -- to give a little bit of evidence in CLOSED about some of the matters that we couldn't deal with in OPEN.

THE WITNESS: Yes, sir.

MR POLNAY: But I'm not objecting, sir, if he needs to discuss matters with his legal representatives or others because that is some time away and it's different topics to those that we've dealt with.

SIR CHARLES HADDON-CAVE: Indeed. You've be made aware that there are some issues --

THE WITNESS: Yes, sir.

SIR CHARLES HADDON-CAVE: -- and we, as Mr Goss said, came glancingly close to some of them. So I'm sorry we may have to trouble you again to just deal with those but they should be fairly discrete.

THE WITNESS: Sure.

SIR CHARLES HADDON-CAVE: So feel free, in a sense, to discuss with your advisers any matters in the meanwhile, all right? Except for topics.

THE WITNESS: Sure.

SIR CHARLES HADDON-CAVE: Yes, Mr Polnay, can I thank you

very much indeed for all the work that has gone into today's hearing, and your team.

Can I thank everybody for the arrangements that have been made and for the wifi, which is holding up, and can I thank everybody, very much indeed, for their quiet attention today and for the various minor but useful interruptions.

All right. We'll adjourn now, please, until --

MR POLNAY: 10.00, please, sir.

SIR CHARLES HADDON-CAVE: 10.00 tomorrow morning. Thank you very much indeed.

(4.49 pm)

(The hearing adjourned until 10.00 am the following day)

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