

GISTS IN UNDERLINING AND ITALICS
AMENDMENTS IN YELLOW HIGHLIGHTING

Witness: MI5 WITNESS
Party: 4th Respondent
Number: 2
Exhibit: MI5 1
Date: 24/11/17

Case No. IPT/15/110/CH

IN THE INVESTIGATORY POWERS TRIBUNAL
BETWEEN:

PRIVACY INTERNATIONAL

Claimant

and

- (1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS
- (2) SECRETARY OF STATE FOR THE HOME DEPARTMENT
- (3) GOVERNMENT COMMUNICATION HEADQUARTERS
- (4) SECURITY SERVICE
- (5) SECRET INTELLIGENCE SERVICE

Respondents

AMENDED WITNESS STATEMENT OF MI5 WITNESS

I, **MI5 WITNESS**, Senior Manager in the Security Service, of Thames House London SW1, WILL SAY as follows:

- 1) I am a Senior Manager in MI5 and have worked for MI5 for 31 years. I have been a member of the Senior Management Team for 9 years. In my current role I am responsible for MI5's advanced and strategic analysts. I have been involved in MI5's bulk personal data ("BPD") activities since 2006. Additionally, I have been involved in MI5's acquisition and use of bulk communications data ("BCD") over that same period.
- 2) I am authorised to make this statement on behalf of MI5. The contents of this statement are within my own knowledge and are true to the best of my knowledge and belief. Where matters are not within my own knowledge they are based upon documentation made available to me and from discussions with others within MI5.
- 3) I am the MI5 witness who made the MI5 OPEN witness statement dated 16 October 2017. I made that statement to respond, in OPEN for the purposes of the OPEN hearing then taking place, to a point that arose from IPCO's email of 10 October 2017.

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- 4) I make this statement to respond to a number of points that have recently arisen (and arose at the OPEN hearing). In particular, I make this statement in order to describe to the Tribunal, so far as relevant to the issue of proportionality:
- a) the capabilities of MI5 in relation to BPD and BCD; and
 - b) the techniques that MI5 employs when accessing (ie searching) its BPD and BCD holdings.
- 5) I understand that the Claimant's Counsel, in the course of his submissions on 17/10/17, referenced that the SIA might hold a dataset such as "everybody's Facebook account". Additionally, I understand that he referred to the possibility that dating websites or apps (as examples of social media data) might also be held by the SIA as BPD. I have seen, in this regard, pages 52 to 55 of the transcript from 17 October 2017.
- 6) *I cannot confirm or deny whether MI5 does hold a BPD such as Facebook or a dating website (or "app").* We would consider social media to be websites and applications that enable users to create and share content or to participate in social networking.

[REDACTION]

- 7) The Tribunal's letter of 2 October 2017 to IPCO, and IPCO's response by email of 10 October, addresses the Claimant's question that is premised on the SIAs' use of "artificial intelligence" techniques.
- a) In particular, by question c) of the Tribunal's letter of 2 October, the Tribunal asked: "*How are the Respondents' artificial intelligence techniques (including, for example, the use of algorithms, 'machine learning' techniques, data mining techniques and automated decision making) audited, if at all?*".
 - b) IPCO responded saying: "*The Commissioners conducted no audits of such techniques*".
- 8) I am able to address, in CLOSED, the extent of MI5's capabilities/techniques in the area of artificial intelligence ("AI") so far as that relates to MI5's use of/access to BPD and BCD. In relation to this question I have discussed matters with colleagues, within MI5, who have particular expertise in this area.
- 9) Based on my discussion with colleagues, I am able to say as follows:
- a) So far as I am aware there is no precise definition of the meaning of AI. That is, in part, because AI describes an aspiration (that machines will be able to do tasks we have normally thought of as being beyond them and only possible for humans to carry out). Thus, AI is a term that is usually avoided by computer scientists.
 - b) "Machine learning" is the technique that computer scientists generally use in order to deliver what are thought of as AI capabilities.

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- c) "Machine learning" may be defined as a "computer science technique by which a computer identifies the solution to a problem on the basis of a set of inputs rather than the solution being the outcome of a set of human generated rules within a computer program."
- d) A type of machine learning technique would be learning by example. An instance of this may be as follows. A computer could be given a dataset consisting of photographs of pathological examples. A human expert has identified which of them are, or are not, positive matches for a particular disease. The computer assesses the features of the photographs (comparing the diseased to healthy samples) and itself generates rules which it can then use to assess further samples without human interaction.
- e) The Tribunal's question to IPCO suggests that the use of algorithms, data mining techniques and automated decision making would constitute AI. However, those techniques are used in a very wide range of computer programs, many of which do not use any form of AI or machine learning techniques. Accordingly, we would not equate any of those techniques with "machine learning".
- 10) I am unable to confirm or deny whether MI5 carries out machine learning techniques when conducting BPD/BCD searches.
- 11) I have seen from page 88 of the transcript from 17 October 2017 that the Claimant's Counsel referred, in the context of criticising the oversight of queries, to "all the modern issues which arise in relation to profiling of entire populations and looking for behaviours". In CLOSED I am able to address that suggestion and describe the nature of the search techniques typically employed by MI5 investigators and the operational rationale for those techniques being employed.
- 12) MI5's BPD searches may start with a particular piece of information that an investigator will be seeking to enrich, for example to identify a real world individual. Alternatively, an investigator may seek, from a possible identity (or name), to identify whether that person has acted in a way that may justify further investigation [REDACTION]. In such cases, the starting point is, again, a particular thread that the investigator will want to seek to follow, so far as our BPD holdings can assist in doing that.
- [REDACTION]
- 13) I am unable to confirm or deny whether MI5 uses its BPD or BCD in the manner suggested by the Claimant's Counsel as quoted at paragraph 11 above.
- 14) The way in which MI5 uses its BCD is broadly similar to our use of BPD. In the last year MI5 made 20,728 applications to access communications data from its BCD.

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- 15) In response to IPCO's email to the Tribunal of 10 October 2017 I provided an OPEN witness statement dated 16 October 2017. In that OPEN witness statement, when referring to the fact that the default position for searches was to search all BPDs in each of the two MI5 systems, I explained that this was in order to ensure that the searches are comprehensive and that something is not missed. In CLOSED I am able to provide further explanation. The nature of MI5's BPD holdings and the reason for searching our BPD holdings also informs the rationale for searching across a range of datasets. In particular, if we wish to search against an address to which a person has a link, then not searching all datasets risks intelligence failure. For example, we would then risk not identifying that that address arises in relation to, say, [REDACTION]
- 16) Further, the sheer volume and pace of the work that is undertaken by investigators is such that carrying out a series of partial and incomplete searches of our bulk data holdings would hinder effective and prompt analysis, in circumstances where reliable information is needed in time critical situations in order to respond national security threats. In order to fulfil MI5's statutory function of protecting the UK from threats to national security, and to provide assurance that we are doing so, it is critical for MI5 to use, to the best of its ability, the tools and data that it holds for the purposes of that function. On 17 October 2017, Andrew Parker (MI5's Director General) gave a public speech which referred to the current threat and also talked about the scale and pace of work in MI5 at this time. I am now able to exhibit a transcript of that speech as MI5 1.
- 17) The Tribunal ought, also, to be aware that the way in which the BPD search tool (in the system that is used by investigators, rather than the specialist analysts) returns results to investigators, itself minimises intrusion. Investigators are provided with a preview, so that they can determine whether or not that preview result justifies further human examination (and consequential intrusion). In the area which is used by specialist analysts the vast majority of search results will also provide a preview.
- 18) At pages 87 to 88 of the transcript, I have seen that the Claimant's Counsel referred to the lack of technical understanding, within IOCCO or IS Com, of the SIAs' processing techniques. [REDACTION] Further, and based on my own experience of dealing with the Commissioners over a number of years, I believe that the Commissioners had a good understanding of how, in practice, MI5 officers searched our BPD and BCD holdings. In particular, in June 2016 Sir Mark Waller was given a demonstration of the system that MI5 investigators use when accessing BPD.

[REDACTION]

Statement of Truth

I believe that the facts stated in this witness statement are true.

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MI5 EXHIBIT 1

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Andrew Parker, Director General MI5 – Speech to the media, 17 October 2017

Good morning. Thank you all for coming today.

It is right for Ministers to speak and account for Government to Parliament and the public. The Home Secretary, to whom I am accountable, does so regularly on security and other matters. As does the Prime Minister. My predecessors have made occasional public speeches over the past 25 years to help public understanding of our work. I've done so several times myself. I'm doing so again today to offer my perspective on the current threat situation, particularly terrorism and what we are doing about it.

In 2017, with all that has happened and much that has not, it is clear that we are contending with an intense UK terrorist threat from Islamist extremists. That threat is multi-dimensional, evolving rapidly, and operating at a scale and pace we've not seen before. But so too is our response. I want to tell you today about what that looks like.

I'll begin with the threat. We've seen a dramatic upshift in the threat this year. It's at the highest tempo I've seen in my 34 year career. Today there is more terrorist activity, coming at us more quickly, and it can be harder to detect.

I said in my Mansion House speech two years ago that I feared that even after a string of successful disruptions we had not yet reached the high water mark. Sadly that has proved to be the case. Islamist terrorism is an acute and enduring challenge that requires a sustained and comprehensive approach.

Twenty attacks in the UK have been foiled over the past four years. Many more will have been prevented by the early interventions we and the police make. There have been record numbers of terrorism related arrests: 379 in the year to June. Just in the last seven months, we and the police have thwarted seven terrorist plots by Islamist extremists, intending to maim and kill in Great Britain.

But tragically four such attacks have taken place, plus a further attack at Finsbury Park. 36 innocent people have lost their lives and many more have been injured or affected in some way by these despicable acts. I know that I spoke on behalf of every member of MI5 when I wrote at the time about our hearts going out to everyone affected by these terrible events.

There has been a similar picture across Europe and beyond where we have seen a steady drum beat of attacks, including particularly in France, Belgium, Germany, and of course recently in Spain.

The scale at which we are operating is greater than ever before. We are now running well over 500 live operations involving around 3000 individuals known to be currently involved in extremist activity in some way. As well as those we are looking at today, risk can also come from returnees from Syria and Iraq and also the growing pool of over 20,000 individuals that we have looked at in

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the past in our terrorism investigations. And there will be some violent extremists not yet known to us at all.

This upshift is driven by Daesh's murderous strategy and online propaganda. Daesh directing mass casualty plots. Daesh encouraging particular extremists in the UK to kill. Daesh inspiring attacks generally, by lone actors or small groups or anyone who will listen to their poisonous message.

We've also seen that terrorism breeds terrorism. Would-be attackers take encouragement from the acts of others and can be galvanised into taking action themselves. Acts of violence become normalised in their twisted thinking.

Meanwhile, Daesh itself is under military pressure and is rapidly losing ground in its heartland in Syria and Iraq. So much so that it's now advising would-be fighters to choose other countries. Their false idea of a caliphate has been shown for what it is. At the same time the Daesh brand has taken root in some other countries where areas of low governance give it space to grow.

Tackling it as a movement will require sustained international focus for years to come. And of course Daesh isn't the only group that despises our values and way of life. We are actively working against Al Qaeda and others who share their violent ideology.

The threat is more diverse than I've ever known. Plots developed here in the UK, but plots directed from overseas as well. Plots online. Complex scheming and also crude stabbings; lengthy planning but also spontaneous attacks. Extremists of all ages, gender and backgrounds, united only by the toxic ideology of violent victory that drives them.

These threats are sometimes now coming at us more quickly, whether crude but lethal attack methods - for example using a knife or a vehicle - or more sophisticated plots when in today's world terrorists can learn all that they need online to make explosives and build a bomb. Attacks can sometimes accelerate from inception through planning to action in just a handful of days. This pace, together with the way extremists can exploit safe spaces online can make threats harder to detect and give us a smaller window to intervene.

And of course alongside all of that work against Islamist terrorism, MI5 remains a multidimensional organisation. We continue to bear down on terrorism in Northern Ireland with our police partners, and to work against espionage and other clandestine activity by Russia and other foreign states who seek to do Britain harm.

I'd like to say a few words about our response to this situation. I've always been clear that we can't hope to stop everything. But I can tell you that MI5 and our partner agencies are bringing the full weight of our growing capabilities to counter this new intensity of threat. Day in and day out we are identifying and disrupting threats: stopping terrorism. Our response is

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unrelenting. Those that wish our country harm can expect to meet MI5 and the police. And they will face the full force of the law and be brought to justice.

We face this new order of challenge from a position of strength. The UK has world-class intelligence agencies and counter terrorism policing. We are developing, growing and sharpening our capabilities all the time. And we have the strongest possible partnerships. With SIS and GCHQ, with the police, and with many other organisations here and overseas. We stand with our European partners and of course work very closely with the US and all our other allies. Let me say a bit more about Europe. We don't just stand with our European colleagues, we work with them. We share intelligence. We run joint operations. Every single day. Only last week I met again with my counterparts from 30 European security services, known together as the Counter Terrorism Group or CTG, as we decided on the next stages of collective action. It might help illustrate how close our working is if I say that we have a joint operational centre, which happens to be based in the Netherlands, where officers from across our services are working alongside each other every day in joint facilities with shared data in joint endeavour against the terrorists. This delivers real results. Together we have stopped attacks. More than a dozen terrorists are in custody today who might not otherwise have been found in time.

The women and men of MI5, growing from 4,000 to 5,000 over the next couple of years, are of course members of the public, who are drawn from across the society that they protect. They get up and come to work every single day to make terrorist attacks less likely and to keep the country safe. They are constantly making tough professional judgements based on fragments of intelligence: pin pricks of light against a dark and shifting canvas. That is the job of MI5.

When an attack happens everyone in MI5 is deeply affected, on a personal as well as a professional level. But we are all driven by the mission to keep the country safe. And we are in a position to make a difference and do something about it. And so of course that is our focus. Our values, never more important as we face the current challenge, are strong. These enduring qualities that define the core of MI5 are fourfold: making a difference, professionalism, teamwork and innovation. My officers give their best even when they feel at their worst in the wake of attacks. They are up for - and are meeting - the challenge, and the energy is palpable.

Throughout our history MI5 has been all about innovating to meet the changing threat and the shifting technological environment. We review every major operation and learn from our successes. And when an attack happens we are determined, using the harsh light of hindsight, to squeeze out every last drop of learning so that we can be the very best we can be, now and in the future. This is what guides our response to the attacks we have seen in 2017.

We are constantly evolving to stay ahead. That's why, with the police, we've been conducting detailed reviews over recent months, both to extract all the

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lessons and to look at new ways of doing things. We welcome David Anderson QC's role in independently validating what we are doing. But all this is just one part of the whole of Government response. To address the wider societal challenge of extremism in communities and online, and counter the narrative and underlying drivers that feed it. And the response goes beyond Government. It must include deepening partnerships with the private sector.

We all rely on a myriad of brilliant technological advances in everyday life. But an unintended side effect is that these advances also aid the terrorists. Whether it's the ease of online purchasing, social media content, or encrypted communications. Addressing these challenges is about partnerships and ethical responsibility. No company wants to provide terrorists with explosive precursors. Social media platforms don't want to host bomb-making videos. And communications providers don't want to provide the means of terrorist planning beyond the sight of MI5. Some helpful action is being taken. But there is a challenge of pace, volume and reach as these technologies continue to develop so rapidly. We have a shared responsibility to do all that we can to prevent terrorist exploitation of internet carried services. And with the Government and the police, MI5 is committed to working together with the companies to tackle it.

It may well be that for as long as the drivers persist, there will remain a high risk of terrorist attacks. But most attempts will continue to be found and stopped. And the terrorists will certainly fail in their aim to change our society.

Finally, I want to take a moment to pay tribute to the dedication and skill of the men and women of MI5, our police, SIS and GCHQ partners, and all the agencies at home and overseas who together make up the team that's pressing down on this threat. And I want to record special thanks to our agents, sometimes known as human sources. Those who courageously work for us in secret, close to the extremists, who do so much to help us prevent terrorist atrocities. We all owe them a debt of gratitude.

To conclude, the challenge that we face is undoubtedly a stark one. More threat, coming at us more quickly, and sometimes harder to detect. But it is a challenge that we and our partners are rising to and are facing down. We are committed to this for the long haul. Our unrelenting focus will remain on doing everything in our power every day to keep Britain safe.

Thank you.

ENDS

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