

<p>1 Friday, 2 July 2021</p> <p>2 (10.30 am)</p> <p>3 MR JUSTICE HILLIARD: Yes.</p> <p>4 MR HOUGH: Good morning, sir. May I deal first with</p> <p>5 representation. I appear with Aaron Moss as Counsel to</p> <p>6 the Inquest, instructed by Tim Suter of Field fisher,</p> <p>7 our solicitor to the inquest. Rajiv Menon QC sitting to</p> <p>8 my right appears for members of the family of Sudesh</p> <p>9 Amman. Directly behind me Neil Sheldon QC and Julian</p> <p>10 Blake are for the Metropolitan Police Service. To my</p> <p>11 right and behind me Francesca Whitelaw and Richard Boyle</p> <p>12 for the Secretary of State for the Home Department and</p> <p>13 the Secretary of State for Justice. Trudy Morgan</p> <p>14 sitting towards the back of court represents the IOPC</p> <p>15 and attending remotely, Alice Meredith for Witness T,</p> <p>16 theological mentor.</p> <p>17 MR JUSTICE HILLIARD: Yes.</p> <p>18 MR HOUGH: Sir, as you know, this is the third and final</p> <p>19 pre-inquest review hearing in the inquest of</p> <p>20 Sudesh Amman, who was fatally shot by armed surveillance</p> <p>21 officers on Streatham High Road on 2 February 2020 after</p> <p>22 he began stabbing members of the public in an apparent</p> <p>23 terror attack.</p> <p>24 The matters to be addressed are set out in the</p> <p>25 agenda which was circulated to interested persons on</p> <p style="text-align: center;">Page 1</p>	<p>1 and scene photography. Your team have also issued</p> <p>2 requests for relevant documentary evidence for 15 public</p> <p>3 authorities and other bodies and have pursued follow up</p> <p>4 enquiries. They have had requested corporate statements</p> <p>5 from the public authorities most directly involved.</p> <p>6 In our submissions on page 2 on paragraphs 5 and 6,</p> <p>7 we provide an update on the work of the IOPC in</p> <p>8 particular.</p> <p>9 Sir, the material gathered from the investigation</p> <p>10 teams and others has been subject to a three stage</p> <p>11 review process for disclosure to interested persons,</p> <p>12 which we described on the last occasion.</p> <p>13 On page 3 of our document at paragraph 7, we</p> <p>14 summarise the progress in disclosing documents to</p> <p>15 interested persons over the TMX document management</p> <p>16 platform as matters stood at the start of this week.</p> <p>17 Sir, a further disclosure update of three pages has</p> <p>18 been provided which brings the figures up-to-date. Let</p> <p>19 me summarise.</p> <p>20 As of today, over 600 documents comprising over</p> <p>21 9,500 pages will have been disclosed on the platform.</p> <p>22 Some further material was received from the Metropolitan</p> <p>23 Police on 25 June and that has been subject to urgent</p> <p>24 review. At present, the inquest teams holds about 150</p> <p>25 documents which may be relevant and disclosable and</p> <p style="text-align: center;">Page 3</p>
<p>1 11 June and we have circulated full written submissions</p> <p>2 addressing the topics on the agenda which are available</p> <p>3 to the media.</p> <p>4 So today's hearing will begin with an open session</p> <p>5 in this court, followed by a closed hearing in, I think,</p> <p>6 Court 26, which will address in particular the public</p> <p>7 interest immunity claim of the Secretary of State for</p> <p>8 the Home Department. If it's convenient, I propose that</p> <p>9 you hear first from me on all of the items of the</p> <p>10 agenda, to the extent they can be addressed in open, and</p> <p>11 then from each interested person advocate in turn on</p> <p>12 those matters.</p> <p>13 MR JUSTICE HILLIARD: Yes, thank you.</p> <p>14 Submissions by MR HOUGH</p> <p>15 MR HOUGH: So may I begin with the first two items taken</p> <p>16 together, investigations and enquiries and disclosure to</p> <p>17 interested persons.</p> <p>18 Sir, the process of your team gathering evidence and</p> <p>19 disclosing it to interested persons has been very fully</p> <p>20 explained in our submissions for the three hearings so</p> <p>21 far. In short, your team have engaged with the SO15</p> <p>22 Team, Operation Stylospore, and the IOPC team who have</p> <p>23 been investigating the attack to obtain relevant</p> <p>24 material from their investigations, including witness</p> <p>25 statements and other documents, as well as CCTV footage</p> <p style="text-align: center;">Page 2</p>	<p>1 which we expect to disclose within the next week. That</p> <p>2 includes a report on the life and background of</p> <p>3 Sudesh Amman by the Stylospore team, some surveillance</p> <p>4 logs, some surveillance briefing documents and a police</p> <p>5 CLIO log for the operation directed against Sudesh Amman</p> <p>6 which details actions between his release from prison on</p> <p>7 23 January and 3 February.</p> <p>8 All remaining witness statements for witnesses to be</p> <p>9 called in the inquest will have been disclosed by the</p> <p>10 end of the coming week. The great majority have already</p> <p>11 been disclosed but within the next week there will be</p> <p>12 disclosed a statement of Prina Patel, the psychologist</p> <p>13 at HMP Belmarsh who prepared the ERG22 risk assessment</p> <p>14 report on Sudesh Amman, a statement from Leon Campbell,</p> <p>15 his probation officer, a statement from</p> <p>16 Carina Heckrood, a senior officer of the National</p> <p>17 Probation Service, a statement of BX174, the officer who</p> <p>18 gave the surveillance briefing on 2 February and</p> <p>19 statements of Inspector McCarthy and Superintendent</p> <p>20 McKibbin, officers of the Metropolitan Police giving</p> <p>21 evidence about training officers.</p> <p>22 So in short the bulk of the relevant material has</p> <p>23 been disclosed and of the remaining material we</p> <p>24 anticipate that most will be disclosed in the coming</p> <p>25 week, so that by three weeks before the inquest</p> <p style="text-align: center;">Page 4</p>

<p>1 commences all interested persons will have everything 2 they need bar a small number of items. 3 As set out in the update report, the Metropolitan 4 Police team have also produced presentation materials 5 for use in the inquest. These include first of all a 6 sequence of events presentation which has been disclosed 7 and includes maps, CCTV, images and scene photography. 8 Secondly a video compilation of Sudesh Amman's movements 9 in the days leading up to the attack and the day itself, 10 including footage from CCTV and police body worn video 11 cameras, that will be disclosed in the next week. 12 Thirdly a computer aided modeling bureau fly-through 13 animation illustrating the scene of the attack on 14 Streatham High Road. That is also to be disclosed in 15 the next week. 16 Finally what we describe as a flick book which will 17 contain a series of still images from the footage which 18 show the confrontation between Sudesh Amman and the 19 surveillance officers on a frame by frame basis. 20 In addition a replica of the hoax IED belt worn by 21 Sudesh Amman will be available in court as well as an 22 image of that exhibit being disclosed. 23 So that's what I propose to say about enquiries and 24 disclosure, unless there's anything you wish to raise. 25 MR JUSTICE HILLIARD: No, thank you.</p> <p style="text-align: center;">Page 5</p>	<p>1 jurors. 2 Any jurors who identify potential inappropriate 3 connections by their answers will either be excused 4 after consideration of the forms or asked if there's 5 anything to be clarified. Sir, I understand your 6 intended approach to be that there won't be any excusals 7 without you indicating in general terms the nature of 8 the problem so that interested persons can comment. 9 MR JUSTICE HILLIARD: Yes, absolutely right. 10 MR HOUGH: Item 5 is hearing arrangements and logistics. 11 The case remains listed to be heard here in the Royal 12 Courts of Justice beginning on 2 August, timetabled for 13 a little under three weeks. We have a contingency plan 14 for multiple overflow courtrooms linked to the main 15 courtroom by live links if social distancing measures 16 remain in place, because those would mean we couldn't 17 fit all attendees in the main courtroom with appropriate 18 distancing if the current measures were still in place. 19 But we have contingencies for sufficient overflow courts 20 and obviously we would have the principal protagonists 21 as well as the jury in this, in the principal court. 22 Then we then turn to item 6, which is anonymity and 23 special measures. This is a more substantial item. The 24 court has before it applications for anonymity and 25 special measures which we can divide into three. First</p> <p style="text-align: center;">Page 7</p>
<p>1 MR HOUGH: relation to that. 2 The third item on the agenda is witness selection 3 timetable. 4 Sir, following the usual procedure adopted in large 5 inquests, your team circulated a draft witness list in 6 the form of a timetable on 13 April and invited comments 7 by 14 May. The only actual submissions made on 8 witnesses to be called were by the family of 9 Sudesh Amman in mid May, and solicitors to the inquest 10 responded to those by letter of 28 May. 11 Sir, I know you've seen that letter. In short we 12 have agreed with the great majority of the proposals 13 made by Mr Menon's team and we don't understand from his 14 written submissions for today that any further witness 15 requests are being pressed. A revised and final 16 questionnaire has been circulated this week and no 17 interested person in their documents has made any 18 submissions as to that. 19 The fourth item is jury questionnaire. Sir, as 20 explained on page 4 of our document, jury summonses have 21 been issued to a pool of up to 100 jurors with a view to 22 selecting a jury of 11. A questionnaire has been drawn 23 up to identify any inappropriate connections of jurors, 24 interested persons were consulted on the content of that 25 questionnaire and it's now been sent to potential</p> <p style="text-align: center;">Page 6</p>	<p>1 of all applications by Metropolitan Police surveillance, 2 counterterrorism and firearms officers. Secondly 3 applications by mentors under the Home Office desistance 4 and disengagement programme and thirdly applications by 5 the mother and siblings of Sudesh Amman. 6 Sir, a certain amount of common ground emerges from 7 the submissions including the representations of media. 8 We set out the governing principles from page 5 to 9 page 8 of our document, but let me summarise them very 10 briefly because they're not in contention. 11 First, the court has power to anonymise witnesses 12 and to grant special measures, including screening and 13 ordering evidence by live link. The power to anonymise 14 is common law power whereas the screening and live links 15 are governed by the Coroners Inquest Rules 2013, however 16 there are broadly common governing principles. 17 Secondly, if refusal of a particular measure will 18 expose a person to a real and immediate risk of death or 19 serious harm the court will usually be expected to grant 20 the measure since the Article 2 or 3 rights of the 21 person would be engaged and the court as a public 22 authority would be expected to take reasonable 23 protective measures. 24 Thirdly, where that's not the case the court carries 25 out a balancing exercise setting the interest in favour</p> <p style="text-align: center;">Page 8</p>

<p>1 of the measure against countervailing factors. Factors 2 militating for special measures may include genuine 3 fears of a witness and may include risks falling short 4 of a real and immediate risk of death and serious harm. 5 The court should always take account of the important 6 principles of open justice and the extent of any 7 infringement on open justice in striking the correct 8 balance. 9 Fourthly, where a witness' Article 8 rights are 10 engaged, those will be taken into account and will 11 usually be balanced against the Article 10 rights of the 12 media in wishing to report on proceedings. 13 Fifthly, there can be anonymity without screening 14 and screening without anonymity. A witness may be 15 screened from some in court and not others. The 16 objective overall is to determine a package of measures 17 for a given witness or individual which strikes the 18 balance correctly. 19 Turning then to the applications of the Metropolitan 20 Police officers. They concern 12 officers; eight 21 surveillance officers, two operational officers from 22 SO15 and two from the Specialist Firearms Command and 23 Specialist Crime Division. 24 As the Metropolitan Police submissions stress, these 25 are officers who work in covert roles rather than</p> <p style="text-align: center;">Page 9</p>	<p>1 impair the quality of their evidence or anybody's 2 ability to test their evidence. Refusal of the orders 3 sought would limit the officers' ability to continue to 4 work in covert roles in future. That would restrict 5 their career development and it would also rob the 6 Metropolitan Police of valuable resources. Granting 7 these orders would help the officers to give their best 8 evidence by avoiding them being subjected to further 9 anxiety about the consequences of giving evidence. 10 The overview evidence of the Metropolitan Police 11 provides realistic grounds for concern about the 12 recruitment and retention of officers into these roles 13 if these officers were identified publicly in this very 14 high profile case. 15 We also observe, though not determinative, that no 16 interested person opposes the orders sought and the 17 media only object to the officers being screened or may 18 do so depending on how their submissions are read. 19 Finally, although we accept that anonymising the 20 officers and screening them from the public would have 21 an effect on open justice, we submit that the 22 consideration is outweighed by the other factors I have 23 identified. 24 Sir, a slightly more contentious question arises as 25 to whether the officers should be seen by accredited</p> <p style="text-align: center;">Page 11</p>
<p>1 uniform roles. 2 We set out at paragraph 21 of our document the 3 special measures sought and those take account of a 4 modification in the application of which I know, sir, 5 you're aware. 6 At paragraph 22 we make the proposal that an order 7 under Section 11 of the Contempt of Court Act ought 8 logically to be added to the package of measures if they 9 are granted. 10 Sir, subject to two points I'll address in a moment, 11 we respectfully support the application for reasons we 12 give at paragraph 27. I'll run through them now so that 13 all attending know in broad terms what our position is. 14 The evidence, we submit, does not establish giving 15 evidence without the measures sought would put these 16 officers at a real and immediate risk of death or 17 serious harm. We accept that the evidence refers to 18 risks and threats to the officers but it is in our 19 respectful submission too generic and too speculative to 20 evince a real or immediate risk of death or serious 21 harm. That said, the officers do put forward what are 22 plainly genuine concerns about the risk to them and the 23 disruption of their lives if their identities are 24 revealed. 25 Anonymising and screening these officers would not</p> <p style="text-align: center;">Page 10</p>	<p>1 journalists when giving their evidence. The submissions 2 of the media representatives say that they would object 3 to uniformed officers, uniformed firearm officers being 4 screened but they wouldn't object to undercover officers 5 being screened. These officers of course fall into a 6 halfway house. They're not strictly undercover officers 7 but they are officers whose day-to-day work is in covert 8 roles. 9 Sir, as you know, the question of journalists seeing 10 otherwise screened officers was considered by the Court 11 of Appeal in the recent case of Dyer, where it was 12 suggested that serious consideration should be given to 13 permitting it in the case of officers who had justified 14 their evidence being screened from the general public. 15 Now, it is right to say, as the Metropolitan Police 16 Service do, that the officers in the Dyer case were 17 uniformed officers who went about their policing 18 business overtly. 19 In our written submissions, we took the provisional 20 position that accredited journalists should be permitted 21 to see those officers when giving their evidence. 22 In response, the Metropolitan police has submitted 23 that these officers, unlike those in cases such as Dyer 24 and other recent cases, rely upon their anonymity for 25 covert work and allowing them to be seen even by a group</p> <p style="text-align: center;">Page 12</p>

<p>1 of accredited journalists inevitably gives rise to a 2 risk of them losing the intangible but vital protection 3 of anonymity.</p> <p>4 In our submission, sir, the Metropolitan Police 5 Service is right to say that protection of the anonymity 6 of these officers should be given a high premium and 7 furthermore we recognise the benefit to open justice of 8 accredited journalists seeing the witnesses but still 9 being unable to put names or faces to them in print is a 10 limited benefit. However, in our submission the real 11 question is whether allowing the journalists to see 12 these officers would pose a real rather than fanciful 13 risk to their anonymity given that their names would not 14 be provided and no photograph could be published. What 15 we suggest is that you hear further from Mr Sheldon on 16 that issue because of course he is best placed to make 17 submissions on the particular risks facing these 18 officers.</p> <p>19 If you do accept that there is a real risk to their 20 anonymity by these officers being seen by the 21 journalists, even accepting the journalists are 22 responsible individuals, then in our submission the 23 Metropolitan Police Service's submission is a sound one.</p> <p>24 Sir, in our submission we also raise the question of 25 whether interested persons as distinct from their</p> <p style="text-align: center;">Page 13</p>	<p>1 the forum of social media. Identifying these two 2 publicly would give them a particularly prominent 3 profile as mentors.</p> <p>4 Secondly, as Ms Ellsmore of the Home Office 5 explains, there would be a risk of compromising efforts 6 to recruit and retain mentors if those involved in such 7 a case as this were named. Her evidence must be given 8 particular weight in that regard given her experience 9 and expertise in the programme.</p> <p>10 Thirdly, as Witness M says in his statement, some 11 individuals in future might refuse him as a mentor 12 because he worked with Sudesh Amman. This would limit 13 his ability to contribute to this important progress.</p> <p>14 Fourthly anonymising these witnesses and screening 15 them from the general public would not affect the 16 ability of interested persons to understand their 17 evidence and to test it.</p> <p>18 And, finally, accredited journalists would still be 19 able to see these witnesses give evidence which would 20 mitigate the already limited effects on open justice of 21 the orders proposed. The applications don't object, as 22 we understand it, to accredited press seeing these 23 witnesses give their evidence.</p> <p>24 Turning finally to the application by family members 25 of Sudesh Amman. An application was made for anonymity</p> <p style="text-align: center;">Page 15</p>
<p>1 lawyers should be permitted to see these witnesses.</p> <p>2 In fact, as we note, no interested person has 3 actually objected to these witnesses being screened from 4 lay interested persons. That may be because the only 5 individuals who are interested persons are Mr Amman's 6 family members and we can understand that they may well 7 not be attending the hearing, at least when not giving 8 evidence.</p> <p>9 If there is no desire by interested persons to see 10 these witnesses giving evidence, what we would propose 11 is that you make an order at this stage that the 12 officers be screened from interested persons, although 13 not from their lawyers, but give liberty to apply to any 14 interested person who wishes to be permitted to see the 15 witnesses and can make a case for doing so.</p> <p>16 The next applications are by two individuals who 17 provide mentoring services in relation to Sudesh Amman 18 under the Home Office DDP scheme and we address those 19 from page 12 of that document and we support their 20 applications for the following reasons.</p> <p>21 First, each of the mentors has reasonable fears that 22 if identified publicly he would be exposed to abuse and 23 the risk of attack either by Islamist extremists or far 24 right groups. Their applications give evidence of the 25 abuse which has been heaped on mentors, especially in</p> <p style="text-align: center;">Page 14</p>	<p>1 and special measures which we addressed from page 15 of 2 our submissions. In response, Mr Menon's submissions 3 realistically withdrew the application for anonymity in 4 respect of Sudesh Amman's mother while maintaining the 5 application for her to give evidence while screened from 6 the general public, although not from the press, and for 7 her to enter and leave court by private means.</p> <p>8 We respectfully support those applications for 9 reasons given in our document and we don't understand 10 anyone to oppose them. We understand that it should be 11 possible for her to be escorted into and out of court in 12 such a way that she isn't photographed when entering or 13 leaving.</p> <p>14 We also support a direction that the other children 15 of Sudesh Amman's mother, so other than Sudesh Amman 16 himself, who were under 18 at the time of the attack 17 should not be named in the hearing except by application 18 on notice. Sir, these younger people are unlikely to be 19 relevant to the evidence. The media have confirmed that 20 they would not report the identity of people under the 21 age of 18. I've heard from Mr Gardener of the media 22 today that an issue may be raised about somebody who was 23 under the age of 18 at the time of the attack but is now 24 over the age of 18. In our submission it may be best to 25 deal with that if such a person were actually to become</p> <p style="text-align: center;">Page 16</p>

<p>1 relevant in the evidence but for the moment, just to 2 hold the ring, we would suggest an order in the terms we 3 proposed. 4 The 7th item on the agenda, sir, is the in camera 5 disclosure process, which we address from page 19 of our 6 submissions. In short, the Secretaries of State for The 7 Home Department and for Justice have applied to the 8 court for a procedure to be adopted whereby they can 9 disclose to interested persons versions of documents 10 which have certain content shaded, subject to those 11 interested persons having signed special undertakings as 12 to use. 13 If any interested person wished to deploy in open 14 court the shaded parts of those documents, they'd have 15 to give notice, such notice as they could, so that 16 consideration could be given to an application for that 17 part of the hearing to be held in camera. 18 Now, we support the adoption of this process which 19 worked to improved effect in the recent Fishmongers Hall 20 inquest. It enables disclosure of documents containing 21 content which otherwise might be subject to PII claims 22 and properly operated the procedure increases the level 23 of disclosure and assists a comprehensive investigation. 24 It does not preclude any material being deployed at all 25 but simply ensures that material which the Secretary of</p> <p style="text-align: center;">Page 17</p>	<p>1 set out at paragraph 54 of our document. First, we 2 reviewed MI5's post attack review report. We identified 3 documents we wanted to see which were referenced in it. 4 We reviewed those and we also reviewed police documents 5 containing security sensitive material. We identified 6 the documents and content which we considered would be 7 relevant to the enquiry absent any national security 8 concerns. The Secretary of State then prepared a PII 9 claim in respect of the documents and parts of documents 10 which she objected to being disclosed on national 11 security grounds or on some other legal ground. 12 Alongside that process, statements have been prepared by 13 HA6, the senior investigating officer of the priority 14 investigation which served to gist material from that 15 investigation. 16 The Secretary of State has filed both open and 17 closed submissions, as have we. In response to our 18 closed submissions which we served on Monday, the 19 Secretary of State has served replies to submissions on 20 Wednesday which significantly modified her claim to 21 reduce its scope and add gists in a number of places 22 where straight redactions without gist had previously 23 been proposed. That was a constructive approach and we 24 understand there is likely, as a result, to be a further 25 gisting statement perhaps from HA6. That is, we</p> <p style="text-align: center;">Page 19</p>
<p>1 State might want to have deployed only in an in camera 2 session is subject to a proper degree of protection. 3 In any event, we point out that the documents 4 subject to this procedure represent a very small 5 proportion of the overall set of documents in the case 6 and that even within those only a very small proportion 7 of the content of the documents is shaded. 8 Sir, finally the PII claim by the Secretary of State 9 for the Home Department. The PII claim has been made 10 supported by a ministerial certificate objecting to the 11 disclosure of some documents and seeking to justify 12 redactions in other documents. Most of the documents 13 which are the subject of the claim are proposed to be 14 disclosed in redacted form rather than withheld 15 entirely. 16 The background to the claim is summarised from 17 page 22 of our submissions. Again, let me summarise 18 briefly. After his release from prison on 19 23 January 2020, Sudesh Amman was the subject of a 20 priority investigation by MI5 and counterterrorism 21 police. From an early stage we recognised that there 22 would be MI5 and police documents which might raise 23 security sensitivities but which would be relevant to 24 the inquest given its scope as you determined it at the 25 last hearing. We therefore adopted a process which is</p> <p style="text-align: center;">Page 18</p>	<p>1 respectful submit, how the process ought to work where 2 counsel to the inquiry are involved. 3 We should stress, sir, we have adopted an approach 4 which is properly rigorous while recognising of course 5 that this is an inquest into the death of Sudesh Amman, 6 not either an open ended investigation into his life or 7 an investigation into whether state agencies properly 8 protected his victims. 9 I should also stress that we've been inventive in 10 pursuing the objectives of full and proper disclosure. 11 As I have said, many documents are being disclosed with 12 redactions, usually very limited redactions, and the 13 gisting statements have been produced. In addition, we 14 propose an in camera disclosure process which I've 15 described, which should increase, as I've said, the 16 scope of disclosure. 17 legal principles governing PII claims are set out 18 from page 23 of our document. I'll take them relatively 19 briefly because they're not controversial but I shall 20 cover them because of the constitutional importance of 21 the issues you are addressing. 22 So at paragraphs 55 to 58 we explain that a coroner 23 has the power to refuse disclosure of otherwise relevant 24 documents on the basis of a valid PII claim and in doing 25 so should apply the rules of PII as applying to legal</p> <p style="text-align: center;">Page 20</p>

<p>1 proceedings generally, taking proper account of the 2 nature of inquest proceedings. 3 Paragraph 59, we set out the classic four stage 4 approach to PII set out by Lord Justice Thomas in the 5 Binyam Mohamed case. First, is there a public interest 6 in disclosure of the material, secondly would disclosure 7 bring about a real risk of serious harm to an important 8 public interest, third, can the risk be protected 9 against by other means or more limited disclosure, and 10 fourth, if there is no adequate alternative where does 11 the balance of the public interest lie between allowing 12 or refusing disclosure, the so-called Wiley balance. 13 At paragraph 60 we point out that there is in 14 general a public interest in disclosure of relevant 15 material in inquests to serve the purposes of the 16 inquest process. Those purposes were famously described 17 by Lord Bingham in the Amin case in the passage we 18 quote. They include ensuring that the full facts are 19 brought to light, that any culpable conduct is exposed 20 and that lessons are learned for the future. 21 At paragraph 61 we cite extensively from the 22 Litvinenko case of 2013. We do so because there 23 Lord Justice Goldring identified nine principles of 24 particular relevance to PII claims which are based on 25 national security interests and which take place in</p> <p style="text-align: center;">Page 21</p>	<p>1 the inquest. 2 Seventh a real and significant risk of damage to 3 national security will generally but not invariably 4 preclude disclosure. 5 Eighth, to reject a PII claim backed by a 6 ministerial certificate a coroner must find that the 7 damage to national security as assessed by the Secretary 8 of State is outweighed by the damage to the 9 administration of justice. 10 And ninth, it is incumbent on the coroner to give 11 reasons especially if ordering disclosure in opposition 12 to or in the face of a PII claim. 13 Sir, as this set of principles recognises, 14 considerable weight has to be given to the Secretary of 15 State's assessment of the harm which disclosure of a 16 document or part of a document would cause to national 17 security. That's both for the practical reason that she 18 has access to expert advice and for the constitutional 19 reason that she is publicly accountable for the 20 protection of the public. The authorities making those 21 points are cited at paragraph 62 of our submissions. 22 The Secretary of State can also point to various 23 passages in the authorities saying that a real and 24 significant risk of harm to national security will 25 usually preclude disclosure. That point's made in the</p> <p style="text-align: center;">Page 23</p>
<p>1 inquest proceedings. Sir, I know you have a copy of 2 that authority at tab 38 of your bundle and the 3 principles are set out on page 10. 4 First of all, public justice is important and it's 5 for the court to decide whether a PII claim should 6 prevent disclosure of a document. Second, the context 7 of the balancing exercise is critical, such that PII 8 claims based on national security raise their own 9 particular considerations. Third, if a PII claim is 10 based on national security concerns there must be proper 11 evidence in support. Of course, as you know, there is 12 here, sir. 13 Fourth, if disclosure would have a sufficiently 14 serious effect on national security there must be no 15 disclosure. If the claim of damage to national security 16 is not plain and substantial enough to prevent a 17 balancing exercise being performed, the exercise should 18 be performed. 19 Fifthly, in that exercise the Secretary of State's 20 view of the nature and extent of the damage to national 21 security should be accepted absent cogent reasons to 22 reject it. 23 Sixth, it's usually a given that the Secretary of 24 State knows more about national security and the coroner 25 knows more about the proper administration of justice in</p> <p style="text-align: center;">Page 22</p>	<p>1 Litvinenko case as I've said but also in other high 2 authority set out in paragraph 63 of our submissions. 3 But there are two countervailing considerations 4 which are important, which we identify at paragraph 64 5 and which Mr Menon also rightly identifies. 6 First, upholding a PII claim involves a restriction 7 on open justice in the coronial process and the open 8 justice principle is one of constitutional importance. 9 Second, the entire process depends on the court 10 exercising rigorous independent judgment and not, in the 11 evocative words of one case, simply saluting a 12 ministerial flag. 13 Finally, in striking the Wiley balance a range of 14 factors may come into play. These may include the 15 weight of the national security interest claimed, the 16 degree of relevance to the inquiry of the information 17 being withheld and so the consequence to the inquiry of 18 upholding the certificate, and the extent to which 19 evidence on the subject is already being provided by way 20 of gist and/or by disclosed materials. 21 Finally on the subject of PII in these open 22 submissions, I should outline briefly the kinds of 23 national security interest which may be protected by a 24 PII claim in a case such as the present. 25 We address those at paragraph 70 of our submissions</p> <p style="text-align: center;">Page 24</p>

<p>1 and I should stress that of course for reasons you will 2 understand, sir, which can't say what particular 3 interests are in play in the documents here. 4 But firstly the Security Service uses operational 5 techniques which have to remain secret, both in their 6 details and also in their practicalities and their 7 limitations. If they became known, terrorists and 8 criminals would be able to avoid them and the risk of 9 future atrocities would increase. 10 Secondly, operations and subjects of interest can 11 of course be linked to each other and investigations can 12 be made less effective if information is disclosed about 13 other operations and individuals who are under 14 investigation. That puts all the public at greater risk 15 if it happens and that is the reason why the Security 16 Service has its policy of not confirming or denying that 17 a person is under active investigation. 18 Thirdly, it is well-known that law enforcement 19 agencies receive information from individuals. If 20 material is disclosed which reveals a human source or 21 gives information from which such a person can be 22 suspected or known, that has at least three damaging 23 effects. First and most seriously, the individual can 24 be placed at risk of harm or death. Secondly, that 25 person's intelligence may be lost in the future and,</p> <p style="text-align: center;">Page 25</p>	<p>1 It's only if you can conclude that those 2 responsibilities can't be properly discharged in this 3 forum that you should ask for a different form of 4 process to take place. 5 In this case, we submit that a legally sufficient 6 inquiry is possible, even if the PII claims are upheld 7 fully and that you should therefore proceed to conduct 8 the inquest. 9 We make three short submissions in that regard. 10 First of all, by contrast with cases such as the 11 Litvinenko inquest, which is of course one of the most 12 famous examples, the PII claim does not relate to 13 evidence of how Sudesh Amman prepared for and carried 14 out the attack, nor how he came to be shot, which is the 15 focus of the inquest. It's concerned with the question 16 of what was being done to monitor him and protect the 17 public at large. In that regard we note again that this 18 is an investigation into his death and that what the 19 Article 2 procedural obligation requires is 20 an independent investigation to determine whether the 21 authorities violated his right to life. The authorities 22 of course did not owe him an Article 2 protective duty 23 to prevent him carrying out an attack. 24 Secondly, the police have disclosed a large number 25 of documents and will be disclosing more. Along with</p> <p style="text-align: center;">Page 27</p>
<p>1 thirdly, similar sources may be deterred from assisting 2 in the future. 3 The final category of interest that I would identify 4 is that there can be situations where disclosure of 5 information will reveal liaison relationships with 6 foreign sources which could damage those relationships 7 and so, again, reduce future lines of intelligence. 8 So that what's what I propose to say to the PII 9 claim. There is one coda to it which necessarily arises 10 from it. If you uphold the claim to any extent, you 11 will need to consider whether it's possible for you to 12 conduct a satisfactory investigations through this 13 inquest. In particular you'll need to consider, sir, 14 whether you can properly discharge the responsibility to 15 hold a sufficient inquiry to answer the statutory 16 questions in Section 5 of the Coroners and Justice Act, 17 including how Sudesh Amman came to die. If you could 18 not the appropriate course would be to request the 19 establishment of a public enquiry, since of course such 20 an enquiry can hear evidence in closed session and could 21 receive material which would otherwise be the subject of 22 a PII claim. 23 So in our submission the starting point is that 24 you've been appointed as coroner to hear these inquests 25 and you have statutory responsibilities to conduct them.</p> <p style="text-align: center;">Page 26</p>	<p>1 the evidence of HA6 these reveal a great deal about what 2 was known to the police and MI5 about Sudesh Amman and 3 the decisions they took in the critical period from 4 23 January to 2 February. You will of course, sir, in 5 the closed session compare those against the additional 6 material, such as it is, that's covered by the PII 7 claim, but the narrative that the jury will be provided 8 with already is very considerable. 9 Thirdly, when considering the capacity of the 10 inquest to carry out a sufficient investigation, we'd 11 note some important points of context. First, after all 12 the reviews and investigations that have been carried 13 out, it's understood that Sudesh Amman acted entirely 14 alone and didn't share his attack plan with anyone. 15 That is a feature which distinguishes it for example 16 from the Manchester Arena case. 17 Secondly, there is no evidence that he did anything 18 in public to prepare for the attack which was not 19 observed and which is not in evidence. The only known 20 preparatory steps he took in a private context involved 21 the making of the hoax suicide vest, which is understood 22 to have been done in his room in the approved premises. 23 Finally, at the time of the attack, an imminent 24 attack was feared and Sudesh Amman was under continual 25 armed surveillance. So it's not the case that signs</p> <p style="text-align: center;">Page 28</p>

<p>1 were missed that this was somebody who might carry out 2 an attack in the near future. He was under, as I say, 3 continual armed surveillance. There was a further armed 4 arrest team in back up and it is difficult overall to 5 imagine a higher grade response to the risk he posed on 6 2 February 2020, short of arrest, and you will be aware 7 of what HA6 says about why that was not feasible. 8 So, sir, those are our submissions on the various 9 items in the agenda. We will of course expand upon 10 those in closed in relation to in particular the last 11 item. 12 MR JUSTICE HILLIARD: Yes. 13 MR HOUGH: May I assist further on any of these items? 14 MR JUSTICE HILLIARD: No, I'm very grateful to you. Thank 15 you very much. 16 MR HOUGH: Thank you, sir. 17 MR JUSTICE HILLIARD: Yes. Good morning, Mr Menon. 18 Submissions by MR MENON 19 MR MENON: Good morning, sir. We've set out our position in 20 writing -- 21 MR JUSTICE HILLIARD: Yes, thank you. 22 MR MENON: -- and will be dealing with it this morning 23 consequently. In relation to disclosure and witness 24 evidence and undertaking, we've expressed at earlier 25 pre inquest review hearings our concerns about the tight</p> <p style="text-align: center;">Page 29</p>	<p>1 So far as the continued opposition of the 2 Metropolitan police Service to witnesses being seen by 3 interested persons, can I just address that, because it 4 is correct that in our written submissions we did not 5 take issue with the witnesses being screened from 6 interested persons but I don't want that to be 7 misconstrued. I'm referring in particular to 8 paragraph 15 of the Commissioner's submissions for 9 today's brief of hearing where this is said: 10 "There has been no objection raised by the family or 11 other IPs to the proposed screening. The submissions on 12 behalf of the family in response to the MPS application 13 raised objection only in respect of the family's legal 14 team, and prompted a modification to the MPS's 15 application to that effect. The position taken by the 16 family is a relevant consideration that can be taken 17 into account when determining whether the officers' 18 fears are objectively justified (as at least some 19 objection would likely have been raised if their fears 20 were considered to be misplaced). 21 Well that's not -- I just need to clarify what the 22 position is. The reason that we did not seek to argue 23 screening from interested persons is because the family 24 will not be attending the inquest other than Sudesh 25 Amman's mother.</p> <p style="text-align: center;">Page 31</p>
<p>1 timetable and they remain -- the papers are voluminous, 2 there's further material outstanding in the next week or 3 so and little time in all the circumstances to be as 4 ready as one would like to be by 2 August. Having said 5 that, we don't make any application, in part because the 6 family doesn't want further delay, for obvious reasons, 7 and in part because we are realistic that to find a new 8 date later this year or early next year that is 9 convenient, most importantly to you and counsel to the 10 inquiry, but also to other counsel to find a couple of 11 days it will be next to impossible. In all the 12 circumstances we will work to the tight timetable, we 13 may have to ask for some assistance during the inquest 14 itself to catch up if necessary but that's as far as we 15 take it today. We felt it important to put that marker 16 down -- 17 MR JUSTICE HILLIARD: Thank you. 18 MR MENON: -- today, given the state of play. 19 Turning to anonymity and other special measures, we 20 are grateful that the Metropolitan Police Service has 21 withdrawn what in our respectful submission was an 22 unprecedented application to have 12 police witnesses 23 screened from the lawyers of all interested persons and 24 we're grateful that that's not a matter that needs to be 25 argued any further.</p> <p style="text-align: center;">Page 30</p>	<p>1 MR JUSTICE HILLIARD: Yes. 2 MR MENON: Who will be attending on that day. So to make a 3 theoretical objection seemed pointless, it's important 4 that I state that I think, not only so that it is clear 5 but also if in future, were it to be suggested that the 6 family of the deceased at an inquest of this kind 7 didn't take issue about this, that is the reason -- 8 MR JUSTICE HILLIARD: Yes. 9 MR MENON: -- as opposed to the fact that we agree with the 10 logic of the Metropolitan Police Service, so I hope 11 that's clear. 12 MR JUSTICE HILLIARD: Yes. 13 MR MENON: Given counsel for the inquest has indicated its 14 support for Sudesh Amman's mother to be screened for her 15 evidence and given that we anticipate you will concur 16 about that approach we say no more about it. We don't 17 pursue the application for anonymity in her case and we 18 trust the court will take all reasonable steps that it 19 can do to ensure that she is not identified in any other 20 way than by her name when she attends in August to give 21 evidence, because we're conscious, and we've set this 22 out in an earlier document what happened -- 23 MR JUSTICE HILLIARD: Yes. 24 MR MENON: -- which is she was ways effectively doorstepped 25 by two members of the press who knew who she.</p> <p style="text-align: center;">Page 32</p>

<p>1 A matter we haven't addressed in writing and which 2 Mrs Hough raised this morning was the potential position 3 of the press in relation to Mr Amman's siblings who were 4 under 18 at the time of the killing but are over 18 now. 5 We accept the approach that's suggested that if there is 6 an application that it be dealt with then, but we put a 7 marker down that we will strongly oppose any application 8 for anybody who falls into that category to lose their 9 anonymity, given, as Mr Hough has stated, it's simply 10 irrelevant for the purposes of the investigation that we 11 will be conducting in August. We can see no reason 12 whatsoever why any journalist should want to or need to 13 name somebody who falls into that category. So we put 14 that marker down should such an application ever be made 15 during these proceedings. 16 In relation to the in camera process, we have no 17 objection to what is proposed, one, because the lawyers 18 will be seeing the material in question -- 19 MR JUSTICE HILLIARD: Yes. 20 MR MENON: -- and two, because we're confident that you will 21 ensure that only material that meets the national 22 security threshold will be subject to the in camera 23 process and that anything that doesn't meet that 24 threshold will simply be dealt with in the ordinary way. 25 Turning then to what is definitely the most</p> <p style="text-align: center;">Page 33</p>	<p>1 because inevitably should you find any of this material 2 should properly attract public interest immunity, 3 there's always going to be the sense on the part of 4 those who are not having sight of that material that 5 there has been an element of saluting going on and undue 6 deference as opposed to appropriate deference. But we 7 know you are well aware of those principles, both as a 8 coroner and having sat as a judge in the criminal courts 9 dealing with these matters on a regular basis and we 10 hope that you will approach each item of the material 11 individually as opposed to taking a global binary view 12 of it. Some of it may probably attract public interest 13 immunity, some of it may not. I understand there's 14 always been some progress on that behind the scenes to 15 ensure that only that material which reaches the 16 national security threshold is held on public interest 17 immunity grounds. 18 We do wish to say this specifically: if any of this 19 material goes to the state of mind of either the 20 relevant police officers or relevant Security Service 21 agents as to what Sudesh Amman was planning or intending 22 or even contemplating, then we can see no proper basis 23 for you concluding, having conducted that balancing 24 exercise, that the damage to national security would 25 outweigh the damage to the administration of justice,</p> <p style="text-align: center;">Page 35</p>
<p>1 contentious issue before the court today in relation to 2 public interest immunity. The problem that someone in 3 our position faces is, as you are well aware, sir, is 4 that we are truly in the dark so to speak. We're given 5 very little information as to what this material is, 6 what issue it goes to and it even goes further, as 7 Mr Hough has just indicated he's not even in a position 8 to indicate in open court what the potential national 9 security damage is in relation to this material. So 10 that is the extent to which we are effectively in the 11 dark. All we know is that apparently material that 12 concerns the question of whether more could have been 13 done to prevent Sudesh Amman committing a terrorist 14 attack. We entirely accept the principles as set out at 15 paragraphs 55 to 66 of the CTIS's submissions. But it's 16 always a difficult balancing exercise for the court, 17 because we have some deference to the purported greater 18 knowledge about national security issues as far as the 19 Home Secretary is concerned. Of course, it's not only 20 permissible but the authorities make clear the approach 21 that should be taken, but where does run draw the line 22 between such deference and what Lord Justice Maurice Kay 23 called saluting the ministerial fact? It is 24 an important thing and in our respectful submission it's 25 an incredibly difficult balancing exercise to conduct</p> <p style="text-align: center;">Page 34</p>	<p>1 because that goes to the very heart of the issue and it 2 will come as no surprise to you, sir, that we take 3 strong issue with the legal logic of HA6 in relation to 4 why no arrest could be made, given they knew the day 5 before the killing that Sudesh Amman had obtained items 6 that could be used to create a hoax suicide vest. We 7 reject the legal analysis in that statement and we will 8 be seeking to argue in the inquest that the police had 9 more than enough information and evidence to effect an 10 arrest and should have done so. I make that crystal 11 clear now, that that's what is coming. So if any of 12 this material goes to that issue, in our submission it 13 cannot properly attract public interest immunity because 14 it will undermine the capacity of the inquest to answer 15 the statutory questions. I mean, putting Article 2 on 16 the procedural duty on the back burner for a moment, 17 simply in terms of addressing how, by what means and 18 what circumstances to the sufficient standard, this 19 inquest we submit will be compromised. It's not enough 20 for it to be legally sufficient in that sense. The 21 words of Lord Bingham in Amin, which we cited in our 22 written submissions, are so important. The fact that 23 there's some material that can for the jury that goes to 24 that issue is not enough. In our submission it should 25 be all relevant material that goes to that issue as to</p> <p style="text-align: center;">Page 36</p>

<p>1 what was the state of mind of the police and the</p> <p>2 Security Service prior to Sudesh Amman going into the</p> <p>3 shop, taking the knife and stabbing two people on the</p> <p>4 street before he was shot.</p> <p>5 So that's the approach we take and we hope that's a</p> <p>6 proper approach to take and we commend it to the court</p> <p>7 when it goes into closed session in due course.</p> <p>8 MR JUSTICE HILLIARD: Thank you. I'll have all that in</p> <p>9 mind.</p> <p>10 MR MENON: So unless there's anything further.</p> <p>11 MR JUSTICE HILLIARD: No thank you. I'm very grateful to</p> <p>12 you.</p> <p>13 Yes.</p> <p>14 Submissions by MR SHELDON</p> <p>15 MR SHELDON: Sir, thank you. I only propose to address you</p> <p>16 on the issues of anonymity and special measures.</p> <p>17 MR JUSTICE HILLIARD: Yes.</p> <p>18 MR SHELDON: We respectfully agree with and endorse the</p> <p>19 approach of Counsel to the Inquest on all other matters.</p> <p>20 Sir, as you've heard, on the issues of anonymity and</p> <p>21 special measures, there is a substantial degree of</p> <p>22 common ground. If we refer to Counsel to the Inquest's</p> <p>23 accurate summary of the effect of the MPS's applications</p> <p>24 at paragraph 21 of their submissions, you will have seen</p> <p>25 that it is accepted by everyone, including your counsel,</p> <p style="text-align: center;">Page 37</p>	<p>1 accredited members of the media.</p> <p>2 So dealing first with individual interested persons,</p> <p>3 I am of course grateful for the clarification provided</p> <p>4 by Mr Menon on the basis upon which the family's</p> <p>5 position has been taken and if I've read too much into</p> <p>6 that position for the purposes of paragraph 15 of my</p> <p>7 submissions, I'll happily withdraw it.</p> <p>8 However, it's perhaps unnecessary to delve too</p> <p>9 deeply into all of that, given that we would</p> <p>10 respectfully endorse, as I understand everybody else to</p> <p>11 do, the proposal of Mr Hough that the screening should</p> <p>12 extend to individual interested persons subject to</p> <p>13 liberty to apply to any interested person who wishes the</p> <p>14 position to be otherwise.</p> <p>15 MR JUSTICE HILLIARD: Yes.</p> <p>16 MR HOUGH: That being so, sir, and with that degree of</p> <p>17 common ground also having been established, I think</p> <p>18 I can turn directly to the media.</p> <p>19 Sir, on the issue of accredited members of the</p> <p>20 media, I again endorse and invite you to adopt Counsel</p> <p>21 to the Inquest's formulation of the central question and</p> <p>22 the central question as formulated was if the MPS</p> <p>23 officers are visible to accredited members of the media,</p> <p>24 is the risk that they might be identified a real risk</p> <p>25 rather than a fanciful one. So my essential submission</p> <p style="text-align: center;">Page 39</p>
<p>1 that the measures at paragraphs A, B, C and E should be</p> <p>2 ordered.</p> <p>3 That being so, sir, I'm conscious as I am of the</p> <p>4 fact that you've had an opportunity to consider the</p> <p>5 evidence of superintendents McKibbin, Murphy and</p> <p>6 Maddison in relation to the officers within their</p> <p>7 respective commands. I don't propose to take you</p> <p>8 through the detail of the MPS's applications in respect</p> <p>9 of those measures, unless of course you would like me to</p> <p>10 do so.</p> <p>11 MR JUSTICE HILLIARD: No.</p> <p>12 MR SHELDON: I propose instead to focus these short</p> <p>13 submissions simply on the particular issue of screening.</p> <p>14 On that issue as well, sir, there is, I'm pleased to</p> <p>15 say, a degree of consensus, the MPS witnesses should be</p> <p>16 seen, it is accepted, by you, the jury, the inquiry</p> <p>17 legal team and all the lawyers for the interested</p> <p>18 persons. That is self-evidently a significant number of</p> <p>19 people and crucially it includes everybody who will be</p> <p>20 asking questions and everybody who will be taking</p> <p>21 decisions.</p> <p>22 The only questions raised by counsel for the</p> <p>23 inquests at paragraph 26 of their submissions concern</p> <p>24 the questions of whether the witnesses should also be</p> <p>25 seen by the individual interested persons and by</p> <p style="text-align: center;">Page 38</p>	<p>1 is that it is indeed a real risk and screening should be</p> <p>2 extended to accredited members of the media accordingly.</p> <p>3 The first part of the analysis as to why that is so,</p> <p>4 sir, derives from the nature of the work that these</p> <p>5 particular individuals undertake and can I briefly flag</p> <p>6 up the relevant parts of the evidence for these</p> <p>7 purposes, perhaps if only by reference to the parts of</p> <p>8 your bundle in which it's contained.</p> <p>9 Firstly in relation to the eight Surveillance</p> <p>10 Command officers, they are dealt with by Superintendent</p> <p>11 Maddison at tab 15 of your bundle and the nature of</p> <p>12 their role is described in particular at paragraphs 5</p> <p>13 and 14 of his witness statement and I wonder if I could</p> <p>14 invite to you look at paragraph 14 in particular very</p> <p>15 briefly.</p> <p>16 MR JUSTICE HILLIARD: Yes.</p> <p>17 MR SHELDON: At paragraph 14, Superintendent Maddison</p> <p>18 explains that covert proactive policing of the type that</p> <p>19 these officers undertake can and does include</p> <p>20 surveillance deployments where the officers may work</p> <p>21 alone or as part of a small team potentially within very</p> <p>22 close proximity to the subjects of an operation in order</p> <p>23 to gain essential evidence. The nature of that work</p> <p>24 means they often go into hostile environments with</p> <p>25 little or no support and the very essence of that work</p> <p style="text-align: center;">Page 40</p>

<p>1 requires them to be anonymous and not recognisable to 2 the public or criminal subjects as police officers. 3 Now, sir, my submission is that the essence of that 4 work makes it clear that the risk of even an inadvertent 5 identification, which may consist of no more than 6 an involuntary double take or an indication, verbal or 7 otherwise, that "haven't I seen you somewhere before?" 8 Could have catastrophic consequences and the nature and 9 extent of those risks in that context is in reality no 10 different between an officer of this type and what is 11 perhaps described in the shorthand as an undercover 12 officer. 13 Sir, some further explanation of the nature of that 14 role and I'll simply give you the reference, if I may, 15 is in Mr Maddison's second witness statement you have at 16 tab 6, page 47. 17 Sir, for the SO15 Officers, they are dealt with by 18 Superintendent Murphy whose witness statement is at 19 tab 16 and they included for these purposes BX174, who 20 is an officer within the Covert Asset Support Unit or 21 CASU and, sir, at page 135 in one of the appendices to 22 Superintendent Murphy's witness statement you'll find, 23 I hope, a subheading "Covert Ability", which I won't 24 read out but which describes in essential terms the 25 covert nature of the role and the particular sensitivity</p> <p style="text-align: center;">Page 41</p>	<p>1 Sir, first of all, accredited members of the press 2 means, in effect, an indeterminate number of 3 unidentified individuals depending simply on who decides 4 to show up in court on a given day. It is simply a 5 mathematical fact that the more people that see the 6 witness, the greater the risk of identification 7 advertent or inadvertent, and for the reasons that 8 I hope I have explained, for these officers that risk 9 should be kept to a realistic minimum. 10 For the accredited journalists who are likely to be 11 covering this case that risk is heightened by the fact 12 or at least likelihood that they will be journalists who 13 specialise in this particular area of reporting, who may 14 well find themselves in the course of their work in 15 environments where these officers may appear, either as 16 supporting other types of legal proceedings, whether 17 directly involved or otherwise, or simply by virtue of 18 being in buildings or in and around buildings in which 19 these reporters may commonly come to visit. 20 The reason I make that point, sir, is that whilst 21 there is always a risk of an inadvertent disclosure out 22 and about on the streets of London, that risk is clearly 23 in general terms mitigated by the fact that London's 24 a big place and lot of people live here. 25 In the particular circumstances of these officers</p> <p style="text-align: center;">Page 43</p>
<p>1 of it. 2 Sir, finally for those purposes Superintendent 3 McKibbin, whose evidence at tab 17 addresses the 4 position of the Counter Terrorism Specialist Firearms 5 Officers or CTSFOs and, again, sir, can I invite you to 6 take the witness statement as read but to have 7 particular regard to one of the appendices at page 157, 8 headed "All KPWs" and the subheading "Covert Ability". 9 So the essential point which I don't think I need to 10 labour in light of Mr Hough's submissions is that these 11 officers fall, all of them, into a completely different 12 category to the officers who were considered in the case 13 of Dyer, who were uniformed officers who happened to be 14 involved in the arrest and detention of Mr Hall, but 15 perhaps more importantly for present purposes, the 16 nature of their role means that there is little if any 17 significant difference between the types of risks to 18 which they would be exposed by inadvertent or advertent 19 identification and the type of risks that would be run 20 by undercover officers of the type which the media quite 21 properly acknowledge should not be seen by them. 22 So with that background having been established, can 23 I turn to what I say are the specific reasons why the 24 risk is real rather than fanciful in respect of members 25 of the press?</p> <p style="text-align: center;">Page 42</p>	<p>1 though, and these journalists, the pool is smaller and 2 the risk correspondingly greater. 3 I emphasise, sir, as I hope I've made clear already, 4 that the principal risk with which we are concerned is 5 not advertent disclosure by what I fully accept are 6 responsible, experienced journalists but the potential 7 inadvertent double take or introduction before the penny 8 drops and you realise where it is you've seen that 9 officer before. 10 Sir, secondly, I'm afraid I have to submit that the 11 record of the media in abiding by orders of the type we 12 are discussing here is not, in recent times at least, a 13 happy one, as the recent experience in Fishmongers Hall 14 illustrates. Sir, we have referenced a number of 15 transcripts to our written submissions and when one 16 reads the relevant parts of those transcripts of the 17 hearings that dealt with the repeated transgressions of 18 the media in publishing the images of officers who were 19 subject of anonymity orders by the Coroner, backed by 20 Section 11 of the Contempt of Court Act, what is 21 particularly troubling is the initial lack of 22 appreciation of the seriousness of what had been done 23 until it was emphasised by, amongst others, Mr Hough and 24 the Coroner and the apparent ignorance of the orders 25 which had been made, without at least one set of</p> <p style="text-align: center;">Page 44</p>

<p>1 journalists referring to the wrong inquiry, the wrong 2 inquest and the wrong website. So, sir, can the media 3 be trusted to ensure that they are aware of and 4 rigorously apply the terms of any order that you make 5 and that any photographers or camera persons with whom 6 they may work were aware, or that editors in the 7 news rooms who might be sent a photograph or piece of 8 footage were aware, recent history would suggest not. 9 Sir, for the same reason, what level of confidence 10 that the Metropolitan Police Service and the relevant 11 officers have when deciding to put themselves back into 12 harm's way that the relevant journalist who saw them 13 give evidence will abide by their obligations? I'm 14 afraid the answer is very little. 15 Thirdly, sir, and finally, were the witnesses to be 16 screened from members of the media, there would in my 17 respectful submission be no question of any impediment 18 to accurate and comprehensive reporting of your 19 proceedings. They will be able to attend court, they 20 will be able to hear the witness give evidence live. 21 They will be able to report the entirety of that 22 evidence and I anticipate, and Mr Hough will correct me 23 if I'm wrong about this, they will be assisted by the 24 production of daily transcripts. 25 This is all perhaps reflected responsibly, I would</p> <p style="text-align: center;">Page 45</p>	<p>1 MR JUSTICE HILLIARD: All right. Thank you. 2 Submissions by MS WHITELAW 3 MS WHITELAW: Sir, I appear with Richard Boyle on behalf of 4 the Secretary of State for the Home Department. 5 I propose to address briefly the issue of public 6 interest immunity and then hand over to Mr Boyle, who's 7 going to address the use of anonymity and the in camera 8 procedure, as far as necessary, on behalf of both the 9 Secretary of State for the Home Department and the 10 Secretary of State for Justice. 11 Could I say firstly that I don't intend to rehearse 12 our open written submissions but simply say at the 13 outset that I adopt those submissions. 14 Secondly, you sir, and we all have received the very 15 helpful submissions from your counsel, I don't think 16 there's any dispute about the legal principles to be 17 applied to the PII application, including the matters 18 which Mr Hough identified in written submissions and 19 this morning as the countervailing considerations. 20 They're set out at paragraphs 64 to 67 of Counsel to the 21 Inquest's submissions. 22 Thirdly, I would however simply highlight in the 23 briefest terms the following propositions. First, the 24 Secretary of State for the Home Department recognises 25 the fundamental importance of open justice and that it's</p> <p style="text-align: center;">Page 47</p>
<p>1 respectfully observe, in the submissions that have been 2 made by the media which limit the application or limit 3 the objection, I should say, to the screening of 4 "uniformed firearm officers" with which we are not 5 concerned here and to the extent that our application 6 didn't make that clear I apologise for that to those who 7 make the objection. 8 So, sir, for those reasons, together with those set 9 out in our written submissions, we respectfully invite 10 you to make an order in the terms set out in 11 paragraph 21 with screening to include screening from 12 the public, the media and subject to liberty to apply, 13 the interested persons, and we invite you to do so on 14 the basis that we are dealing here with a particularly 15 vulnerable cohort of officers working in covert roles of 16 particular sensitivity and danger. We submit that 17 an order in those terms strikes the correct balance 18 between the two important objectives, protecting their 19 identity and the principles of open justice. 20 Sir, those are my submissions on anonymity and 21 screening. 22 MR JUSTICE HILLIARD: All right. Well, thank you very much. 23 MR SHELTON: And unless there's anything else I can assist 24 you with on any other matters in your agenda, those are 25 my submission ins total.</p> <p style="text-align: center;">Page 46</p>	<p>1 imperative that as much evidence relative to the proper 2 scope of this inquest is disclosed to all interested 3 persons. 4 Second, it must however be recognised that public 5 interest immunity is a privilege. It can't generally be 6 waived and there's duty to assert it and not a 7 discretion. 8 Third, it's for these reasons that each aspect of 9 the PII claim must be scrutinised carefully and 10 individually, that is each piece of information, each 11 document or each redaction. 12 Fourth, the Secretary of State has sought to apply 13 for the minimum public interest immunity material 14 necessary to prevent a real risk of serious harm to 15 important public interests. The process of assessing 16 the material has been carried out with input from 17 security cleared members of your team who have 18 comprehensively reviewed all of the material. 19 Where PII claims are made every effort has been made 20 to disclose to interested persons as much relevant 21 information as possible, including through redactions 22 and gisting. 23 Fifth, although a clear process has been undertaken 24 in reaching the PII hearing, that is the process as 25 described by Mr Hough in which you and your security</p> <p style="text-align: center;">Page 48</p>

1 cleared team, sir, have reviewed the relevant materials.
 2 Of course it's the court and not Counsel to the Inquest
 3 which decides each aspect of the PII claim. So while
 4 one can readily understand the submissions of
 5 Mr Menon QC that the family of Sudesh Amman find it
 6 difficult to make submissions without seeing the
 7 material, that is of course the nature of PII and it's
 8 the position, the same position that all interested
 9 persons who aren't part of that application would find
 10 themselves in, but the fact that the court is the
 11 ultimate arbiter and that that process has been
 12 undertaken to analyse very carefully and rigorously the
 13 material provides the protections necessary.
 14 In response to Mr Menon's submissions regarding
 15 preventability I do endorse the submissions made by
 16 Mr Hough, both in writing previously on 24 March and
 17 today, that first this is an inquest into Sudesh Amman's
 18 death and not a generalised enquiry into his life.
 19 Second, Article 2 is engaged in this inquest by virtue
 20 of the use of lethal force on Mr Amman and not by virtue
 21 of arguable breach of Article 2 protective duties owed
 22 to potential victims. Third, the state and agents did
 23 not owe to Mr Amman a duty under Article 2 or otherwise
 24 to prevent him committing an attack.
 25 The inquest legal team has focused their approach to

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1 identifying relevant documents in accordance with the
 2 proper scope of the inquest and of course the relevant
 3 focus will be on the management and monitoring of
 4 Mr Amman by state agencies particularly from the time of
 5 his release from prison on 23 January up to and
 6 including the attack and in particular what was known to
 7 the surveillance operation.
 8 The PII material contains only material that's been
 9 identified by Counsel to the Inquest as relevant. It is
 10 right to recognise that the cogent public interest in
 11 not excluding relevant evidence from an inquest and
 12 inevitably the effect of the PII claim will be to create
 13 some gaps in the evidence and you will wish to consider
 14 how extensive those gaps are, taking into account the
 15 proper on scope of the inquest, the nature and volume of
 16 relevant evidence that has and will be disclosed.
 17 However, because of this the application has been
 18 subject to careful scrutiny by the Secretary of State
 19 and by Counsel to the Inquest and will be subject to
 20 further rigorous scrutiny by the court.
 21 The only basis upon which PII is claimed is national
 22 security and where the Home Secretary, having taken
 23 expert advice, considers that disclosure of the material
 24 would harm national security by making terrorist attacks
 25 more likely by providing information that would assist

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1 hostile actors or by making it less likely that the
 2 Security Service and Counter Terrorism Police would be
 3 able to detect and disrupt attack planning.
 4 As set out in our submissions and those of Counsel
 5 to the Inquest, there's legal significance to the fact
 6 the claim's made on national security grounds.
 7 Sir, I will of course address more detail in the
 8 closed proceedings but, unless I can be of any further
 9 assistance, those are my submissions in open on the
 10 public interest immunity applications and I propose to
 11 hand over to Mr Boyle.
 12 MR JUSTICE HILLIARD: Yes. Thank you.
 13 Submissions by MR BOYLE
 14 MR BOYLE: Good morning, sir.
 15 If I may, I just want to address you firstly on the
 16 anonymity in respect of M.
 17 MR JUSTICE HILLIARD: Yes.
 18 MR BOYLE: This application has deliberately been made on as
 19 narrow a basis as possible, recognising the importance
 20 of open justice and so as a result we've agreed to
 21 Counsel to the Inquest's proposal that M need not be
 22 screened from accredited members of the press.
 23 We grateful for and support Counsel to the Inquest's
 24 proposal that this is also supported by the reassurance
 25 provided by section 11 Contempt of Court Act order.

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1 On that basis, it's not entirely clear to us whether
 2 the press still oppose the anonymity order made in those
 3 terms, but, if they do, we submit you should still make
 4 the order as sought by the Secretary of State for the
 5 Home Department.
 6 The ambit of those measures sought is very limited:
 7 the media will simply be preventing from knowing or
 8 publishes M's name or identifying details and those
 9 details aren't important to a proper understanding of
 10 these events. It doesn't prevent evidence that relates
 11 to biographical or historical information about M, as
 12 long as that's not identified, and we submit that that's
 13 entirely proportionate to the factors that mitigate in
 14 favour of granting these measures.
 15 In summary, those are the cogent evidence of threats
 16 that have been made to DDP mentors, which you'll see in
 17 the witness statement of Ms Ellsmore and also some
 18 examples are have been given by T as well of that; also
 19 M's reasonable concerns and those are based on his
 20 knowledge of the sort of extremists that he works with
 21 within his role; also the impossible impact on M's
 22 employment, and that's not just as a mentor within the
 23 DDP process but also with the youth offending team; the
 24 desire to improve the quality of M's evidence bearing in
 25 mind those concerns that he has; and, also, putting M to

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<p>1 one side, the ability of the desistance and 2 disengagement progress to continue to recruit mentors, 3 bearing in mind the importance of that programme to the 4 Secretary of State for the Home Department's management 5 of extremists. Finally we say it's proportionate to the 6 extent of M's role within these inquests. 7 Sir, the specific points raised in the media 8 submissions have been addressed in our written 9 submissions at paragraph 6 and so I don't propose to go 10 into any more detail than I already have. That's at 11 page 40 of the bundle and I think it's tab 4. 12 MR JUSTICE HILLIARD: Yes. 13 MR BOYLE: Sir, unless I can assist any further, I don't 14 propose to repeat those points or the fuller submissions 15 made in our application itself. 16 Sir, that's all I think I need to say orally about 17 M's application. You'll hear from Mrs Meredith about T, 18 but we support that application for more or less the 19 same reasons. 20 Sir, the other thing I'd like to address you on is 21 the in camera process very briefly and in this context 22 we represent the Secretary of State for the Home 23 Department but we're also accepting to the shows of the 24 Secretary of State for Justice for today. The Secretary 25 of State for Justice has separate representation,</p> <p style="text-align: center;">Page 53</p>	<p>1 MR JUSTICE HILLIARD: No. 2 MR BOYLE: But we will need time to take instructions and, 3 given that, we just flag the point that interested 4 persons will recognise the need to give as much notice 5 as possible to avoid any disruption. 6 MR JUSTICE HILLIARD: Yes. 7 MR BOYLE: Sir, unless I can assist you on anything further. 8 MR JUSTICE HILLIARD: No, that's very helpful. Thank you 9 very much. 10 Right. Where do we -- are we over to the link? 11 MR HOUGH: Sir, there's one more representative in court, 12 which is Ms Morgan, I don't know whether she wishes to 13 speak, and then there's Ms Meredith for Witness T on the 14 link. 15 MR JUSTICE HILLIARD: Yes. Thank you. There. 16 Good. Yes, Ms Meredith? 17 Submissions by MS MEREDITH 18 MS MEREDITH: Thank you, sir. 19 I appear on behalf of Witness T, who has no 20 submission to make on any matters save his application 21 for anonymity and special measures. 22 Sir, Counsel to the Inquest has correctly summarised 23 Witness T's application and its grounds as set out in 24 his application and witness statement and I therefore do 25 not propose to repeat the grounds for that application</p> <p style="text-align: center;">Page 55</p>
<p>1 Mr Rawat, who will be present at the inquest hearings. 2 The process has been designed to ensure as much 3 relevant material as possible is disclosed to interest 4 persons and of course it retains a safety net so that, 5 if interested persons seek to deploy in camera material, 6 there's the opportunity for them and potentially media 7 representatives to make submissions. 8 We grateful for the submissions from CTI that invite 9 you to adopt the process and we also note that no 10 objection has been raised by the family representatives 11 and we're grateful for that indication. 12 Sir, I think the only thing I'd briefly like to 13 touch on is the issue of notice within that and you'll 14 have seen the written submissions on that issue. We're 15 grateful for and agree with Counsel to the Inquest's 16 suggestion that as much notice as practicable should be 17 given and that time should be allowed for instructions 18 to be taken promptly and we'll be grateful for that to 19 be taken into account at the hearings. 20 These issues will generally require more than 21 a single telephone call and they're not decisions that 22 can be taken instantly and so we accept that there'll be 23 rare occasions where it might not be possible to 24 anticipate the need to deploy that evidence and we won't 25 object solely because we've not been given notice.</p> <p style="text-align: center;">Page 54</p>	<p>1 or the evidence supporting it. I do wish to confirm 2 that Witness T endorses the written submissions made by 3 the Secretary of State for the Home Department for this 4 hearing in respect of anonymity applications and those 5 are at paragraphs 5 to 7 of the written submissions of 6 the Secretary of State as those apply to Witness T and 7 the submissions made in respect of anonymity by Mr Boyle 8 at this hearing. 9 Having regard to Counsel for the Inquest's support 10 for Witness T's application at paragraphs 32 to 33 of 11 their written submissions, and noting that the 12 application is also supported by the Secretary of State 13 for the Home Department, I simply confirm Witness T's 14 position in relation to the further proposals made by 15 Counsel to the Inquest. 16 First, that Witness T supports the submission of 17 Counsel to the Inquest that a section 11 Contempt of 18 Court Act order should be made. Secondly, that Witness 19 T does not object to the streaming of his evidence by 20 video link to an overflow room as proposed at 21 paragraph 35 of Counsel to the Inquest's submissions, 22 that being of course on the basis that screening will be 23 put in place where necessary in any overflow room to 24 ensure that the video screen cannot be seen by any 25 members of the public in attendance whilst he gives his</p> <p style="text-align: center;">Page 56</p>

<p>1 evidence and finally, thirdly, that Witness T does not 2 object to not being screened from accredited members of 3 the press as he gives his evidence, subject of course to 4 a section 11 order being made and clearly explained to 5 those members of the media who are in attendance. 6 Sir, for the reasons that have been given in Witness 7 T's application, we invite you to put in place the 8 protection sought in relation to anonymity and special 9 measures as modified by those proposals of Counsel to 10 the Inquest and those are the only matters on which 11 Witness T wishes to make submissions. 12 MR JUSTICE HILLIARD: All right. Well, thank you very much 13 indeed. I'm very grateful for that and indeed to 14 everybody and for what I've had in writing. 15 MR HOUGH: Sir, the other point I should make of course is 16 that there are representatives of media here -- 17 MR JUSTICE HILLIARD: Yes. 18 MR HOUGH: -- including Mr Gardham, who is one of the 19 signatories of the two documents you have. 20 MR JUSTICE HILLIARD: Oh good. The document. Yes. 21 MR HOUGH: Obviously if any of those wish to address you, 22 then should have the opportunity. 23 MR JUSTICE HILLIARD: Then of course they can. Yes. Good 24 morning. 25 MR HOUGH: I'm just going to ask for the microphone to be --</p> <p style="text-align: center;">Page 57</p>	<p>1 acting in covert roles, we do not seek to see them give 2 evidence. We entirely accept the point that there could 3 be inadvertent disclosure of seeing them in a public 4 environment and we would not want to be put in that 5 position. 6 MR JUSTICE HILLIARD: No. 7 MR GARDHAM: Our submissions go a little bit further though 8 in that if officers -- and we're not fully aware of the 9 roles that the officers who are not in Surveillance 10 Command currently occupy and, if the majority of their 11 time is spent in a uniform role and they are very 12 occasionally asked to go undercover, we would submit 13 that the risk is far lower and that we would seek to see 14 them give evidence. My Lord will be well aware of the 15 importance of seeing individuals and their reactions as 16 they give evidence, so it would be but to that extent, 17 if the majority of their time is spent in uniform, we 18 would seek to see them give evidence but, apart from 19 that, we make those concessions. 20 MR JUSTICE HILLIARD: Well, that's very helpful. I mean, it 21 may be we'll be able to find out what the position is 22 but -- 23 MR GARDHAM: I leave it to my Lord's discretion. 24 MR JUSTICE HILLIARD: All right. Thank you. 25 MR GARDHAM: I'll leave it at that.</p> <p style="text-align: center;">Page 59</p>
<p>1 Submissions by press representative 2 MR GARDHAM: I'm grateful for all the submissions and I'll 3 try and take them in order that they were addressed. 4 So to begin with, with Mr Menon's comments on the 5 individual who appears to have turned 18 but was under 6 18 at the time, we're very much aware of underaged 7 siblings of individuals involved in these cases and in 8 criminal cases and in inquests and inquiries. Wherever 9 possible we avoid naming under 18 siblings but it's 10 difficult to see that the same protection should be 11 afforded to individuals who are over 18. 12 While we have every sympathy for family members who 13 may have nothing to do with the evidence, we will not be 14 naming random members of the family. Should their names 15 appear in evidence and they are over 18, we can see no 16 justification for their anonymity and we'd suggest that 17 putting an order in place and then having to review the 18 order during the course of a busy day of proceedings 19 would be an unnecessary impediment and an unnecessary 20 procedure for us all to have to go through. 21 But, again, I make it clear that, if individuals' 22 names do not appear in the evidence, they clearly will 23 not be. 24 So moving on to Mr Sheldon's submissions on the 25 surveillance officers, to be clear, if officers are</p> <p style="text-align: center;">Page 58</p>	<p>1 Our main objection that remains, because those two 2 are relatively minor quibbles in the process, does 3 remain with the mentors and, just to be clear to 4 Mr Boyle, we do object to them having anonymity and we 5 laid out reasonably briefly in the submissions that 6 we've put forward but it remains an objection because we 7 make the point that these are not undercover officers, 8 they're not covert officers, they're not secret agents 9 of the state, they are public officials who have a 10 public role who go in to address issues of extremism and 11 they are coming to the inquest to answer questions about 12 those roles that they took and whether they performed 13 them adequately and they should be doing that in public 14 and it sends a very odd message to the public that they 15 feel so much in fear, or claim they do, that they need 16 to anonymous and these public hearings are a very 17 important process that we all go through and it strikes 18 an odd note when individuals claim that they need 19 anonymity and cannot be identified. 20 On the specifics of what they fear, having some 21 level of abuse on social media is something that 22 an awful lot of people in life face these days. I would 23 have thought quite a few people in this room have faced 24 similar situations. We're all aware of how to close 25 down such arguments and the limitations. This doesn't</p> <p style="text-align: center;">Page 60</p>

<p>1 apply to all social media, it really only applies to one 2 platform, Twitter, which is an open platform and the 3 other platforms can be limited to individuals who know 4 the person who has set up the account. So the fear of 5 abuse on social media should not be a reason to be given 6 anonymity. 7 The fear from extremists also has to be seen in the 8 real light that it is and it's very easy, I think, for 9 us in this room to imagine that everybody out there is 10 extreme because we come across so many of them. But 11 that really is not the case and reading some of these 12 statements gives the impression that extremism is rife 13 within the Muslim community and that any friends or 14 relatives or acquaintances of these mentors who were to 15 learn what they do for a living would be so horrified 16 that they'd become abusive in the street and would 17 ostracise them from their community and that simply is 18 not the case. As anyone who works or goes out into 19 these communities knows, these people are very highly 20 regarded within their communities and very much prized 21 for the knowledge and for their understanding and for 22 their ability to talk to individuals and to portray them 23 in a different way is simply not true and is seeking, I 24 think, to play on the court's understanding of the 25 situation and to try and get anonymity by the back door</p> <p style="text-align: center;">Page 61</p>	<p>1 commend to you again those parts of the evidence of 2 Detective Superintendent Murphy and Superintendent 3 McKibbin which describes their roles and make it obvious 4 in my submission that what I've just had the opportunity 5 to confirm expressly is the case: they are not uniformed 6 officers and they're are a very long way away from the 7 type of officers that one might see standing in post 8 outside the palace of Westminster with a gun, for 9 example. 10 MR JUSTICE HILLIARD: Yes. All right. Well, thank you very 11 much. 12 MR HOUGH: I think that's everybody who may want to make 13 submissions. 14 MR JUSTICE HILLIARD: Yes. 15 MR HOUGH: Are there any matters which others have raised on 16 which you may value my assistance? 17 MR JUSTICE HILLIARD: No. No, I'm very grateful. I shall 18 obviously think about all those things. 19 MR HOUGH: Yes. My understanding is that it will your 20 intention in due course to produce an open ruling -- 21 MR JUSTICE HILLIARD: Yes. 22 MR HOUGH: -- quite soon and then a closed ruling 23 thereafter. 24 MR JUSTICE HILLIARD: Correct. 25 So now does conclude everything we can do here and</p> <p style="text-align: center;">Page 63</p>
<p>1 and we say that should not be granted and that public 2 officials should be properly and publicly ... 3 MR JUSTICE HILLIARD: Well, thank you very much indeed. 4 MR GARDHAM: Thank you. 5 MR HOUGH: Sorry, I was going to suggest that Mr Sheldon 6 might address you on the question of whether factually 7 the officers do most of their work in a covert capacity. 8 MR JUSTICE HILLIARD: Yes. Well, that would be very 9 helpful. Yes. 10 MR SHELDON: Sir, thank you very much for the opportunity to 11 deal with that and may I say that on behalf of the MPS 12 we're grateful, as ever, for the very measured 13 intervention from Mr Gardham on these issues. 14 I can confirm, sir, that each of the four officers 15 in addition to those who form part of the Surveillance 16 Command, which is to say HA6, BX174, who both form part 17 of the SO15 Counter Terrorism command, and S132 and 18 DS59 -- sorry, 51, who are both counter terrorism 19 specialist firearms officers, do not spend the majority 20 of their time in uniform, if indeed they spend any time 21 in uniform at all. 22 Sir, that much may have been apparent from the 23 extracts of the evidence I took you to in the course of 24 my submissions but did not read into the record, perhaps 25 due to an over enthusiasm for efficiency, but I would</p> <p style="text-align: center;">Page 62</p>	<p>1 in this court? 2 MR HOUGH: Sir, I think it does. We need a period of around 3 40 minutes to assemble the people required for the 4 closed session. I'm in your hands about whether we 5 should deal with this by way of having an early lunch 6 break or starting the closed session before lunch. 7 MR JUSTICE HILLIARD: I mean, sorry, did you say 40 minutes 8 or so before -- 9 MR HOUGH: 40. 4-0. 10 MR JUSTICE HILLIARD: I mean, one way of doing it, I 11 suppose, would be to say if we were able to -- I mean, 12 we've got to wait in any event until, what, about 13 1 o'clock, if it were possible, as it were, to have the 14 break now and then carry on from one till we've 15 concluded, that would probably be most helpful but is 16 everyone all right if we do that. Is that all right? 17 I'm just checking with the court staff. 18 MR HOUGH: What I would suggest then is that we break from 19 now until 1 o'clock and those attending the closed 20 hearing gather outside court 26 at 1 o'clock. I think 21 it's court 26. 22 MR JUSTICE HILLIARD: Yes, and I don't think anyone else -- 23 MR HOUGH: I gather it might be [REDACTED] 24 MR JUSTICE HILLIARD: All right. 25 MR HOUGH: [REDACTED] at 1 o'clock and, if there's any</p> <p style="text-align: center;">Page 64</p>

<p>1 difficulty that court staff have in starting then and</p> <p>2 carrying through, then people can be told.</p> <p>3 MR JUSTICE HILLIARD: Yes. All right. But it looks to be</p> <p>4 all right and then, Mr Hough, I don't think anyone not</p> <p>5 involved in that need remain. I mean, if there were any</p> <p>6 questions that I wanted to put to anyone else, the</p> <p>7 starting point, I could deal with in writing to start</p> <p>8 with. So I don't think anyone need remain, need they,</p> <p>9 if that makes life easier for them? I'm sure it will.</p> <p>10 Good.</p> <p>11 All right. Thank you very much indeed.</p> <p>12 (12.14 pm)</p> <p>13 (Open hearing concluded)</p> <p>14 I N D E X</p> <p>15 Page</p> <p>16 Submissions by MR HOUGH2</p> <p>17 Submissions by MR MENON29</p> <p>18 Submissions by MR SHELDON37</p> <p>19 Submissions by MS WHITELAW47</p> <p>20 Submissions by MR BOYLE51</p> <p>21 Submissions by MS MEREDITH55</p> <p>22 Submissions by press representative58</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 65</p>	
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