

1 Wednesday, 11 October 2017
 2 (10.30 am)
 3 THE CHAIR: Good morning, Mr Altman.
 4 Opening remarks by MR ALTMAN
 5 MR ALTMAN: Good morning, chair. Before we begin with the
 6 first witness, who is, as you will see, on a live link,
 7 you have asked me to say a few words for public
 8 consumption, as it were, to understand about the process
 9 by which representatives of core participants may seek
 10 your permission to ask witnesses questions.
 11 This is an inquiry undertaken by you and the rest of
 12 the panel. It is not adversarial litigation. So it is
 13 worth reminding ourselves that all questioning of
 14 witnesses takes place because you have determined that
 15 it will assist the inquiry with its work.
 16 As you are aware, legal representatives are provided
 17 with a list of topics that counsel to the inquiry
 18 intends to cover with a given witness in the course of
 19 their evidence. The legal representative of a witness
 20 or a core participant may apply to you for permission to
 21 ask questions of that witness, and these applications
 22 must be made four working days before the witness is
 23 timetabled to give evidence so that there is adequate
 24 time to consider the application and check that the
 25 witness has access to materials to respond to the

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1 question.
 2 If some evidence has been disclosed very late in the
 3 day, then of course the core participant may need to
 4 submit a question less than four days beforehand. But
 5 that only applies to questions that have arisen from
 6 evidence that has emerged late.
 7 Applications are considered by you on
 8 a witness-by-witness basis. If you give permission for
 9 a core participant to ask questions of a particular
 10 witness, that should not be taken as any indication that
 11 all such applications will be granted. Each application
 12 is, of course, witness specific.
 13 Applications can be refused on the basis that
 14 questions are repetitive, irrelevant, speculative or
 15 evidently cannot be answered by the particular witness.
 16 Additionally, there is latitude for representatives to
 17 seek permission to ask questions that arise during the
 18 questioning of witnesses where it relates to a new
 19 issue. This is an application which needs to be made to
 20 you. It is solely an opportunity to ask questions about
 21 an issue which has arisen for the first time in
 22 evidence, not for the first time that a representative
 23 has thought about a new issue.
 24 So we hope that that is sufficiently informative for
 25 members of the public as to the processes which apply in

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1 terms of the asking of questions under rule 10.
 2 THE CHAIR: Thank you, Mr Altman.
 3 MR ALTMAN: With that, chair, is the first witness for today
 4 on screen, A4.
 5 WITNESS A4 (affirmed)
 6 Examination by MR ALTMAN
 7 MR ALTMAN: Thank you. Can you hear me?
 8 **A. Yes.**
 9 Q. May I ask you this: you lived in Rochdale in your early
 10 years; is that correct?
 11 **A. Yes. Yes.**
 12 Q. But you had, unfortunately, an unhappy family. Your
 13 parents separated -- is that correct? -- when you were
 14 14 and then you went to live with your mother?
 15 **A. Yes. Yes, yes.**
 16 Q. You left school at 15; is that correct?
 17 **A. Yes. Yes, that was the legal age to leave school at**
 18 **that time.**
 19 Q. Exactly right. Do you remember, when you were about 16,
 20 Cyril Smith turned up at your house out of the blue?
 21 **A. Well, yes. Yes, you couldn't miss him.**
 22 Q. Absolutely. He spoke to your mother, and then to you
 23 and your mother, and did he tell you that
 24 Cambridge House was a house for working boys and asked
 25 you if you would like to go there?

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1 **A. Yes, yes. He -- sorry, it's okay.**
 2 Q. He described it to you and, as you said in a witness
 3 statement you made this year, I think, you said he made
 4 it sound brilliant; is that right?
 5 **A. Yeah, he said it was great; better than where I was**
 6 **living at the time.**
 7 Q. You were desperate to go, and it sounded to you like
 8 you'd get some independence, and so you jumped at the
 9 chance?
 10 **A. Yes, of course.**
 11 Q. Because of the way that Cyril Smith turned up at your
 12 home, did you think he had some prior contact or
 13 connection with your family?
 14 **A. No. I'd only come across Cyril Smith when I was at the**
 15 **"open air school", Brownhill School it's called now,**
 16 **when he visited the school years ago, and that was the**
 17 **only time I had come across Cyril Smith. Before that,**
 18 **I have no idea how he got to know about me or anything**
 19 **or who referred him to me or what.**
 20 Q. But he did turn up and, as a result of his visit, you
 21 were admitted to Cambridge House you thought when you
 22 were about 15 but very nearly 16; is that correct?
 23 **A. Yes, as far as I -- I don't remember exact dates,**
 24 **obviously. We're talking over 50, 55 years ago.**
 25 Q. I understand. When you arrived at Cambridge House, was

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1 there a group of Scottish boys there, or did they arrive
 2 after you?
 3 **A. No, they arrived later on. They arrived later on.**
 4 Q. As far as Cyril Smith is concerned, did you think that
 5 he was central to Cambridge House and had control over
 6 it? Is that your impression?
 7 **A. Everybody thought he was -- I mean, he was involved in**
 8 **everything, involved in Cambridge House, like the**
 9 **Christmas parties, the publicity, everything,**
 10 **Cyril Smith was there and he was involved and made sure**
 11 **everybody knew he was involved with Cambridge House.**
 12 **Everyone thought he was one of the governors**
 13 **responsible. We weren't told any different.**
 14 Q. You found your time there, you say, enjoyable, you
 15 settled in well; is that right?
 16 **A. The first time I was there, until they changed my house**
 17 **folks, yes.**
 18 Q. The house folks, it was a Mr and Mrs Wilson when you
 19 went there originally; is that right?
 20 **A. They were absolutely brilliant. Brilliant people.**
 21 **I have nothing to say against them at all.**
 22 Q. But they were replaced by a Mr and Mrs Saille; is that
 23 correct?
 24 **A. Yes, yes, and things changed.**
 25 Q. Things changed. They were close friends of Cyril Smith?

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1 **A. Yes, yes.**
 2 Q. The wife, you say, was extremely strict, and if there
 3 was any --
 4 **A. Yes.**
 5 Q. -- infringement of the rules, however minor they might
 6 be, the next thing that would happen, Cyril Smith would
 7 turn up?
 8 **A. Yes, yes.**
 9 Q. I would like to ask you, please, about assaults by
 10 Cyril Smith on you which happened on three occasions.
 11 Do you want to tell us in your own words about what
 12 happened on the first occasion, as you remember it?
 13 **A. Yes. The first occasion, I think, was either the first**
 14 **or second day I was at Cambridge House. Cyril Smith**
 15 **came and he said, "I wanted to talk with you in the**
 16 **living room", and then, when I got -- sorry, not the**
 17 **living, in the quiet room. Then, when we got in there,**
 18 **he said, "Oh, take your pants down. I want to give you**
 19 **a medical examination", and he cupped over my testicles**
 20 **like he was checking for a hernia, you know like they do**
 21 **when you enter the army or something, and then he**
 22 **started stroking me. You know, he was Cyril Smith, what**
 23 **I could do? I was 15 years old, scared shitless.**
 24 Q. How long had you been at Cambridge House when that
 25 incident took place?

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1 **A. One or two days, as far as I remember. I can't honestly**
 2 **say how long. I think it was in the first few days.**
 3 Q. Did the same thing happen a second time?
 4 **A. Yes. That was when -- wait a minute, was that the**
 5 **second or the third? I don't know. One of the times**
 6 **was when --**
 7 Q. Had you gone hitchhiking?
 8 **A. Yeah, it was after that. That was the third time. But**
 9 **the second time was when I didn't go to work and I met**
 10 **my mate. We went to Manchester to goof around and, when**
 11 **we got back, Cyril Smith was waiting. Mrs Saille -- was**
 12 **it? -- had called him and said we hadn't gone to work,**
 13 **and we'd just gone off for the day, and when we come**
 14 **back, we were taken individually into the quiet room,**
 15 **the same examination again -- why he wanted a medical**
 16 **again? -- and then a spanking, obviously big, fat,**
 17 **flabby hands, bang, bang, bang. And if you ever saw**
 18 **those hands, they were like weapons.**
 19 Q. Can you tell us, were those to your bare behind?
 20 **A. He made me pull my trousers down. Yes, he took my**
 21 **trousers down -- sorry, he made me take my trousers**
 22 **down, yes. But after, after he'd spanked me, he started**
 23 **stroking me saying, "There, there, it's all right",**
 24 **because I was crying, you know, he really hurt me.**
 25 Q. So you recall that as being the second occasion when

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1 you'd skived off work. As a matter of interest, what
 2 work were you doing at the time?
 3 **A. Probably in the cotton factory or something, in the**
 4 **cotton factory. That was really the only work available**
 5 **around Rochdale at that time.**
 6 Q. That was the second assault. What about the third one?
 7 What do you remember about that?
 8 **A. The third assault was -- I left Cambridge House. I sort**
 9 **of more or less ran away, you know, I was so worried**
 10 **about the whole thing and stories I was hearing. Then**
 11 **I went hitchhiking around and what I did, I did**
 12 **something stupid, I broke into a cigarette machine, took**
 13 **the cigarettes and the money and went off hitchhiking**
 14 **and then went back to Rochdale and gave myself up to the**
 15 **police and they didn't want to know. They said, "Well,**
 16 **come back tomorrow". So I went back the next day --**
 17 **I can't remember exactly what happened, but I ended up**
 18 **back in Cambridge House. Cyril Smith was there the same**
 19 **day. Same day, another medical examination, another**
 20 **fondling. That was the third time.**
 21 Q. That was the third time.
 22 **A. Yes.**
 23 Q. If you can help us, how long after the first medical
 24 examination was this third instance, do you think? Was
 25 it weeks, months or days?

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1 **A. I have absolutely no -- I can't remember how long I was**
 2 **in Cambridge House the first time, or how long I was**
 3 **away. I just remember these incidents, and little**
 4 **things.**
 5 Q. Sure.
 6 **A. You know, until I'd tell my side of things to the House**
 7 **of Commons I'd almost forgot about it and it brought**
 8 **everything back, and since then -- oh, you know, it's**
 9 **caused me a lot of problems.**
 10 Q. Help us with this: was there a further incident, which
 11 you remembered, when you were genuinely unwell and when
 12 Mrs Saille got Smith to come to the home? What was that
 13 all about?
 14 **A. I was in severe pain, vomiting and had a high**
 15 **temperature, and I asked to call the doctor, and she**
 16 **said, "I will", and then Cyril Smith turned up. He sort**
 17 **of prodded me around and then started fondling me and**
 18 **said to Mrs Saille, "There's nothing wrong with him".**
 19 **Mrs Saille was in the room at that time. She saw this**
 20 **incident. He said, "There's nothing wrong with him",**
 21 **but when he left the room, I was screaming. One of**
 22 **the boys came in, I think it was one of the Scottish**
 23 **lads came in, and they called an ambulance. I ended up**
 24 **at Rochdale Infirmary, and next thing I knew there was**
 25 **a priest there and my mother was there, I had a ruptured**

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1 **appendix. Now, if I'd have been left there, who knows**
 2 **what might have happened.**
 3 Q. Absolutely. Did you often see Cyril Smith at
 4 Cambridge House?
 5 **A. Oh, of course, yes. He was there quite -- he was there**
 6 **a lot of times. He organised Christmas parties and all**
 7 **sorts of things, and he would bring people -- it was**
 8 **a show case. He would bring visitors, God knows why,**
 9 **he'd bring them around and show them around the house**
 10 **and say, "Look how good we are to these boys, you know,**
 11 **these poor unfortunate boys". Of course we were**
 12 **unfortunate, because we were under the thumb of**
 13 **Cyril Smith.**
 14 Q. Can I ask you about someone else, Dave Bartlett. Was he
 15 someone you came to know while you were at
 16 Cambridge House?
 17 **A. Well, yes. Me and my friend, the guy I went up to**
 18 **Manchester with, we used to go to church. Dave Bartlett**
 19 **then was a Baptist minister. And the -- I can't**
 20 **remember what day it was, but one day a week he would**
 21 **have a meeting of sort of like a youth club in his**
 22 **house, and it was after one of those times, me and my**
 23 **friend, we told him about what was happening, and he**
 24 **didn't really believe us. I thought he didn't believe**
 25 **us. That was it, as far as I remember about that.**

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1 **Then the next thing I knew, I'd been travelling**
 2 **around India and Greece, and I came back to hear about**
 3 **the RAP report.**
 4 Q. In 1979?
 5 **A. I don't know what date it was.**
 6 Q. Take it from me, it was 1979.
 7 **A. Yes.**
 8 Q. Can you tell us this: did you actually go to live with
 9 Dave Bartlett when you left Cambridge House, for a bit?
 10 **A. I'm sorry, I can't say that truthfully. I can't**
 11 **remember. We were very close to the whole family and**
 12 **his family.**
 13 Q. Was there a time before the RAP article when
 14 Dave Bartlett asked you to go to a solicitor to make an
 15 affidavit? Do you remember that?
 16 **A. Yeah, I remember going to a solicitor with a few other**
 17 **of the boys who were at Cambridge House. We'd all made**
 18 **these affidavits, and, yeah, but I can't tell you when**
 19 **or what year.**
 20 Q. Don't worry at all about that. I think you said -- I'm
 21 just looking at something you said in your witness
 22 statement -- that Dave Bartlett was a great guy with
 23 a lot of integrity, his wife was too?
 24 **A. Yes.**
 25 Q. And you had nothing but respect for him and the way that

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1 he tried to bring the allegations to public attention.
 2 Is that how you felt?
 3 **A. Eventually, yes. Yes.**
 4 Q. As a result of the RAP article, did a tabloid journalist
 5 turn up at your door one day?
 6 **A. No, a tabloid journalist turned up at my door, I'm not**
 7 **sure when it was, it was sometime after that, because**
 8 **I was in England when that happened. No, it must have**
 9 **been -- wait a minute, I can't remember, it must have**
 10 **been maybe a couple of years after, I don't know, but**
 11 **the guy turned up and then he wanted the whole story**
 12 **about what happened.**
 13 Q. Did you tell him the whole story about what happened?
 14 **A. I told him. He took me to the same solicitors, made an**
 15 **affidavit again, and then he said, "Listen, I'm going to**
 16 **keep you away from the other press, the other media.**
 17 **Would you like to take your daughter to the seaside for**
 18 **a week out of the way? We can't give you money for the**
 19 **story, but we can help you this way", and of course, my**
 20 **daughter was in the room at the same time and said,**
 21 **"Yes, of course". So we went -- we were sent to**
 22 **Blackpool, and then, I think on the second or third day,**
 23 **he rang the hotel and he said, "We have to quash the**
 24 **story. The DPP have put a D-Notice on it".**
 25 Q. So that's what you were told?

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1 **A. Yes.**
 2 Q. In your statement, just to date this, you thought that
 3 that happened in fact around 1983? Do you remember
 4 saying that, in 1983, that that occurrence took place?
 5 **A. That would probably be right. I can't honestly say that**
 6 **is absolutely correct.**
 7 Q. No, of course. Now, the next thing in sequence of
 8 events that you remember was -- I mean, apart from
 9 hearing absolutely nothing, because nothing had happened
 10 in the meantime, but in regards to allegations about
 11 Smith, they didn't surface again until the mid to late
 12 1990s. Do you remember that?
 13 **A. Yeah, I had a visit from Greater Manchester Police, and**
 14 **they were connected with Operation Cleopatra, and they**
 15 **wanted me to go through the whole thing again, and**
 16 **I said, "What's the use? This has been going for years**
 17 **and nothing has been done", and he said, "This time,**
 18 **something will be done".**
 19 Q. So you made a witness statement?
 20 **A. I made a witness statement, signed, my wife also signed**
 21 **it as a witness.**
 22 Q. And nothing happened?
 23 **A. Nothing happened. Nothing happened.**
 24 Q. Then --
 25 **A. But the next thing that I knew was when I was**

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1 **downloading videos off of YouTube and that, with the**
 2 **police saying things they'd been told to destroy**
 3 **evidence and hide evidence and all that, and I couldn't**
 4 **believe they did that. Of course it happened.**
 5 Q. Then you became aware, I think, in 2012 of
 6 Simon Danczuk, who was then the new MP for Rochdale, as
 7 you remember it, being on television?
 8 **A. That was a very lucky incident. I turned the television**
 9 **on to catch the news and caught his speech and heard my**
 10 **name and another person's name mentioned, and I thought,**
 11 **okay, something is going to be done, and nothing**
 12 **happened. So I emailed the guy, I emailed him, and**
 13 **said, "Listen, do you want to hear my story?", and I got**
 14 **no reply. I tried telephoning and he wouldn't accept --**
 15 **I reversed the charge, of course, and he wouldn't accept**
 16 **it, so that was it. Then I believe he brought out**
 17 **a book saying the truth about Cambridge House, but I've**
 18 **yet to see what is said in that book. I don't know what**
 19 **has been said or what.**
 20 Q. It's called "Smile for the camera"?
 21 **A. Is it?**
 22 Q. It's been published, and I am sure you can read it if
 23 you wish to.
 24 Can I ask you this: in the statement that you made,
 25 you say:

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1 "All I've ever sought was a proper investigation
 2 into Cyril Smith's behaviour, as his reputation was well
 3 known in Rochdale, and it seems wrong that he could get
 4 away with it over so many years."
 5 Is that how you feel now?
 6 **A. That's how I still feel. How did he get away with it?**
 7 **How did he get away with -- why did people turn a blind**
 8 **eye? Why do people still insist we're all lying, we're**
 9 **all lying? And somebody made a statement -- I'm not**
 10 **going to say the name -- somebody made a statement**
 11 **saying we were all lying, and we would never have said**
 12 **those things if he was still alive. We made those**
 13 **statements well before he died.**
 14 Q. I think one of the persons who called you a liar was
 15 Norman Smith, Cyril Smith's own brother?
 16 **A. Yes, that's the guy. Yes, yes.**
 17 Q. Did you also speak to the media after the Danczuk book?
 18 Did you speak to Channel 4, I think?
 19 **A. Channel 4, BBC, Dutch television. They were at my door**
 20 **24 hours a day, you know. I thought, right, I want my**
 21 **story heard. But they gave a sort of garbled version**
 22 **when I saw it on the television. I sort of lost faith**
 23 **in the media as well.**
 24 Q. I am going to thank you. I think those are all the
 25 questions I have to ask you. You have actually told us

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1 everything that you said in your witness statement. I'm
 2 very grateful to you, and I am sure the chair and panel
 3 are as well.
 4 **A. I think you will notice I have not changed anything.**
 5 **I am still saying the same thing as I was saying**
 6 **55 years ago.**
 7 MR ALTMAN: I'm very happy to confirm that. Thank you very
 8 much.
 9 THE CHAIR: I'd like to thank you very much on behalf of
 10 the panel. We are very grateful for your contribution
 11 to the inquiry.
 12 **A. Right. Thank you. Thank you very much. Thank you very**
 13 **much for listening.**
 14 MR ALTMAN: Thank you. I think we can cut the link then.
 15 Thank you very much indeed.
 16 (The witness withdrew)
 17 MR ALTMAN: I'm not sure if we have to rearrange the
 18 furniture before we call the next anonymous witness. It
 19 may make sense if you would just rise for a few minutes
 20 while we rearrange the hearing room. Thank you.
 21 (10.55 am)
 22 (A short break)
 23 (11.05 am)
 24 MR ALTMAN: Chair, the next witness is known for these
 25 proceedings as A2.

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1 WITNESS A2 (affirmed)
 2 Examination by MR ALTMAN
 3 MR ALTMAN: Thank you very much. For these purposes, as
 4 I have just said, you will be known as A2.
 5 Can I ask you this, thinking about your early school
 6 years before we come to Cambridge House: did you, as you
 7 put it in a statement that I have from you, play truant
 8 from school in your early years, but you became a pretty
 9 good snooker player during that period of time?
 10 **A. Both things are true.**
 11 Q. Were you around 16 at that time?
 12 **A. 16.**
 13 Q. You say that you were absent from school for most of
 14 your last school year because of it; is that true?
 15 **A. For the whole year, yes.**
 16 Q. On one evening -- and nobody is judging this, but it is
 17 just part of the background -- did you happen to steal
 18 a bike from some bike sheds?
 19 **A. From the school bike sheds.**
 20 Q. From the school bike sheds. Did you happen to get
 21 caught by a police officer, and did that lead you to
 22 court and a two-year probation order?
 23 **A. Yes.**
 24 Q. The probation officer, who was presumably supervising
 25 your probation, did he come to your home one day?

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1 **A. Yes.**
 2 Q. Was there an incident, is all I am going to say, with
 3 your dad and, as a result of that incident, did you find
 4 yourself a couple of weeks later -- this is not your
 5 fault, but something that happened between your dad and
 6 the probation officer -- at Cambridge House?
 7 **A. I'm not absolutely sure it was a couple of weeks.**
 8 Q. I'm simply reading what you said in the statement.
 9 **A. But there was an agreement that the probation officer**
 10 **suggested it would be better for me to be away from my**
 11 **home. He knew of this place, Cambridge House in**
 12 **Rochdale. If I went there, that would satisfy the**
 13 **grounds of my probation order.**
 14 Q. Which meant you could be in Cambridge House and serve
 15 out, as it were, the period of your probation order at
 16 the same time?
 17 **A. Yes.**
 18 Q. So whatever reason it was, that's where you found
 19 yourself, however long after this incident between the
 20 probation officer and your father.
 21 You say in the statement which I am looking at,
 22 which was made I think this year, that it was quite
 23 happy news for you to find yourself at Cambridge House?
 24 You were happy about that?
 25 **A. The circumstances at Cambridge House were far better**

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1 **than the circumstances at home.**
 2 Q. When you first arrived at Cambridge House, did you have
 3 to apply for a job?
 4 **A. Yes. It was -- you had to earn a wage and pay board at**
 5 **the hostel.**
 6 Q. The job you found was in a local mill?
 7 **A. The first job, yes.**
 8 Q. The first job. Then the job you had, was that
 9 a clerical role?
 10 **A. I had been working in the mill for a couple of months**
 11 **and I applied for a job in the local council and got**
 12 **taken on.**
 13 Q. Sorry. So you had, what, a manual job in the mill, but
 14 then you applied for a second job, and this was at the
 15 local council, and that happened to be a clerical job?
 16 **A. Yes.**
 17 Q. Was that in the main Rochdale Town Hall, that job?
 18 **A. The first part was, yes, in the rating section.**
 19 Q. When you say "the first part", what do you mean by that?
 20 **A. Well, I got moved around.**
 21 Q. I see.
 22 **A. I was in the rating section and then was in the**
 23 **education office. They just kept -- you know, people**
 24 **did get moved to different parts of local government.**
 25 Q. Coming back to Cambridge House, in terms of your

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1 accommodation, which we understand was on an upper
 2 floor, or the upper floor, did you have to share
 3 a bedroom with other boys or did you have a room to
 4 yourself? How did it work?
 5 **A. I never had a single room.**
 6 Q. No.
 7 **A. Initially, I shared in quite a large dormitory-type room**
 8 **with several of the boys, and later on, I shared a room**
 9 **with one other person, just a double room.**
 10 Q. The boys at Cambridge House, generally, in the statement
 11 you made you say that they were a mixture of
 12 ne'er do wells, that's how you termed it, people on
 13 probation, people who were homeless and had problems at
 14 home, but you also recall that there was a big group of
 15 Scottish apprentices from Glasgow?
 16 **A. After I had been there about six, nine months or**
 17 **something, this group of Scots people came down to**
 18 **finish an apprenticeship off.**
 19 Q. Where were they working?
 20 **A. There's a factory called Whipp & Bourne. It was the**
 21 **sister factory to the factory in Scotland where they'd**
 22 **started their apprenticeship.**
 23 Q. I see.
 24 **A. Apparently, they couldn't finish their apprenticeship**
 25 **there, so they were then moved down to complete their**

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1 **apprenticeship in Rochdale.**
 2 Q. How many Scottish boys do you remember there being?
 3 **A. There were at least eight, and possibly 10/11.**
 4 Q. Were they in your dormitory when you were in the
 5 dormitory, or were they in a separate dormitory?
 6 **A. When they came in, they took over the top floor. I very**
 7 **rarely went up there.**
 8 Q. So that was the second floor. So there were three
 9 floors, but the second -- you were on the first?
 10 **A. Yes.**
 11 Q. You describe Cambridge House as being a very good setup.
 12 Is that how you felt about it at first?
 13 **A. Yes. Yes.**
 14 Q. In terms of your age, just so we can understand this,
 15 you say -- I'm picking this up from the statement you
 16 made in June of this year -- that you went to live in
 17 Cambridge House when you were 16, nearly 17, and you
 18 were 18 or 19 when you left. Does that accord with your
 19 recollection?
 20 **A. Yes.**
 21 Q. In terms of when you left, you left Cambridge House and
 22 indeed the employment of Rochdale Council at more or
 23 less the same time; is that right as well?
 24 **A. Yes.**
 25 Q. It was because of the events which I am going to ask

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1 about in a moment, about Cyril Smith, that you didn't
 2 want to work for the council any longer once you left
 3 Cambridge House?
 4 **A. I felt it was better to move away from anywhere where**
 5 **Smith had influence.**
 6 Q. He was someone you said who virtually ran the council,
 7 and you were on the inside; is that what you felt? That
 8 he virtually ran the council --
 9 **A. Well, it was a common belief of everyone that was**
 10 **working in the local government.**
 11 Q. Was it your belief as well?
 12 **A. Yes.**
 13 Q. I am going, then, please, to ask you about what happened
 14 at the hands -- literally at the hands -- of
 15 Cyril Smith. I am simply going to put to you what you
 16 said in your statement, because I know that that makes
 17 you feel more comfortable.
 18 Did you say -- all I am going to ask you to do is
 19 say "yes" or "no", as the case may be -- that you were
 20 assaulted by him on two or three occasions?
 21 **A. Yes.**
 22 Q. That you couldn't remember, after all that time, whether
 23 it was two or three instances, but they were all very
 24 similar. Is that correct?
 25 **A. Yes. Yes.**

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1 Q. That all of the incidents happened when you rang in to
 2 work to take a day off; is that correct?
 3 **A. Yes.**
 4 Q. And that when you did that -- in other words, when you
 5 took a day off work -- you always used to give the
 6 excuse that you had an upset stomach?
 7 **A. Yes. Yes.**
 8 Q. Looking back, you believed that the warden of
 9 Cambridge House, who you remember -- it is not in your
 10 statement, but I know that you remember that to be
 11 Mr or Mrs Saille; is that correct? Was it Mrs or
 12 Mr that you are referring to?
 13 **A. Well, it was a couple. Mr and Mrs Saille.**
 14 Q. So one of the wardens, one of the couple,
 15 Mr or Mrs Saille, at Cambridge House was under, you say,
 16 a standing instruction to inform Smith when any resident
 17 of Cambridge House claimed to be ill; is that correct?
 18 **A. Well, it seemed to be like that.**
 19 Q. It seemed to be like that; why? Because he just
 20 happened to turn up whenever anybody was off work?
 21 **A. Well, yeah, he'd suddenly appear.**
 22 Q. So, in other words, in those days, someone had to have
 23 informed him because he wouldn't have known otherwise?
 24 **A. Yes.**
 25 Q. What you say is, as soon as you had told the warden

Page 23

1 that, "I was too ill to go to work", he came around?
 2 **A. Yes.**
 3 Q. When he did, were you told to go into a room with him --
 4 was this the quiet room, what we have been told is the
 5 quiet room?
 6 **A. Well, I never actually heard that description before.**
 7 Q. We have heard it twice now.
 8 **A. It is the same room that other people call the quiet**
 9 **room.**
 10 Q. But that's not a description you heard as such?
 11 **A. I never knew it.**
 12 Q. I'm just going to now go through what you said in this
 13 witness statement happened. You said:
 14 "He told me to drop my trousers and underpants."
 15 Is that right?
 16 **A. Yes.**
 17 Q. "He parted my buttocks and then fondled them and
 18 generally prodded them around."
 19 Is that right?
 20 **A. Yes.**
 21 Q. "I can't say precisely whether he actually touched my
 22 genitals."
 23 That's what you said:
 24 "He certainly touched my bare buttocks and parted
 25 the cheeks."

Page 24

1 Is that what you recall?

2 **A. Yes.**

3 Q. "I recall him putting his hands down my front, around my

4 abdomen, but I can't remember if he actually touched my

5 genitals."

6 That's what you said. Was it correct?

7 **A. Yes.**

8 Q. You say this occurred on two or three occasions, "all of

9 them when I had phoned in to work sick", which is what

10 you have told us?

11 **A. Yes.**

12 Q. Did you then say this:

13 "At the time, I didn't discuss what had happened

14 with anyone else from Cambridge House. I only discussed

15 it with people years later."

16 **A. Yes.**

17 Q. In a word or two, why was it -- take it from me that

18 this is anything but a criticism, but we just want to

19 understand, and we probably all do -- that somebody in

20 your position as a teenager, perhaps 16 or 17, what was

21 it about Smith that lent itself to somebody like you in

22 that position having that happen to you and not

23 reporting it to anyone in authority? Why didn't you?

24 **A. Well, it was partly the era at time. Teenagers weren't**

25 **as outspoken, plus Smith, himself, made himself as**

Page 25

1 **intimidating as possible.**

2 **Not only did adults fear him, you know, children**

3 **would fear him. It might seem odd describing**

4 **a 17-year-old as a child, but you're talking about**

5 **1961/'62. It was a different era.**

6 Q. Forgive what you may think is a silly question -- it is

7 not designed to be -- but apart from his physical bulk,

8 what else was it about Smith that was intimidating?

9 **A. Well, I'd say that the power that he exercised -- the**

10 **power that he exercised, his control. I mean, he had**

11 **control more or less of the town of Rochdale. He didn't**

12 **just control the boys in the hostel. Everyone in that**

13 **town was -- if not afear'd, certainly wouldn't cross**

14 **him.**

15 Q. Help us with this, if you can: from your observations,

16 did you have any impression of the type of boy he would

17 target, or social group or type of child he would

18 target, from your own observations?

19 **A. To be honest, when I was in there, I was aware of what**

20 **had happened to me. I was not aware of it happening to**

21 **any of the other boys in there. And yet, there was some**

22 **sort of common understanding that something was going**

23 **on, but I wasn't aware of him doing anything to other**

24 **boys because it wasn't really spoken about.**

25 Q. I suppose the reason I'm asking you is simply because of

Page 26

1 a comment you made in this witness statement:

2 "I believe ..."

3 And it could be looking back with retrospect:

4 "I believe that he targeted the boys who were from

5 a bad home environment."

6 Was that just really looking back and thinking --

7 **A. Yes, that's retrospective.**

8 Q. In other words, boys who were vulnerable?

9 **A. Yes. People would be in Cambridge House because they**

10 **were totally dependent on Cambridge House and what it**

11 **provided. They wouldn't have had other places to turn**

12 **to.**

13 Q. What about the Scottish lads? Did you ever have an

14 impression of whether they ever fell within Smith's

15 sights, or is it something you thought about afterwards

16 as to whether Smith did interfere with them and, if he

17 didn't, why not?

18 **A. I don't think Smith would have done anything with the**

19 **Scottish people because they were a group. There were**

20 **eight -- at least eight or ten of them. If he'd have**

21 **tried anything with any of them, I don't think --**

22 **I think they would have reacted differently than the way**

23 **that myself or the other people reacted.**

24 Q. When you left Cambridge House, did he ever say anything

25 to you about whether you should talk once you left?

Page 27

1 **A. At the time I left, he took me to one side and gave me**

2 **the advice that I should never talk to anyone about what**

3 **happened during the time I was in Cambridge House.**

4 Q. Did you understand what he meant by "what happened"?

5 **A. Yes, I did.**

6 Q. Did you understand that to mean what I have been asking

7 you about, medical examinations, that sort of thing?

8 **A. Yes. Well, I mean, I don't think -- I don't know how**

9 **much Smith was frightened about possibly being exposed,**

10 **but he certainly would try to stop people from saying**

11 **anything.**

12 Q. Did the police ever approach you for a statement about

13 events at Cambridge House?

14 **A. Pardon?**

15 Q. Did the police ever approach you for a statement --

16 **A. No.**

17 Q. -- about events at Cambridge House?

18 **A. No.**

19 Q. You probably know now, but in 1979, the Rochdale

20 Alternative Press published an article about

21 Cyril Smith. Did you know at the time, in 1979, about

22 that?

23 **A. No. No.**

24 Q. Were you involved in it in any way?

25 **A. No.**

Page 28

1 Q. Did you know David Bartlett?
 2 **A. I sort of met him a couple of times at parties in**
 3 **Rochdale at some time in the '70s.**
 4 Q. Did you, when you were about 17 or 18 and working in
 5 Rochdale, have a friend called Brian Bamford, who later
 6 became editor of Northern Voices?
 7 **A. Yes.**
 8 Q. Bringing matters almost but not quite up to date, in
 9 2012, when there was quite a bit of media publicity
 10 about Smith following his death a couple of years
 11 before, did Brian get in touch with you?
 12 **A. Yes.**
 13 Q. Was he doing a piece on Smith for Northern Voices?
 14 **A. I would imagine so.**
 15 Q. Was Northern Voices a local newspaper or a magazine
 16 or ...?
 17 **A. No, it is an internet blog.**
 18 Q. It is an internet blog, all right. Did Brian arrange
 19 for you to be interviewed by a political journalist by
 20 the name of Paul Waugh?
 21 **A. Yes.**
 22 Q. Did he write a piece for this blog site or website about
 23 your experiences at Cambridge House?
 24 **A. Yes, he did.**
 25 Q. I think another individual, whom we don't want to name,

Page 29

1 also contributed to the article -- A4 as we know him,
 2 but you won't know that. I don't want any names,
 3 please.
 4 **A. There was another boy that was resident at the time**
 5 **I was who was also mentioned.**
 6 Q. For the record, that was A4.
 7 Following all of that, were you contacted by other
 8 journalists from Granada and the BBC?
 9 **A. Yes.**
 10 Q. I think you also got in touch with some solicitors as
 11 well around the same time; is that correct?
 12 **A. Yes.**
 13 Q. I don't want to ask you more about that.
 14 Finally, this, please: you say in this statement --
 15 it is actually the final paragraph:
 16 "I remain angry. Cyril Smith was allowed to get
 17 away with these things over so many years because he was
 18 so powerful."
 19 You say, as you have done:
 20 "I am very keen to give evidence to the inquiry and
 21 tell my story."
 22 **A. Yes.**
 23 MR ALTMAN: Well, you have, and I am very grateful to you.
 24 Thank you very much.
 25 **A. Thank you.**

Page 30

1 THE CHAIR: I would also like to thank the witness on behalf
 2 of the panel and myself for your attendance and
 3 contribution today. Thank you.
 4 **A. Thank you.**
 5 **(The witness withdrew)**
 6 MR ALTMAN: I just wonder, before the witness leaves us,
 7 chair, whether it would be wise -- I know it is really
 8 quite a bit earlier, but the next witness will be
 9 Assistant Chief Constable Jacques, and rather than start
 10 him and then have a break, we may as well take our break
 11 now, while we allow the witness to leave us.
 12 THE CHAIR: Okay.
 13 MR ALTMAN: Thank you very much.
 14 THE CHAIR: We will do that. Thank you very much. We will
 15 return at 11.45 am.
 16 (11.30 am)
 17 (A short break)
 18 (11.50 am)
 19 MR ALTMAN: Chair, the next witness, who is sitting in the
 20 witness box, is Assistant Chief Constable
 21 Timothy Jacques.
 22 MR TIMOTHY JACQUES (sworn)
 23 Examination by MR ALTMAN
 24 MR ALTMAN: Mr Jacques, can you confirm that you are an
 25 Assistant Chief Constable of Lancashire Constabulary?

Page 31

1 **A. That's correct.**
 2 Q. Are you the only one or is there more than one?
 3 **A. There are two.**
 4 Q. Which is why I couched my question in the way that
 5 I did.
 6 You have made, for which we are very grateful,
 7 a lengthy statement going through Lancashire
 8 Constabulary's part, if I can call it that, in all of
 9 this over the years. I'm not sure we know the date of
 10 it, but it was certainly sent to the inquiry on
 11 29 September. Is that the date you actually signed off
 12 the statement?
 13 **A. I think that's correct, yes.**
 14 Q. Do you have it in front of you?
 15 **A. I do, yes.**
 16 Q. Feel free at any time -- I will direct you to
 17 passages -- to refresh your memory from it.
 18 **A. Okay. Thank you.**
 19 Q. Currently, as you say, and as you have told us, rank of
 20 assistant chief constable. Did you join the
 21 constabulary in 1986?
 22 **A. I did.**
 23 Q. Serving initially as a uniformed and then as a detective
 24 constable in Preston?
 25 **A. Yes.**

Page 32

1 Q. You say a substantial background in investigation. You
 2 served as a detective in every rank up to and including
 3 superintendent?
 4 **A. That's correct.**
 5 Q. Head of force intelligence and counter-terrorism 2005?
 6 **A. Yes.**
 7 Q. Prior to becoming an operations manager the year after?
 8 **A. Yes.**
 9 Q. You are, therefore -- and we accept -- suitably
 10 experienced as a senior investigating officer and in
 11 dealing with major investigations?
 12 **A. Yes, that's correct.**
 13 Q. Promoted to assistant chief constable in March 2014?
 14 **A. Yes.**
 15 Q. You have had chief officer responsibility for public
 16 protection, including child sexual exploitation and
 17 non-recent sexual offence investigations?
 18 **A. That's right, yes.**
 19 Q. Can I please then invite your attention to your
 20 paragraph 20 on page 5 of your statement.
 21 **A. Yes.**
 22 Q. Currently, the Borough of Rochdale comes within the
 23 Greater Manchester Police jurisdiction?
 24 **A. That's correct, yes.**
 25 Q. But you understand that prior to 1 April 1969, Rochdale

Page 33

1 was a Borough Police Force and outside the auspices of
 2 Lancashire Constabulary?
 3 **A. That's right, yes.**
 4 Q. Does that mean it was an autonomous police force?
 5 **A. It was an autonomous police force with its own chief**
 6 **constable.**
 7 Q. From that date, 1 April 1969, the Rochdale Borough
 8 Police Force, together with other local boroughs, became
 9 absorbed into the Lancashire County Court and, as
 10 a result, responsibility for policing Rochdale passed to
 11 Lancashire Constabulary?
 12 **A. It did, yes.**
 13 Q. A few years later, on 1 April 1974, did the Borough of
 14 Rochdale become absorbed into what was then the newly
 15 formed Greater Manchester area and, consequently, the
 16 responsibility for policing Rochdale passed from
 17 Lancashire to GMP, Greater Manchester Police?
 18 **A. It did, yes.**
 19 Q. Help us with this, if you are able to: which police
 20 force -- GMP, as I shall call them for short, or
 21 Lancashire -- would have retained responsibility for
 22 criminal investigations relating to Rochdale between
 23 1969 and 1974?
 24 **A. Lancashire would have been responsible for anything that**
 25 **happened when Rochdale was part of Lancashire, in the**

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1 **main, unless agreement, for whatever reason, was reached**
 2 **between the two forces.**
 3 Q. So unless we hear otherwise, we can assume during that
 4 period of time it was Lancashire?
 5 **A. Yes.**
 6 Q. Which police force retained records of cases or
 7 investigations during that same period; do you know?
 8 **A. Lancashire would have been responsible for the**
 9 **documentation that mainly related to its cases of that**
 10 **time, albeit, when the geographical area moved to**
 11 **Greater Manchester, the records contained within**
 12 **Rochdale, and everything that pertained to that area,**
 13 **would have transferred responsibility in the main to**
 14 **Manchester.**
 15 Q. Can you speak up a bit? I'm sure you can shout,
 16 Mr Jacques.
 17 **A. I can.**
 18 Q. Let me now ask you about the course of the 1970
 19 investigation into Cyril Smith, please. For that, we
 20 turn to page 6, paragraph 27 of your statement. We are
 21 going to have a look at some documents to help us
 22 through this. Let me just clear the decks for the
 23 moment.
 24 Now, the dates, please, for the Lancashire
 25 investigation into Cyril Smith. When did that

Page 35

1 investigation commence?
 2 **A. It commenced on 10 October 1969.**
 3 Q. Effectively over -- at the time the DPP made his
 4 decision or was it still an open investigation or did it
 5 close?
 6 **A. No, it continued until that report was submitted by**
 7 **Detective Superintendent Leach to the DPP.**
 8 Q. Looking at your paragraph 29, what was the trigger, as
 9 you understood it?
 10 **A. Well, it was the arrest of a young man referred to as --**
 11 **Q. Obviously don't name him.**
 12 **A. -- no -- A48 in the papers. By way of mitigation for**
 13 **the offences for which he was arrested, he cited abuse**
 14 **by Cyril Smith whilst resident some years earlier at**
 15 **Cambridge House Hostel. So that was the trigger for**
 16 **this investigation.**
 17 Q. He was, in effect, saying, "He did it to me, so I did
 18 it". That was the effect of it?
 19 **A. Yes, it was, yes.**
 20 Q. In other words, "I learnt what I did from him".
 21 Your paragraph 30, you run through, really, all of
 22 the police officers who were involved in that inquiry
 23 from the researches you, and presumably others who
 24 helped you make this statement, were able to glean?
 25 **A. Yes.**

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1 Q. I am not going to go through all of them, but did they
 2 include Sergeant Brierley, who was responsible for the
 3 underlying report?
 4 **A. Sergeant Brierley picked up the investigation within
 5 a couple of days of that initial accusation/allegation
 6 by 48. I think it was Worsencroft took the original
 7 statement and then Sergeant Brierley obviously quickly
 8 picked up that investigation.**
 9 Q. We'll look at it, but Sergeant Brierley's report. Was
 10 the original superintendent, a man by the name of
 11 Watson?
 12 **A. I actually think Watson took over the investigation in
 13 the middle of January in 1970.**
 14 Q. 1970, yes.
 15 **A. We can refer if we need to, but the first interview
 16 where Smith presented himself at the station, Watson
 17 actually says to him, "I am not local and I have only
 18 had this job just over a week", so we can put that
 19 sometime around the middle of January when he picks it
 20 up. But Brierley was a local officer, and I think from
 21 the records a DCI Stamp was probably a local officer
 22 working with Brierley on those initial investigations.**
 23 Q. Jeffrey Leach, detective superintendent. He took it
 24 over from Watson?
 25 **A. 16 February.**

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1 Q. 16 February, which he says himself.
 2 **A. So Mr Watson had it for a period of nearly a month,
 3 from January to February.**
 4 Q. There is also an unnamed chief superintendent who
 5 submits the report?
 6 **A. The supervisor's report, which is on 31 December 1969,
 7 attached to Brierley's. It was common practice in those
 8 days to report from the chief constable or the chief
 9 superintendent off to somewhere, so it will have been
 10 a supervisor's report. It could potentially have been
 11 DCI Stamp's report because we know that he worked with
 12 Brierley on it but it was a supervisory officer in
 13 Rochdale basically asking for Brierley to keep hold of
 14 the investigation.**
 15 Q. Other names, simply for your confirmation, which may
 16 have relevance later are Jack Tasker?
 17 **A. Yes.**
 18 Q. What was his part in this?
 19 **A. From the documentary records we have, he witnessed one
 20 statement being taken by Tom Courtney. He may well have
 21 been present with Courtney whilst Courtney took other
 22 statements, but his name only appears on our files on
 23 one statement.**
 24 Q. Then we have a Detective Chief Inspector Wheater, who
 25 certainly is in the picture at the time of the interview

Page 38

1 under caution of Smith --
 2 **A. Yes.**
 3 Q. -- in February 1970?
 4 **A. Wheater stays with the investigation right to the end.
 5 In fact, the last, I think, 13 or so statements, the
 6 majority are taken by Wheater.**
 7 Q. Yes.
 8 **A. And he's present in the interview with Leach prior to
 9 the submission of Leach's report.**
 10 Q. There were eight victims of alleged abuse?
 11 **A. Yes.**
 12 Q. All of them ciphered for these purposes, but can I just
 13 run through them for the record, please: A49?
 14 **A. Yes.**
 15 Q. A48, A51, A69, A65?
 16 **A. Yes.**
 17 Q. A67, A50 and A1. Were they known individuals but not
 18 necessarily interviewed at that time?
 19 **A. They were interviewed, I think, as part of
 20 the investigation, obviously in a sequential order, by
 21 the various officers involved.**
 22 Q. In terms of witnesses, again, you very helpfully list 17
 23 of those who were interviewed. Again, I am not going to
 24 go through every single one, but did they include the
 25 Sailles, Mr and Mrs, who we know were or became wardens

Page 39

1 at Cambridge House?
 2 **A. Yes, it did, yes.**
 3 Q. And others who were on the committee with Smith which
 4 ran Cambridge House?
 5 **A. Yes.**
 6 Q. A gentleman by the name of Harding; is that correct?
 7 **A. Yes, that's right, Thomas William Harding.**
 8 Q. I think that's probably all I need to ask about.
 9 Lyndon Price was somebody that was spoken to as well?
 10 **A. Yes.**
 11 Q. At your paragraph 31, do you set out, again very
 12 helpfully, a chronology setting out the milestones of
 13 the investigation. It begins, as you told us, on
 14 10 October with the allegations made by -- well, the
 15 arrest of A48?
 16 **A. Yes.**
 17 Q. Your page 9, two dates, 31 December 1969, so New Year's
 18 Eve. What was called an occurrence report from
 19 Sergeant Brierley summarising the investigation to date
 20 and further lines of enquiry?
 21 **A. Yes.**
 22 Q. And the occurrence report from his supervisor, the
 23 unknown chief superintendent --
 24 **A. Yes.**
 25 Q. -- enclosing the report and some of his own views about

Page 40

1 it?

2 **A. Yes, that's correct.**

3 Q. That report was going to go up to the chief constable?

4 **A. Yes.**

5 Q. So we turn from 1969 into 1970, statements taken from

6 the various individuals, including complainants, all the

7 way to page 11, where we have, March 1970, the

8 occurrences then, but towards the end, the 19th,

9 a letter from the DPP confirming no reasonable prospect

10 of a conviction?

11 **A. That's correct.**

12 Q. And then 1 April 1970, the note to the assistant chief

13 constable from Superintendent Leach advising Smith had

14 been informed of the DPP's decision.

15 **A. That's correct, yes.**

16 Q. It is the last date that you have in this tabular

17 format, 1 April, suggesting that was the final closure,

18 I suppose, of the investigation or the last action in

19 relation to it --

20 **A. That's right, yes.**

21 Q. -- on that occasion. Now, an occurrence report. Was

22 that something that was a prerequisite for an

23 investigating sergeant to do in order to continue an

24 investigation?

25 **A. No. My interpretation of -- an occurrence report is**

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1 **police parlance/jargon for an internal memo, really.**

2 **Reading that report and reading the supervisor's report**

3 **attached to it, I think what that is saying is, this**

4 **investigation has commenced, Brierley has taken on that**

5 **investigation, and got, at that stage, three witness**

6 **statements and one -- sorry, three victim statements and**

7 **one witness statement. My interpretation is, Brierley**

8 **wants to keep hold of it, and the supervisor's statement**

9 **recognises towards the end that, because of the standing**

10 **of Mr Smith, he would probably have to be passed over**

11 **for interview as and when it got to that stage, but it**

12 **is asking that the investigation is kept locally by**

13 **Brierley, who, it would appear, had his teeth into the**

14 **investigation. Sadly, that wish wasn't granted -- sadly**

15 **for them, I should say, and it was deemed that other**

16 **people from outside should come in and take the**

17 **investigation, which happened in January.**

18 Q. The other people who came in to take over the

19 investigation were?

20 **A. So that was Watson initially as the superintendent and**

21 **Courtney and Tasker were the main individuals. Wheater,**

22 **of course, was involved and involved through.**

23 Q. Then Leach comes in, as you have pointed out, on

24 16 February 1970?

25 **A. Yes. We don't know why, but it says in his report, for**

Page 42

1 **various reasons, he's taken it over from Watson one**

2 **month in.**

3 Q. Let's just have a look where you get that from. It is

4 the 11 March 1970 report, so it is the Leach report. It

5 is our CPS002701 at page 11. I wonder if that can go up

6 on the screen. If we scroll down towards the bottom,

7 the final paragraph, we see:

8 "This enquiry ..."

9 Have you got that there?

10 **A. Yes.**

11 Q. "This enquiry was originally conducted by Detective

12 Superintendent Watson who, for various reasons, was

13 unable to carry it through to conclusion."

14 The various reasons, did you ever discover what the

15 various reasons were?

16 **A. No, we didn't.**

17 Q. Back to your witness statement, paragraph 31,

18 from January 1970, as I have already pointed out, there

19 was a series of statements taken, and we can see,

20 consistent with what you are telling us, the names of

21 the individuals involved in the right-hand column. So

22 we have got Courtney, Tasker and Courtney -- as you have

23 said, he witnessed the statement of A1 on 19 January of

24 that year.

25 **A. Yes.**

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1 Q. On the next page, page 10, Watson at the top is involved

2 in an interview with Cyril Smith, but that interview was

3 not so much an interview but a meeting requested by

4 Smith of the police --

5 **A. Yes.**

6 Q. -- in order to find out what was going on?

7 **A. Yes, I mean, Watson describes it to Smith in that**

8 **interview as a fishing expedition by Smith.**

9 Q. Exactly. Then we have Mr Courtney's name appearing in

10 several entries. Then, from 19 February, Mr Wheater.

11 Does that suggest that it was around that point that

12 Courtney and Tasker withdrew and Wheater and others took

13 over?

14 **A. It is. It appears that Leach came in on 16 February,**

15 **and the last statement that Courtney's name is on is on**

16 **18 February. From thereon in, it would appear to be --**

17 **all those that are named, it would appear to be Wheater**

18 **taking the statements. There are some where the name**

19 **hasn't been typed up on the typed copies, but certainly**

20 **those that it has been typed up, it would appear to be**

21 **Wheater involved and Leach, ultimately, in the**

22 **interview.**

23 Q. Can we then, against that background, consider, please,

24 the evidence that was provided to the Director of Public

25 Prosecutions in that time. I am going to bring up

Page 44

1 several documents, all of which I am sure you are very
 2 familiar with. The first is our CPS002699, page 1.
 3 This is the unknown chief superintendent's report to the
 4 chief constable on New Year's Eve 1969. Perhaps you
 5 won't mind if I just run through it with you?
 6 **A. Okay.**
 7 Q. Headed "Allegations of indecent assault at Rochdale":
 8 "I forward herewith the report from
 9 Sergeant Brierley and statements in connection with an
 10 enquiry he has undertaken for the past three months.
 11 "Of necessity, because of the security risk
 12 involved, slow progress has been made ..."
 13 Pausing there, as a policeman, perhaps looking back
 14 all of those years, what was the security risk, from
 15 everything that you have read?
 16 **A. My interpretation of that is the profile and standing of**
 17 **Smith and his influence locally and the need for the**
 18 **police to keep it tight, basically.**
 19 Q. So slow progress made because of that, "but from the
 20 statements" -- that's a reference to witness statements?
 21 **A. Yes.**
 22 Q. "... it will be seen that a certain amount of indecency
 23 was taking place some years ago in relation to the
 24 activities of Alderman Cyril Smith and it is hoped that
 25 as a result of more information coming to light,

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1 information of such activities more up to date will be
 2 forthcoming."
 3 **A. Yes.**
 4 Q. "In the meantime", says this chief superintendent, "this
 5 report is submitted as an interim measure principally
 6 because of the high standing Alderman Smith holds in
 7 local political and social work circles within the town
 8 and the very strong hold he will no doubt have over
 9 a number of influential people in the town if his
 10 activities have not been confined to the younger
 11 element."
 12 **A. Yes.**
 13 Q. What did that mean to you, "if his activities have not
 14 been confined to the younger element"?
 15 **A. Well, the law at the time, of course, were that**
 16 **homosexual activity, as it was then classified, was**
 17 **illegal and only in 1967 it became decriminalised with**
 18 **certain conditions around age. So obviously there was**
 19 **the allegations from young boys around abuse by Smith,**
 20 **but there may have been other offences potentially to be**
 21 **investigated that were offences at that time.**
 22 Q. Of course, although this was 1969, the allegations
 23 related to a time before --
 24 **A. Exactly.**
 25 Q. -- the Criminal Justice Act of 1967, or was it the

Page 46

1 Sexual Offences --
 2 **A. It's the Sexual Offences Act 1967, but the allegations**
 3 **related to pre that.**
 4 Q. Related to a time earlier?
 5 **A. Yes.**
 6 Q. "Attached are also a number of cuttings from the local
 7 newspaper."
 8 This has a little interest:
 9 "I am quite certain that he has the ear of
 10 the editor and very seldom does a week go by without
 11 some quote or photograph of the man concerned. I know,
 12 to my cost on a previous occasion, of the strength of
 13 his word in publications in the Rochdale Observer."
 14 Two things. Did you have access to the cuttings
 15 that were attached?
 16 **A. No, we have never retrieved the cuttings.**
 17 Q. Secondly, did you know what this particular
 18 superintendent -- I suppose if you did, you could
 19 identify him. But he was obviously a little hurt by
 20 something that had happened in the past. Did you ever
 21 discover what that was?
 22 **A. No, never did, but clearly, it was a local officer,**
 23 **because of that, and had some concerns about Smith's**
 24 **ability to influence the press reporting.**
 25 Q. Then the next paragraph I am not going to focus upon,

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1 other than this: of course there is a suggestion by
 2 Mr Price that he took his concerns about something that
 3 was brought to him, I think in 1965, so about four years
 4 before this report is being written, to the then
 5 Chief Constable Patrick Ross?
 6 **A. Yes.**
 7 Q. What the chief superintendent in this report says, the
 8 last three lines of that paragraph:
 9 "... I feel confident that, whilst the statement of
 10 Mr Price may be true, it is quite feasible that Mr Ross
 11 would keep it to himself because of the status of
 12 the man involved."
 13 We get some other information from another source
 14 about that part of things, so I am not going to ask you
 15 about that.
 16 **A. Okay.**
 17 Q. But the chief superintendent continues:
 18 "May I suggest that Sergeant Brierley be allowed to
 19 continue his enquiry in relation to the eight
 20 youths ..."
 21 Those are the eight that you have identified for us:
 22 "... mentioned but not interviewed to date ..."
 23 **A. Sorry, a point of clarification. In Brierley's report**
 24 **there are eight youths that he, at that time, hasn't**
 25 **spoken to. Three of those are named and subsequently**

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1 followed up. There is a reference to five other
 2 individuals who they have the names of. The names don't
 3 appear in Brierley's report. So the three not spoken to
 4 who we did identify and five names that we are not quite
 5 sure who they are are the eight remaining that he refers
 6 to there.

7 Q. So how many boys in all were there that were alleged
 8 victims?

9 A. In terms of the enquiry and what was -- the evidence
 10 that was managed to be retrieved by the officers, there
 11 were eight altogether, which potentially is the
 12 confusion. Six of those had been residents at some
 13 stage at Cambridge House, two hadn't.

14 Q. "... not interviewed to date, and at some stage
 15 a decision be made as to whether there is a case to
 16 answer, bearing in mind the period when the alleged
 17 assaults took place. At that point, it might be
 18 considered prudent to hand over the enquiry to the
 19 superintendent task force prior to Smith being
 20 interviewed. Once such an interview took place, of
 21 course, there may well be a considerable inflow of
 22 information on the activities of this man."
 23 What was the superintendent task force?

24 A. Ultimately, that was a role that we know Mr Leach
 25 undertook. The task force would have been, at the time,

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1 the constabulary's most experienced detectives who took
 2 on the most difficult cases.

3 Q. So there is that document. Let's move on to the next,
 4 please, which is CPS002700. This is Brierley's report.
 5 It is a bit difficult to read. But that's the report.

6 A. Yes.

7 Q. This was submitted to the DPP. We are still looking at
 8 the list of materials which was submitted, including in
 9 paragraph 2 -- I'm not going to read through all of
 10 this, but paragraph 2, a description of Cyril Smith's
 11 personality, dominant, known locally as "Mr Rochdale",
 12 and so on.

13 A. Yes.

14 Q. Then to the next page, that he was a close friend of --
 15 and you can see the redaction label, RO-F15?

16 A. Yes.

17 Q. Harry Wild and Thomas William Harding. That was the
 18 probation officer for Rochdale?

19 A. Yes.

20 Q. "I think it can be said with [something] that he never
 21 employed a good relationship with the police of
 22 the town."

23 A. Yes.

24 Q. So that was Cyril Smith's relationship with the police?

25 A. Yes.

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1 Q. In the next paragraph, how Smith kept a close watch over
 2 and was a frequent visitor to the home. In other words,
 3 Cambridge House, where he interviewed boys privately,
 4 which is the way it is put, at regular intervals.

5 A. Yes.

6 Q. And how a little further down he would often visit the
 7 local magistrates' court to speak up on behalf of
 8 particular youths?

9 A. Yes.

10 Q. So Brierley's report under cover of the chief
 11 superintendent's report.

12 Next, CPS002703. This was the meeting which Smith
 13 had sought. We can see Detective Superintendent Watson
 14 and Detective Superintendent Taylor were involved.

15 A. Mmm.

16 Q. We know that Smith started this particular ball rolling
 17 by saying:
 18 "I know that enquiries are going on and what I would
 19 like to ask you are three things ..."
 20 In effect, he wants to know what's going on?

21 A. Yes.

22 Q. We discover later on the reason is because he needs to
 23 make up his mind whether or not he is going to stand --

24 A. That's correct, yes.

25 Q. -- or accept the party's nomination to stand in the

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1 election.

2 A. Yes.

3 Q. On the second page, he is warned by Mr Watson, in
 4 effect, about interfering with witnesses?

5 A. He is, yes.

6 Q. Because he discloses that he's spoken to one or two of
 7 the complainants?

8 A. Yes.

9 Q. All of which you would expect as a police officer,
 10 a police officer conducting an investigation, to do, to
 11 warn off somebody who is a suspect from interfering with
 12 evidence potentially perverting the course of justice?

13 A. It is known, and there are statements in the file to
 14 show that Smith has been visiting some of these boys
 15 that made the allegations, so a warning was completely
 16 appropriate.

17 Q. On the fourth page, about two-thirds of the way down, we
 18 have Mr Watson asking Smith -- because at this point
 19 Smith is saying how much he's done for these boys:
 20 "Are you suggesting that these lads are conspiring
 21 together?"
 22 To which Smith says:
 23 "No, I'm not, they are telling the truth as they see
 24 it."
 25 A. Yes, that's right.

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1 Q. That's a remarkable thing to say, don't you think?
2 **A. It is.**
3 Q. It is on page 6 when, as you pointed out earlier, Watson
4 quite plainly and directly puts to Smith, "You are here
5 on a fishing expedition?"
6 **A. Yes.**
7 Q. And Smith laughs and says, "Well, yes, fishing, I think
8 that's fair comment", because that's exactly what it
9 was?
10 **A. Yes.**
11 Q. That's when he discloses the situation about his
12 parliamentary ambition?
13 **A. Yes, that's correct.**
14 Q. That's all we need from that. Then the next document
15 I would like very briefly for us to look at -- I don't
16 think the panel has seen this yet -- is that at
17 CPS002708, please. What had happened, and this is
18 revealed, I think, from Leach's report, is that
19 Sydney Clegg, who was Smith's solicitor, had phoned up
20 in advance when they were making an appointment as to
21 when Smith would come in for an interview under caution,
22 and had asked the police officers at the time whether
23 they would allow Smith to know what the nature of
24 the allegations were -- or was, I should say, and after
25 consideration, those police officers did decide to

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1 provide him with the document we are looking at, which
2 was a -- set out the allegations made by each of
3 the boys?
4 **A. Yes. It is referred to in Leach's report about the**
5 **request and that he considered that request on the date**
6 **prior to the interview, which is basically setting out**
7 **the allegations.**
8 Q. While I have it in mind, today, it is perfectly normal
9 when somebody is being interviewed to present the
10 solicitor, if he is represented, in advance of an
11 interview under caution with pre-interview disclosure?
12 **A. It has always been practice. It is more formalised**
13 **nowadays of course, and the term "disclosure" is more**
14 **widely recognised. The practice in the day, you would**
15 **make a decision in the conversation with the solicitor**
16 **what you would and wouldn't disclose to the solicitor,**
17 **and that's -- it depended on the case and your**
18 **assessment of the strength of your evidence, really,**
19 **I think as well.**
20 Q. Was this exceptional, do you think, for the time?
21 **A. I obviously can't say with great confidence from the**
22 **time, but it's accepted practice now, and if it wasn't**
23 **regular practice then, it was probably quite forward**
24 **thinking by Mr Leach and certainly in keeping with**
25 **modern day procedures.**

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1 Q. But the effect it had is the document we see at
2 CPS002704, because that is a pre-prepared statement that
3 Smith made?
4 **A. Yes.**
5 Q. I read it to the panel during the course of my opening
6 statement, so I am not going to read it all. But we
7 know, and we will come to it in just a moment, because
8 we are still looking at what the DPP was supplied with,
9 that Smith's stance was, in effect, to deny any
10 indecency, to claim that, "We, at all times, were in"
11 what he called "loco parentis to the boys" and he
12 submitted an agreement which all boys were invited to
13 sign, from which he took comfort that that was a correct
14 characterisation of the relationship, let's say, between
15 boys in Cambridge House and him in particular as
16 a member of the committee running the hostel. So that
17 was produced to police at the time?
18 **A. Yes.**
19 Q. Once again, on the final page, this document being dated
20 27 February 1970, I suppose his stance, which is one we
21 have seen before, of how much he's done for these boys?
22 **A. Yes.**
23 Q. With that, we come to the interview under caution,
24 CPS002714, the same day as the pre-prepared statement
25 which was submitted and to which I have just made

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1 reference. This was the old style caution before it
2 changed?
3 **A. That's right, yes.**
4 Q. Towards the foot of the first page:
5 "I've read the complaints of which you so kindly let
6 me have a copy. I rely on the caution and I am handing
7 to you a statement which I have made."
8 Which is the one I have just referred to:
9 "I've nothing further to add ..."
10 He was represented, I take it, by Mr Clegg in the
11 course of that interview?
12 **A. Yes.**
13 Q. His name is at the top?
14 **A. At the top, yes.**
15 Q. That was the stance he adopted all the way through; is
16 that correct?
17 **A. That's correct, yes.**
18 Q. So, as we understand it, Mr Jacques, that was the
19 material which I have just cantered through with you
20 that was submitted to the DPP: chief superintendent's
21 report; the Brierley report; and also of course there is
22 the Leach report as well?
23 **A. And the statements, obviously.**
24 Q. And the statements, obviously. I haven't -- I suppose
25 I should look at that. The Leach report is CPS002701

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<p>1 where Mr Leach is quite forthright about his views of 2 the criminality? 3 A. He is, yes. 4 Q. We don't need to look at them, but there was all of 5 the statements which you have listed in your own report. 6 A. Yes. 7 Q. Against that background, is there anything you think, 8 with your experience, but of course inevitably looking 9 back in time retrospectively, that should have been 10 provided to the DPP that was not? 11 A. No. I think Leach's report sums up the case as it 12 stood, his views on the case. He was very clear in his 13 opinion of what those statements amounted to, in terms 14 of Cyril Smith and his conduct, and that there was 15 corroboration amongst the witnesses and the victims as 16 well as other independent witnesses as well. So, yes, 17 he formed a very clear view and actually says towards 18 the end of his report that he's prepared a schedule of 19 charges. So he fully expected, from reading that 20 report, that charges would follow, or certainly hoped 21 that charges would follow. 22 Q. Absolutely. A couple of things from the Leach report, 23 if we still have it up, please, CPS002701, if we go, 24 please, to page 7, halfway down: 25 "Together with Detective Chief Inspector Wheeler</p> <p style="text-align: center;">Page 57</p>	<p>1 those statements. 2 Q. Then page 11, please, of this report, halfway down: 3 "This enquiry has been carried out with the maximum 4 amount of discretion. Each person interviewed has been 5 warned, in no uncertain manner, that the enquiry is 6 strictly confidential and must not be discussed with 7 other parties. This, unfortunately, does not appear to 8 have been the case so far as Smith himself is concerned. 9 It is within my knowledge that he has made it known to 10 most of his political and social acquaintances that the 11 police are conducting enquiries regarding this matter 12 and he has made several unfavorable comments." 13 You have already commented on Smith and of course 14 Mr Watson had? 15 A. Yes. 16 Q. -- during the course of that meeting. 17 We have got Mr Leach talking about the enquiry being 18 carried out with the maximum amount of discretion; we 19 have the chief superintendent talking about the security 20 of the investigation in his cover report to the Brierley 21 report. All of those legitimate concerns? 22 A. Yes, absolutely, in terms of the nature of what they 23 were dealing with. 24 Q. And an obvious question, but I will ask it anyway: were 25 the police right to be discreet?</p> <p style="text-align: center;">Page 59</p>
<p>1 I have interviewed all those complainants separately and 2 I am satisfied there has been no collusion." 3 A. Yes. 4 Q. Of course, mutual corroboration is one thing but an 5 absence of collusion is another. 6 A. Yes. 7 Q. An important feature when you're looking at 8 a multiplicity of complaints from different 9 complainants, the question will often arise in terms of 10 an assessment of credibility as to whether they have 11 been able to collude -- 12 A. Yes. 13 Q. -- and arrive at similar, if not identical, allegations 14 against an individual alleged offender? 15 A. Yes. 16 Q. An absence of collusion enhances their credibility? 17 A. Yes. 18 Q. And the case generally? 19 A. Yes. And remembering that this investigation was some 20 years after the allegations had taken place, and the 21 individuals who gave statements were in different places 22 and had moved on, some of them. So it wasn't as if they 23 were a cohort of people who were together regularly, so 24 that the consistency in their description of what 25 happened is quite a compelling feature of that file and</p> <p style="text-align: center;">Page 58</p>	<p>1 A. Yes, of course, in all matters, the police should be as 2 discreet as they can, but, as I say, we have talked 3 about the influence and reach of Mr Smith in the town at 4 that time. In order to let the investigation continue 5 in the best possible way, keeping it as discreet as 6 possible would have been the right thing to do. 7 Q. We have looked together at the steps taken to question 8 Cyril Smith. We looked at the meeting which he sought 9 and which took place on 24 January 1970 which led to him 10 having been given prior notice of what the complainants 11 were saying? 12 A. Yes. 13 Q. An interview under caution on 27 February 1970 which 14 resulted in his pre-prepared statement of the same date? 15 A. Yes. 16 Q. As a general question, given everything you know and 17 what you have looked at, do you think that the way he 18 was treated was acceptable practice overall for the 19 time, insofar as you're able to judge? 20 A. I think it was consistent with what would have been 21 acceptable and appropriate practice at the time. 22 There's nothing there that stands out as highly unusual 23 or concerning in reviewing that information. 24 Q. Another question, but really targeted at the same point: 25 is there any evidence, from your point of view, that he</p> <p style="text-align: center;">Page 60</p>

1 was given preferential or special treatment by the
 2 Lancashire Constabulary?
 3 **A. I think the context that we have touched upon around his**
 4 **relationship with the police, his ability to influence**
 5 **and to say that he had influence, which clearly wasn't**
 6 **true, but the evidence to me suggests the police have**
 7 **received these complaints, they were actively pursuing**
 8 **those complaints, they were doing their best to keep it**
 9 **contained, they brought in outside officers to assist in**
 10 **that, and ultimately brought in what would have been at**
 11 **the time the constabulary's most experienced detectives**
 12 **to follow this through and put the case forward for**
 13 **consideration by the Director of Public Prosecutions.**
 14 Q. The defence, insofar as it was a defence, amounted to,
 15 would you agree, nothing much more than a denial of
 16 indecency?
 17 **A. It was the loco parentis defence, as he said, that,**
 18 **"I was merely doing what a parent would do with these**
 19 **individuals", and that there was nothing indecent about**
 20 **that is the view taken by Mr Smith.**
 21 Q. Mr Leach had a view about the plausibility of that
 22 defence; is that anything you dissent from?
 23 **A. Absolutely not. There is a statement that Leach sort of**
 24 **alludes to towards the end of his report, and**
 25 **I absolutely concur with that summary.**

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1 Q. In other words, it would be anything any competent
 2 counsel could unravel fairly swiftly?
 3 **A. He said he would be at the mercy of any competent**
 4 **counsel, and that was based on his performance within**
 5 **the interview or his ability or otherwise to answer**
 6 **questions or to give anything like a coherent answer.**
 7 Q. About which he made a comment, that he was particularly
 8 unimpressive, I think?
 9 **A. Yes, he did. That was Leach's view, yes.**
 10 Q. Thinking of Leach, without going through an analysis of
 11 everything he did, but his report runs to 14 pages?
 12 **A. It does, yes.**
 13 Q. In a time before word processors and computers?
 14 **A. Yes.**
 15 Q. Were you satisfied with the professional standard of
 16 Superintendent Leach's report?
 17 **A. I think it shows a balance. He recognises where the**
 18 **case has strengths, where there are issues with the**
 19 **case. He makes an assessment of the individual**
 20 **witnesses. He talks about the collusion and/or**
 21 **corroboration from independent witnesses. So it is**
 22 **a very balanced, fair assessment of the evidence that**
 23 **they have managed to collect, and, yes, I think it is**
 24 **a highly professional report that evidences Mr Leach's**
 25 **view clearly around the evidence base that charges**

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1 **should follow.**
 2 Q. And therefore competent?
 3 **A. Yes.**
 4 Q. Let's look at the converse. You, standing back as
 5 a detective with many years of distinction and
 6 experience, looking at Leach and everything we have gone
 7 through, albeit at a canter, as I say, was there
 8 anything you thought to yourself, "I wonder why he
 9 didn't take that line of investigation?", or, "There is
 10 a gap here which wasn't closed". Was there anything of
 11 that nature that struck you that you might have done if
 12 you had been in his shoes or, as far as you're
 13 concerned, did he cover off just about everything?
 14 **A. There are some unanswered elements of the enquiry, so**
 15 **what was the name of the five boys, did they trace them,**
 16 **did they speak to them? We know, it says in the report,**
 17 **at least one boy refused to cooperate. But of course we**
 18 **don't know what records existed at that time, and quite**
 19 **possibly -- and it was practice in the day -- had others**
 20 **been spoken to, officers would record it in their then**
 21 **pocket notebooks that they'd spoke to Tim Jacques, for**
 22 **example, and I didn't want to speak to them and I had**
 23 **nothing to offer. So there wouldn't necessarily be**
 24 **a record of that. Of course, nowadays, we use what's**
 25 **called the HOLMES computer system, which records every**

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1 **action and the response to every single action in**
 2 **a major enquiry. In that day, that just didn't exist,**
 3 **so we don't really know what did or didn't happen or**
 4 **what enquiries did or didn't happen outside what is**
 5 **reported through the documents that we have available.**
 6 Q. To the question, "Were there any gaping holes?", were
 7 there any gaping holes? There may be the odd thing --
 8 **A. Absolutely. Yes, there's --**
 9 Q. -- that, with hindsight, we can all say we would do
 10 differently --
 11 **A. Yes.**
 12 Q. -- or even better, but were there any gaping holes in
 13 this investigation?
 14 **A. No, there are no gaping holes in that investigation at**
 15 **all, as far as I'm concerned.**
 16 Q. So with the benefit of hindsight, is there anything more
 17 that should or could have been done up to the point of
 18 submission of the material to the DPP?
 19 **A. I think the submission and the file and the**
 20 **investigation was a competent and professional**
 21 **investigation. I think Leach's report is an excellent**
 22 **summary of that investigation and he's done a good job**
 23 **and the team have done a good job on that.**
 24 Q. While we have that in mind, can I ask you one other
 25 thing about the Leach report, back to CPS002701 at

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1 page 5, please.
 2 We see there are two paragraphs on that page. It is
 3 the last half dozen lines of the first paragraph:
 4 "It will be seen from RO-A65's statement that he
 5 makes further allegations regarding a man named RO-F15.
 6 This man is a former Rochdale Borough Councillor,
 7 a close personal friend of Smith, and believed by many
 8 to be a homosexual. I have decided not interview [him]
 9 at this stage, but his conduct will be the subject of
 10 a further separate enquiry."
 11 **A. Yes.**
 12 Q. Have you discovered whether there was any further
 13 separate enquiry in relation to him?
 14 **A. No, we have no documentary evidence as to whether there**
 15 **was or there wasn't in relation to that individual or**
 16 **that man. What we do know and can say is that A65, at**
 17 **the time that he moved in with F15, he was 20 years old,**
 18 **had been married for some time and separated and moved**
 19 **in with 15 at that stage. So whether the investigation**
 20 **did or didn't take place, we can't say, but that was the**
 21 **context of what that information actually meant.**
 22 Q. So are you saying that the allegation made by A65 in
 23 relation to this other individual arose when he was no
 24 longer a teenager and in a domestic setting?
 25 **A. He was 20 years old. I think he was 20 years and six**

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1 **months, if my memory serves me correctly. Of course, if**
 2 **he was engaged in homosexual activity, as it was**
 3 **described then, that would have been an offence because**
 4 **he was under 21. So that was the nature of**
 5 **the allegation in relation to that specific incident,**
 6 **but being 20 years old and some years ago.**
 7 Q. Today, I think I'm right in saying that if there was an
 8 investigation that might be linked, you would be able to
 9 see that very quickly in today's -- in the HOLMES
 10 system?
 11 **A. Exactly.**
 12 Q. There would be linked enquiries. In those days, were
 13 they linked in the same way, do you know?
 14 **A. No, they weren't. There wasn't that same ability to**
 15 **track and trace investigations.**
 16 Q. So we will never know, if there was an investigation,
 17 whether that investigation would have shed any further
 18 light on the goings on at Cambridge House. In a sense,
 19 given the nature of the facts underlying A65's
 20 complaints against F15, it probably is unlikely because
 21 of when it happened and the circumstances in which it
 22 was alleged to have happened. It seems to have had
 23 nothing to do with Cambridge House?
 24 **A. That's certainly a possibility, yes.**
 25 Q. Looking at your paragraph 44, and this is the

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1 culmination of several paragraphs, Mr Jacques, where you
 2 analyse what Leach has said. I have not asked you to go
 3 through every single detail. We have the statement, we
 4 know what your conclusion is, that Mr Leach did just
 5 about everything you would have expected an officer to
 6 do, and it was a balanced report. It is the last couple
 7 of lines at the top of page 15. Do you say:
 8 "It appears that all of the documents were sent to
 9 the DPP."
 10 **A. Yes.**
 11 Q. I said a little earlier about the information that was
 12 passed by Lyndon Price to Patrick Ross, that we have
 13 another source. While I have got you, and I think you
 14 have looked at this --
 15 **A. Yes.**
 16 Q. -- paragraph 52 in your case, on page 16.
 17 **A. Yes.**
 18 Q. Did you discover whether there was any follow-up
 19 investigation by Mr Ross when he was told of
 20 a particular boy's complaint in 1965?
 21 **A. There's certainly no records that we have found that**
 22 **relate to any investigation prior to the one we have**
 23 **just talked about.**
 24 Q. Is that something that you are in any way surprised by
 25 or perhaps critical of?

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1 **A. I mean, I think, and I do allude to this in my**
 2 **statement, what was and wasn't said to Mr Ross we are**
 3 **not quite sure. We know there are two of the victims in**
 4 **the investigation, 48 and 49, who both said that they**
 5 **made complaints via a James Gavin, who is the one who**
 6 **allegedly informed Price, although Price's initial**
 7 **statement talks about one chastisement of one of**
 8 **the boys with no trousers on, albeit -- so there is**
 9 **inconsistency of information, really. We know there's**
 10 **no records of any investigation and I'm not saying**
 11 **Mr Price didn't tell Chief Constable Ross, we simply**
 12 **can't say what he was told or the extent of what he was**
 13 **told.**
 14 Q. Let's assume, for the sake of argument, that Mr Ross was
 15 told something along the lines of what Mr Price says he
 16 told him.
 17 **A. Yes.**
 18 Q. Would you have expected an investigation or would you
 19 have expected Mr Ross to treat it as "for information
 20 only"?
 21 **A. Well, Price says that he said it wasn't a criminal**
 22 **complaint. He says it was for information only. Now,**
 23 **if I look at that from today's standards, we would have**
 24 **hoped and expected something would have been recorded**
 25 **and followed up, but there is nothing I'm aware of and**

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1 **Price himself says there's no record made through**
 2 **social services of that. Of course it wasn't, as we**
 3 **have seen in some of the allegations, highly sexual in**
 4 **its nature, albeit we would say it was completely**
 5 **inappropriate behaviour as alleged.**
 6 Q. Thank you for that. Let's move on then to the DPP and
 7 his decision.
 8 Were you, yourself, having looked at everything that
 9 was submitted, the material that we have gone through
 10 together this morning and then compared that with the
 11 submission to the DPP and the resultant decision of
 12 the DPP, surprised?
 13 **A. Of course I'm not a lawyer. As an investigating**
 14 **officer, had I submitted that file, I would have hoped**
 15 **that charges would have followed, as Mr Leach clearly**
 16 **did, and he talks about preparing a schedule of charges.**
 17 Q. Yes.
 18 **A. I would imagine that Mr Leach and the team would have**
 19 **been disappointed, as would I, I guess, if I were the**
 20 **investigating officer, but of course, the decision and**
 21 **the CPS -- it is not unusual for police and CPS to start**
 22 **off with different views around the strength of**
 23 **the case, but that's why that prosecution team is in**
 24 **place, to bring both sides of the view.**
 25 Q. I know these are difficult questions because, first, you

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1 weren't a police officer at the time; second, perhaps,
 2 an understanding of the culture is something that all of
 3 us today are slightly divorced from.
 4 **A. Yes.**
 5 Q. But against all of that, do you think there might have
 6 been more correspondence between the DPP's office and
 7 the police at the time rather than a single two- or
 8 three-paragraph letter to say, "No reasonable prospect",
 9 or is that something you can't answer?
 10 **A. What does strike me is the sort of swift nature of**
 11 **the response, because I think, if you follow the trail,**
 12 **Leach's report is submitted to the chief constable.**
 13 **I think it is considered by the assistant chief**
 14 **constable, which would be appropriate. So I think the**
 15 **acknowledgement from the DPP's office says that they**
 16 **received it on 16 March and three days later it comes**
 17 **back with a very short note, you know, "This shouldn't**
 18 **proceed", really. So that's --**
 19 Q. In actual fact, the file was submitted by the assistant
 20 chief constable --
 21 **A. 13 March.**
 22 Q. -- on the 13th. That was the Friday.
 23 **A. Yes, and I believe --**
 24 Q. And 16 March --
 25 **A. Is when it was acknowledged.**

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1 Q. -- when it was acknowledged, was the Monday of that
 2 week --
 3 **A. That's correct.**
 4 Q. -- in 1970. And the letter from the DPP dated 19 March
 5 would have been the Thursday of that same week?
 6 **A. That's correct, yes.**
 7 Q. So if the file was received on the Monday, it's
 8 resulting decision is communicated --
 9 **A. On the Thursday, yes.**
 10 Q. Would you have expected, given what you have said about
 11 Mr Leach's ambitions for this investigation and the fact
 12 that he had already compiled charges, a schedule of
 13 charges, the police force, a police force, in 1970, to
 14 have pushed back in any way against the negative advice
 15 from the DPP, given, unlike today, as we will hear, the
 16 CPS make charging decisions? In those days, the DPP's
 17 position was -- I hope I'm not mischaracterising it --
 18 advisory.
 19 **A. Yes.**
 20 Q. Ultimately, a police force could charge in those days.
 21 Do you have any sense of whether the police force could
 22 have gone its own way and charged Smith, had it wanted
 23 to, despite the negative advice from the DPP?
 24 **A. I can't answer that with -- to draw anything to compare**
 25 **or -- obviously, I wasn't a police officer at the time**

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1 **and it wasn't the practice at the time. I think I'm**
 2 **understanding the culture and nature and culture of**
 3 **the police force and the sort of -- you know, the**
 4 **topdown kind of thing. If they had gone to what was the**
 5 **highest authority in the land around the case and the**
 6 **strength of the case, given the age of the complaints,**
 7 **ie, a few years old, and that had come back no, it would**
 8 **have been unusual, I would think, to push back on that.**
 9 **I can imagine what the police's view or Mr Leach's view**
 10 **would have been on that advice, but whether it would**
 11 **have been usual or appropriate to push back at that**
 12 **point, I couldn't say, but it would think it would be**
 13 **unlikely.**
 14 Q. Thank you for that, Mr Jacques. Let's move on to your
 15 paragraph 81 and our document CPS002712, please. It is
 16 headed at the top "23 March 1970" from the chief
 17 constable to the ACC, assistant chief constable,
 18 number 5 district:
 19 "Re Cyril Smith.
 20 "Please see Cyril Smith personally and inform him
 21 that it is not intended to take any further action in
 22 regard to the investigation concerning his conduct."
 23 Signed by a detective superintendent on behalf of
 24 whoever the assistant chief constable was then?
 25 **A. Yes.**

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1 Q. The note below is how it is returned. "To: chief
 2 constable (CID) headquarters. Number 5 district task
 3 force Oldham, 1 April 1970."
 4 That's where we get that date?
 5 **A. Yes.**
 6 Q. "Returned. ACC number 5 district was absent on annual
 7 leave until 31st March. In those circumstances, acting
 8 on instructions, I saw Alderman Smith ..."
 9 I think this, if my memory serves me, is Leach
 10 himself?
 11 **A. Yes.**
 12 Q. "... I saw Alderman Smith on Wednesday, 25 March 1970
 13 and informed him that it was not intended to take any
 14 further action in this matter."
 15 **A. Yes.**
 16 Q. "Not intended to take any further action in this
 17 matter". From your understanding, would that have been
 18 a standard form of communication if you were
 19 communicating back then to an individual that, in
 20 effect, this was going to be NFAed, no further actioned?
 21 Was any form of words required or was it sufficient to
 22 convey the sense that you weren't going to be
 23 prosecuted?
 24 **A. No, I think that's exactly what it was, and Leach**
 25 **actually says at the end of his interview that he will**

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1 **let Smith know the outcome of that investigation, and**
 2 **that's exactly what he's done and told him that the**
 3 **decision has been made.**
 4 Q. Might it have been wise -- this is really not
 5 a criticism of Mr Leach -- for him to add any
 6 qualification, such as "unless new evidence comes to
 7 light"?
 8 **A. It would have been wise, it would have been great with**
 9 **the benefit of hindsight, but whether that was something**
 10 **that would have been considered in those days ... the**
 11 **file, the evidence, was captured and presented and on**
 12 **that evidence that matter wasn't to proceed.**
 13 Q. Any idea why it wasn't done in writing rather than face
 14 to face?
 15 **A. No. Again, probably just general practice of the day.**
 16 **Leach had said that he would do that, and he's done**
 17 **that. So it is probably not unusual of its day. It**
 18 **would have been, obviously, for the purposes of this**
 19 **inquiry, good if we had had a record of the actual**
 20 **communication.**
 21 Q. In your judgment, should anybody read into this document
 22 that we are looking at and what Mr Leach was asked to
 23 do, and in fact did do and said he would do, that any
 24 special courtesy was being extended to Cyril Smith that
 25 wouldn't have been extended to any person not

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1 Cyril Smith being in that position?
 2 **A. It's not unusual practice, and even today with similar**
 3 **matters -- you know, it wouldn't be unusual for the**
 4 **investigating officer to communicate with the individual**
 5 **involved the progress of the enquiry one way or the**
 6 **other.**
 7 Q. Although today, Mr Jacques, I'm sure you will realise
 8 from your own experience, that would be a letter with
 9 about ten paragraphs with any number of qualifications
 10 in it and it would be sent by the CPS and probably not
 11 done by a police officer?
 12 **A. CPS, obviously if something has gone to CPS, the**
 13 **decision is theirs and the rationale for that decision**
 14 **will be clearly articulated. For a police**
 15 **investigation, if allegations are made that just there**
 16 **was no substance to, it wouldn't be completely unusual**
 17 **for us to speak to the person who the allegations were**
 18 **made about and inform them of that. In fact, it is**
 19 **common courtesy.**
 20 Q. Now, can I move on to something else, please. At your
 21 page 22, you start telling us about Operation Acura
 22 2012.
 23 **A. Yes.**
 24 Q. What was Operation Acura?
 25 **A. Operation Acura was initiated by the constabulary in**

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1 **response to the revelations around Jimmy Savile or to**
 2 **press reporting, et cetera, at that time around**
 3 **high-profile individuals, and a meeting was convened in**
 4 **the constabulary by one of my predecessors to look at**
 5 **a number of issues, Cyril Smith being one of them, that**
 6 **we knew had been part of Lancashire's past, to**
 7 **re-examine whether there was any new information in**
 8 **light of the exposures around Savile, to do a witness**
 9 **appeal, to see if more people were willing to come**
 10 **forward and give information that they previously hadn't**
 11 **been willing to give.**
 12 Q. When did it start?
 13 **A. It started on, I think, 10 October 2012 -- sorry,**
 14 **9 November.**
 15 Q. 9 November 2012?
 16 **A. Yes.**
 17 Q. Was it Detective Chief Inspector Esseen who was the SIO,
 18 senior investigating officer?
 19 **A. Yes, Mr Esseen was given this particular element as an**
 20 **outcome of that meeting into Cyril Smith.**
 21 Q. How did, as you mentioned him, he come into the purview
 22 of Acura? It wasn't just about him, was it?
 23 **A. No, it wasn't just about him, but Mr Esseen was given**
 24 **that element in relation to Cyril Smith. We'd had some**
 25 **calls into the organisation from press talking again**

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1 about Cyril Smith and the allegations which had been
 2 reported on a number of times over the years, and, as
 3 I say, in relation to Smith in particular, Neil Esseen
 4 was given that element, just to have a look into that
 5 and what previously we had or hadn't done and whether
 6 there was any more information that anybody from the
 7 public could give us.

8 Q. What inquiries were made in relation to Smith; do you
 9 know?

10 A. Well, Neil Esseen was going to look back and see what
 11 records we had and what there was available to us.
 12 Clearly, conversations with Greater Manchester Force,
 13 who had Rochdale there. He set out a policy, lot of
 14 rationale, around looking at that, inquiring of other
 15 forces and MI5, because there were the allegations
 16 around the MI5 issues.

17 Q. We will come to that.

18 A. Basically, initially, trying to gather what information
 19 we had to see what else we could do. But also very
 20 clearly wanted to go out to a press appeal to sort of
 21 see is there anybody out there who's got information who
 22 haven't provided previously to us.

23 Q. Was there a point to actioning that kind of
 24 investigation in relation to Smith, who by then had been
 25 dead two years?

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1 in November 2012, I think the Lancashire Constabulary,
 2 for the police file relating to Cyril Smith from 1970?
 3 Did you know about that?

4 A. I do recall seeing in the papers a Freedom of
 5 Information request. I couldn't talk in any great
 6 detail about it, certainly without looking at it.

7 Q. The person requesting information was told the file
 8 couldn't be found. Do you know anything about that at
 9 all?

10 A. We know certainly when Neil Esseen instigated Acura as
 11 well, he couldn't find the file and, actually, the
 12 constabulary didn't have the file and we retrieved it
 13 from the Crown Prosecution Service.

14 Q. So that might help answer why that was?

15 A. Yes.

16 Q. That request, I think I'm right in saying, was
 17 November 2012. Do you remember when Acura recovered
 18 the file from the CPS?

19 A. I couldn't give a specific date. There are notes in
 20 Neil Esseen's policy log about trying to get hold of
 21 the file. I'm sure we could provide that information as
 22 best we can. But it is towards the end of Acura's
 23 17 days because we know there was some joint statements,
 24 some meetings with CPS, so we probably have the
 25 documentation but I couldn't answer directly.

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1 A. Well, clearly, if there are victims out there who
 2 haven't approached the police for various reasons, we
 3 know we want to encourage victims to come forward and
 4 tell us of their experiences, and then we can
 5 investigate that and certainly help them deal with the
 6 consequences of that.

7 Q. In a sentence or two, were any particular conclusions
 8 reached insofar as Smith is concerned?

9 A. In summary, there was one further victim that came
 10 forward in relation to Smith. It was an allegation of
 11 physical as opposed to sexual assault. There was more
 12 information that came through to the investigation,
 13 through ourselves and Greater Manchester, that led to
 14 Greater Manchester ultimately taking responsibility for
 15 everything that came in as a result of that because it
 16 was Manchester-related, the predominant lines of
 17 enquiries were Manchester-related. So it was agreed
 18 after 17 days, actually, Acura ran for, that GMP would
 19 take on that investigation.

20 Q. Was that Operation Cerebus?

21 A. I'm not sure what the name of that investigation was,
 22 I'm sorry.

23 Q. I don't know if you are aware of this, Mr Jacques -- and
 24 tell me if you are not -- were you aware there was
 25 a Freedom of Information Act request made

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1 MR ALTMAN: I would like to bring up on screen, please -- it
 2 is about 4 minutes to 1.

3 Chair, I am actually moving on to a different topic.
 4 It is the last topic, but it will take more time than we
 5 have before we break for lunch. I am entirely in your
 6 hands, whether we carry on to try to finish Mr Jacques
 7 or -- I think there are some questions on behalf of --
 8 by Ms Hoyano. Mr Jacques, are you all right to come
 9 back at 2.00 pm, if we need you to?

10 A. Absolutely, if that's required, yes.

11 MR ALTMAN: I hope you won't be too long after that.

12 THE CHAIR: Thank you, Mr Jacques. We will take a break
 13 until 2.00 pm now. Thank you, Mr Altman.
 14 (12.58 pm)
 15 (The short adjournment)
 16 (2.00 pm)

17 MR ALTMAN: Mr Jacques, before we move on, I have been
 18 asked -- I am very happy to do this -- to clarify a few
 19 things, by Mr Brown on behalf of the Crown Prosecution
 20 Service.
 21 First of all, of course, we have to bear in mind
 22 that when we make comparisons between what happens today
 23 and what happened in 1970, the Crown Prosecution Service
 24 didn't come into existence until 1986?
 25 A. Yes.

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1 Q. Secondly, this: do you remember when you were talking to
 2 us about Superintendent Leach's report, one of
 3 the comments you made was that -- I think you said that
 4 there was independent corroboration. Do you remember?
 5 **A. Yes.**
 6 Q. You certainly used the word "independent". Did you mean
 7 by that, because we have to be slightly careful with
 8 what we mean by "corroboration", because back then it
 9 had a particular meaning in law, which of course has, as
 10 we stand here today in 2017, long gone?
 11 **A. Yes.**
 12 Q. But did you mean -- don't let me put words into your
 13 mouth -- by that, the fact that there were multiple
 14 complainants giving similar accounts in the absence of
 15 evidence of collusion?
 16 **A. I think the reference to that particular phrase was --**
 17 **that element was present of the different victims giving**
 18 **different stories, of which there were lots of**
 19 **similarities which corroborated each other, and there**
 20 **were some other statements, people who weren't**
 21 **alleging --**
 22 Q. Can you speak up a bit? I'm struggling a little.
 23 **A. Sorry, yes. There were other individuals, who weren't**
 24 **alleging abuse had taken place against them, that gave**
 25 **statements that gave some credence and credibility and**

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1 **corroboration to what those victims were alleging. So**
 2 **James Patrick Gavin would be one of them, the Sailles**
 3 **and Ruth Mitchell.**
 4 Q. So there was evidence from people who were not
 5 themselves complainants --
 6 **A. Yes.**
 7 Q. -- but they -- I suppose we have to be slightly careful.
 8 They weren't, themselves -- you will correct me if I am
 9 wrong, because I haven't studied them individually in
 10 the detail that you have -- corroborating the fact of
 11 sexual abuse in a material particular, as would have
 12 been required at the time?
 13 **A. No.**
 14 Q. But their evidence created the background conditions --
 15 **A. Exactly.**
 16 Q. -- perhaps in which the abuse is alleged to have taken
 17 place?
 18 **A. That's right. That's correct.**
 19 Q. Before we broke for lunch, I was moving on to the report
 20 by the Professional Standards --
 21 **A. Department, yes.**
 22 Q. -- Department, the PSD. I would like to put this up on
 23 screen, if I may. It is GMP000158. If we can go to the
 24 first substantive page, so that would be page 2,
 25 I suspect. Thank you. This is the contents page of

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1 the Professional Standards Department investigation
 2 report. Why did this report come about? Who initiated
 3 it?
 4 **A. I initiated the investigation following the publication**
 5 **of the book "Smile for the camera", and obviously the**
 6 **allegations contained with that, which again related to**
 7 **Lancashire Constabulary --**
 8 Q. Speak up just a bit, Mr Jacques.
 9 **A. Sorry. The allegations that were contained in that book**
 10 **and relating to Lancashire Constabulary and officers of**
 11 **Lancashire Constabulary. So this was a conduct**
 12 **investigation into officers of the constabulary.**
 13 Q. You deal with this at your paragraph 99 and onwards.
 14 This particular investigation, this Professional
 15 Standards Department investigation, was 2014, was it?
 16 **A. That's right, yes.**
 17 Q. Did it focus upon four particular allegations of
 18 corruption made in Simon Danczuk's book?
 19 **A. Yes, it did.**
 20 Q. The four particular allegations -- you list them at
 21 paragraph 104 -- were, can you tell us?
 22 **A. Yes, the lack of action by Chief Constable Patrick Ross**
 23 **in 1965 following children's officer Lyndon Price**
 24 **approaching him with allegations of abuse at the hands**
 25 **of Smith.**

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1 **The second one was two unknown officers that former**
 2 **officer Jack Tasker stated arrived in his office and**
 3 **demanding all of the files in relation to Cyril Smith.**
 4 **The third was the removal of all files on**
 5 **Cyril Smith from a safe at Hutton headquarters -- "HQ",**
 6 **short for headquarters -- Preston by MI5 officers as per**
 7 **formal Special Branch Officer Tony Robinson and what he**
 8 **had said -- reported to have said in the book.**
 9 **And four, that Cyril Smith's influence enabled him**
 10 **"to have the police in his pocket", which was**
 11 **a quotation from the book.**
 12 Q. The second, that two unknown officers that former
 13 officer Jack Tasker stated arrived in his office and
 14 demanded all of the files in relation to Cyril Smith,
 15 just so we can be clear, which office was Tasker talking
 16 about?
 17 **A. Which officers?**
 18 Q. Which office was Tasker talking about where these other
 19 officers had turned up to take the files? What file?
 20 **A. I'm not sure what office particularly he was talking**
 21 **about, but he, in the book, certainly talks about**
 22 **officers turning up to where he was conducting the**
 23 **enquiry and asking him to open a drawer with statements.**
 24 Q. Do you remember at what point he was saying this had
 25 happened? Was this after the DPP had made his decision

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<p>1 or during the course? It couldn't be during the course 2 of the investigation, could it? Or was it? 3 A. No. I think the allegation from Tasker, as reported in 4 the book, is that he was active in the investigation 5 when these officers turned up from headquarters or 6 somewhere and took away the investigation, the documents 7 relating to the investigation. 8 Q. Let's deal with each in turn, and I would simply like 9 your help, Mr Jacques, with, really, what the conclusion 10 of this particular investigation was in relation to 11 each. 12 First of all, and we can go to the report at 13 pages 10 through to 12, please. We start at page 10 of 14 that report that we were just looking at. This deals 15 with the Ross part of things, the first allegation. If 16 we can scroll down to the next page, please, and this is 17 how the report is written, and then to the next page, 18 which is page 11. Forgive me, can we just go back up 19 a page, go back to page 10. It starts at the bottom: 20 "The only additional evidence of any investigations 21 prior to the 1969-70 report comes from a conversation 22 which Jack Tasker states he had with his superior Chief 23 Inspector Derek Wheater. Wheater is quoted as saying in 24 this conversation: 25 "We've had three goes at him [Smith] but every time</p> <p style="text-align: center;">Page 85</p>	<p>1 second issue, the Tasker issue. Before I do, perhaps 2 I should ask you this: as far as one can tell, looking 3 at the PSD report, there is no indication that your 4 officers actually spoke to Lyndon Price at this point; 5 is that right or wrong? 6 A. The professional standards officers, no, they didn't, is 7 my understanding. 8 Q. Any reason why? 9 A. No. I think -- no, I couldn't say why they did or they 10 didn't. 11 Q. But looking at the report, I am sure you are familiar 12 with this, is there a lacuna or do you think it would 13 have made not very much difference if Price had been 14 spoken to? 15 A. Well, Price had given the statement to the original 16 enquiry. I believe Mr Price's version of events has 17 changed at different points of him recounting the tale, 18 and the allegations around what he did or didn't say to 19 Mr Ross ultimately -- Mr Ross is, sadly, deceased and, 20 therefore, whether we would be able to substantiate 21 anything around what was or wasn't said would be 22 basically down to what Mr Price would say to us did or 23 didn't happen. Nobody else could corroborate any of 24 that. Mr Price had reported his version of the events 25 and we looked at our records to see was there anything</p> <p style="text-align: center;">Page 87</p>
<p>1 we've been blocked. I want to bring him and I need two 2 officers not known in Rochdale to do it'. 3 "According to Tasker, all the statements had been 4 confiscated and he was asked to reinterview the eight 5 boys who had originally complained, which he and 6 Courtney then completed in January and February of 1970. 7 "Unfortunately, as DCI Wheater has also since passed 8 away, our only source for this information is Tasker 9 himself. It is not clear from the comments made by 10 Wheater who started or stopped any investigations prior 11 to 1969, or if Ross was involved in any way. Therefore, 12 aside from being aware of the allegations and the lack 13 of any recorded investigation, there is no evidence that 14 Ross made any attempts to 'cover up' Smith's alleged 15 offences. It should be noted that the circumstances of 16 it being reported to Ross during 1965 were: 17 "(a) there was no complaint being made." 18 Which is a point you have already made? 19 A. Yes. 20 Q. "(b) he was being informed for information only." 21 A. Yes. 22 Q. So that's as far as the investigation could go, as far 23 as that is concerned. 24 A. Yes. 25 Q. Then we see 4.1.2, the next paragraph, deals with the</p> <p style="text-align: center;">Page 86</p>	<p>1 else within the organisational documentary evidence that 2 would support whether Ross was told or not or what Ross 3 did or didn't do, and there was no record of that in our 4 systems. 5 Q. Thank you. In relation to the second allegation, that 6 two unknown officers had arrived in Tasker's office 7 demanding all the files, can we go to internal page 14, 8 and I think it is about three-quarters of the way down. 9 Just blow up "What can be confirmed": 10 "What can be confirmed is that Tasker and Danczuk 11 are mistaken in their reports 'the files were taken to 12 headquarters Hutton and buried'. Whilst it is quite 13 feasible files were taken and stored at Hutton ..." 14 It seems to blend into the third allegation: 15 "... it is clear that these were not buried and that 16 the investigation was continued by Leach and Wheater no 17 matter what involvement these two 'unknown' officers 18 had." 19 I think you can probably confirm this, because it is 20 a point that is made in this report at page 12, and 21 perhaps we can go back to page 12 and see if I can find 22 it on the screen. In the centre of this page: 23 "The chronology indicates that there is not a single 24 day's delay between Courtney's last statement taken on 25 18 February ..."</p> <p style="text-align: center;">Page 88</p>

1 Something we looked at in your table earlier?

2 **A. Yes.**

3 Q. "... and Wheater's first statement dated the 19th [the

4 next day] suggesting this investigation was not delayed

5 at all."

6 In other words, the fact there was a change in

7 personnel made no difference to anything?

8 **A. No, it carried on, and the assumption that Tasker is**

9 **talking about that exchange when he recounts that tale,**

10 **and of course the unexplained part of that is what he**

11 **reports Wheater did say to him, and of course we don't**

12 **know whether that was or wasn't said, and Mr Wheater was**

13 **unavailable, sadly, as well to comment on that. But**

14 **what we can absolutely say from the documentary evidence**

15 **is that the investigation continued, you know, right**

16 **through to the conclusion of Leach's report, and there**

17 **was no break in that gap. Of course, from the documents**

18 **themselves, we can only say for sure that Tasker**

19 **witnessed one statement being taken by Tom Courtney.**

20 **That's the only documentary evidence of his name**

21 **appearing in the investigation.**

22 Q. So if there were two officers, who might they have been?

23 **A. It's unexplained. I just can't say who these two**

24 **officers were or weren't. It is unlikely that it was**

25 **Leach, but it could have been. So we are unable to**

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1 **explain Mr Tasker's version of events.**

2 Q. Can we go to page 16, please. I want to look at the

3 allegation made by Tony Robinson, who was himself

4 a former Special Branch officer --

5 **A. Yes.**

6 Q. -- that files had been removed from the safe at Hutton

7 headquarters by MI5 officers. If we look at the middle

8 paragraph, "The timeline offered by Tony Robinson that

9 this phone call took place in 1977/1978 ..."

10 And the phone call was supposed to have been from

11 MI5?

12 **A. Yes, that's right.**

13 Q. Saying, "We want the files" or "We are coming for them"?

14 **A. There's certainly a discrepancy in what's reported in**

15 **the book and what Robinson said to these officers. What**

16 **Robinson said to these officers is that he received**

17 **a phone call via MI5 -- which he would do, being**

18 **a Special Branch officer -- asking for the files, did**

19 **they exist, and that they wanted to see the files.**

20 Q. The timeline offered by Robinson that this phone call

21 took place in 1977/1978, as the report reads, "does not

22 appear to be consistent with this explanation, as Smith

23 had already been elected to the position of Chief Tory

24 Whip."

25 **A. That's obviously wrong, but that is what it says in the**

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1 **book, I believe.**

2 Q. The point that was being made is, what was the impact of

3 Mr Robinson's recollection that this phone call takes

4 place in 1977/78, what was the impact of what he was

5 saying?

6 **A. Clearly, the investigation of 1970 had been concluded**

7 **and reported on, as we have discussed. There was the**

8 **press circulation, again, with the RAP, Rochdale**

9 **Alternative Press, in 1979, and possibly the enquiry**

10 **from MI5 in relation to that was about, then, an MP in**

11 **the Houses of Parliament and it wouldn't be unreasonable**

12 **for them to enquire whether there was any substance in**

13 **those allegations at that time.**

14 Q. We know -- we are going to come to it in a moment --

15 some of that material we have from the Security Service.

16 Let's read on here:

17 "It is possible that Robinson is mistaken with his

18 timeline in this respect and that this phone call may

19 have been triggered by the publication of accusations by

20 the Rochdale alternative paper and Private Eye which

21 occurred in 1979. No police investigation appears to

22 have taken place after these accusations, nor did Smith

23 pursue any action against the two publications which

24 many considered at the time to be an indication of

25 guilt. By this time, Rochdale was no longer under the

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1 remit of Lancashire Constabulary, having been separated

2 to GMP in 1974, and therefore this has not been

3 considered as part of that enquiry."

4 **A. Yes, that's correct.**

5 Q. Do you know, as part of this investigation, the PSD

6 investigation, whether the officers conducting it

7 actually spoke to MI5?

8 **A. I couldn't say for sure. I think they enquired via our**

9 **Special Branch as to whether there was any documentary**

10 **evidence or records of this. Whether they spoke to MI5**

11 **directly or not is probably unlikely.**

12 Q. Unlikely?

13 **A. Yes.**

14 Q. I am going to come back to the Thames House material,

15 the Security Service material, but can we just, to deal

16 with and cover off the last of the four allegations that

17 were made in the book, go to page 17, that Cyril Smith's

18 influence enabled him to have the police in his pocket.

19 **A. Yes.**

20 Q. It is the last paragraph -- forgive me, just before

21 that:

22 "Therefore, without further evidence from the author

23 or clarification about who he is specifically referring

24 to, it is not possible to corroborate or indeed support

25 the comment that he 'had police in his pocket' and in

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1 fact the evidence from the time suggests he did not have
 2 sufficient control of Lancashire Constabulary to prevent
 3 charges being sought by their officers."
 4 **A. That's correct, yes.**
 5 Q. If anything, Mr Jacques, the evidence was that he had
 6 a bad relationship with the police?
 7 **A. Certainly the files that we have got from different**
 8 **officers would suggest that that was the case and**
 9 **clearly those officers in that investigation pursued**
 10 **that with vigour and, as we have discussed, put forward**
 11 **a file with recommendations for charges.**
 12 Q. Let's divert from that, then, and please go to the
 13 Security Service material, INQ000975. We will start
 14 with this letter, dated 29 September, from the
 15 Security Service to the inquiry. The second paragraph:
 16 "In 1974, MI5 received information about
 17 Cyril Smith MP. The information consisted of concerns
 18 raised by a police officer that the DPP should have
 19 prosecuted Smith for allegations of indecent assault
 20 between 1961-1966, that were the subject of an
 21 investigation conducted by Lancashire Police in 1970."
 22 **A. Yes.**
 23 Q. "Notification of further allegations of child abuse made
 24 against Smith were also passed to MI5 by the
 25 Metropolitan Police in the mid 1970s that were not

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1 relevant to the Rochdale strand of the inquiry. The MI5
 2 legal adviser notified the Metropolitan Police of
 3 the 1970 Lancashire Police investigation and suggested
 4 that the Metropolitan Police contact Lancashire Police
 5 if they required further information."
 6 **A. Yes.**
 7 Q. Do you have any thoughts, having read that and any other
 8 material around it, whether that helps further explain
 9 Tony Robinson's account?
 10 **A. Well, it may have been the enquiries conducted at that**
 11 **time from MI5. We simply don't know. Robinson's**
 12 **pinpointing of dates is not particularly clear, and**
 13 **I suppose it -- you know, we can't say with any**
 14 **certainty what he may be referring to, other than that**
 15 **he received a call where they were enquiring as to**
 16 **whether we had the file.**
 17 Q. Date-wise, mid 1970s seems to fit with his --
 18 **A. It does.**
 19 Q. -- recollection when he was later spoken to?
 20 **A. '77/'78, he said; this was '74.**
 21 Q. Without going back to it -- that's all I need to ask you
 22 about that, Mr Jacques.
 23 The PSD investigation noted, and you will remember,
 24 that there was missing from the Leach 1970 report
 25 page 3?

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1 **A. Yes.**
 2 Q. Do you remember that?
 3 **A. I do.**
 4 Q. That had been a missing page for quite a while?
 5 **A. Yes.**
 6 Q. Now located. Was there anything to suggest that was
 7 anything more than an administrative oversight or just
 8 a missing page?
 9 **A. No, just a missing page. I read the missing page**
 10 **through earlier this week for the first time. It is**
 11 **just a continuation of, firstly, the description of the**
 12 **setup at Cambridge House and then a summary of one of**
 13 **the allegations from one of the victims.**
 14 Q. Anything, as far as you're concerned, that remains
 15 unanswered arising from this Professional Standards
 16 Department investigation, or were you satisfied with its
 17 analysis of the book and the conclusions drawn in
 18 relation to the four allegations?
 19 **A. I was satisfied, yes.**
 20 Q. Do you have, finally, any concerns that Lancashire
 21 Constabulary failed to investigate Cyril Smith properly
 22 in 1969-'70 as a result of his influence on the police
 23 or others?
 24 **A. No, I think Lancashire Constabulary diligently conducted**
 25 **their enquiries and the evidence they collected**

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1 **described a compelling case from the investigating**
 2 **officer's view, and I do agree with that, and that case**
 3 **was presented to the then Director of Public**
 4 **Prosecutions.**
 5 MR ALTMAN: Mr Jacques, that's all I have to ask you. There
 6 are going to be a few more questions, but I am going to
 7 ask the panel, first of all, before those further
 8 questions are asked of you, whether the panel has any
 9 questions they would like to ask.
 10 Questions from THE PANEL
 11 MS SHARPLING: Thank you, Mr Jacques. I wonder if you can
 12 help me on just a couple of matters. Just for
 13 clarification, do you know what the underlying cause was
 14 for the dissatisfaction between the relationship between
 15 Cyril Smith and the police at the time?
 16 **A. Only --**
 17 MS SHARPLING: From your files, I understand --
 18 **A. It is alluded to from the files in the supervising**
 19 **officer's report attached to DS Brierley's on**
 20 **31 December which talks about Smith's influence on the**
 21 **local press and that officer, whoever that officer was,**
 22 **talks about "I know at my own cost his relationship" and**
 23 **therefore, my interpretation is that the police have**
 24 **been criticised by Smith through the press for**
 25 **something, and there's a second comment around the**

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1 **police relationship with the press. So I can't say with**
 2 **any great detail or certainty, but certainly from two**
 3 **separate officers, their view is that the relationship**
 4 **with the local police and Smith isn't a good one.**
 5 MS SHARPLING: Secondly, and it is a matter we may come to
 6 later, absent a national prosecuting authority in 1970,
 7 was there any particular reason why the case was sent to
 8 the DPP as opposed to dealing with locally?
 9 **A. I would imagine because of the high-profile nature of**
 10 **that case, the historic allegations and the historic**
 11 **nature of those. This would have been, and still**
 12 **remains, a high-profile, high public interest case and**
 13 **I would imagine the chief constable wanted to take the**
 14 **best possible advice before taking any further action.**
 15 MS SHARPLING: An allied question to that: absent a national
 16 prosecuting authority, there may have been local
 17 solicitors, often called Force solicitors, who might be
 18 actively engaged in advising the police at that time.
 19 Was there any record of their involvement in this case?
 20 **A. In Leach's report, he does talk about that if this**
 21 **was -- if a decision was made that this should be**
 22 **prosecuted, we should contact a solicitor who would act**
 23 **on behalf of the constabulary to prosecute these**
 24 **matters.**
 25 MS SHARPLING: I see. But later on, then, presumably, for

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1 the purposes of prosecution?
 2 **A. Yes, yes. Then his report of course was submitted to**
 3 **the assistant chief constable and I would imagine that**
 4 **the chief officers would have discussed it, the nature**
 5 **of that, and therefore the advice sought from the**
 6 **Director of Public Prosecutions, which I think would**
 7 **have been an appropriate step from the constabulary's**
 8 **point of view in those days.**
 9 MS SHARPLING: Thank you very much.
 10 MR ALTMAN: Thank you. I will leave to it Ms Hoyano.
 11 Examination by MS HOYANO
 12 MS HOYANO: Mr Jacques, I am just -- I only have two
 13 questions for you.
 14 **A. Okay.**
 15 Q. I am just going to preface that by a remark: given the
 16 controversy that has surrounded the 1969/1970
 17 investigation by Lancashire Police, and also given that
 18 it is very rare for a police force to be given credit
 19 for a sensitive and appropriately conducted
 20 investigation into child sexual abuse; far more
 21 frequently, we hear criticisms. So I want to reiterate
 22 what I put on the record on Tuesday, that as counsel for
 23 the eight complainants who are core participants in this
 24 inquiry, our position is that the investigation in
 25 1969-70 was thorough, impartial and fearless, and that

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1 it was exemplary by the standards of the day and also
 2 holds up very well to close scrutiny in 2017 from all
 3 that we have seen.
 4 **A. Thank you.**
 5 Q. My questions, if I might ask, please, for the document
 6 LCP000013_002 be pulled up on your screen. If you could
 7 please highlight down to the bottom. Yes, that's it.
 8 We are just trying to clarify how many
 9 investigations were actually conducted into
 10 Cyril Smith's activities and by whom.
 11 This is, I believe, a briefing sheet for
 12 Operation Acura for the Lancashire Gold Group during its
 13 brief life?
 14 **A. Yes.**
 15 Q. Mr Esseen states that he had been informed, first of
 16 all, that GMP conducted an enquiry into Smith in the
 17 '80s and the '90s codenamed Operation Veronica:
 18 "I have had it confirmed today that they possess as
 19 computer disc, a Canon diskfile titled ... It contains
 20 a file relating to Cyril Smith [with a number]
 21 containing 172 pages ... entered on 15 February 1995."
 22 Everyone has been searching for Operation Veronica.
 23 The question I had was, was the computer disc relating
 24 to this investigation ever obtained by Operation Acura?
 25 **A. No. My understanding is that it wasn't. As you pointed**

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1 **out, Acura was relatively short lived, and all the -- or**
 2 **the predominant amount of information that was gathered**
 3 **in that short space was Manchester related. Therefore,**
 4 **it was agreed on 26 November that they would further the**
 5 **investigation into it, and all that information.**
 6 Q. The second question is the paragraph that starts:
 7 "In addition, a retired DCI from GMP has today
 8 contacted the force to state that a significant enquiry
 9 was carried out into Smith in the '80s. The documents
 10 were originally stored at Rochdale until they were sent
 11 to deep storage in the late 1990s. I therefore believe
 12 we will be able to access this file."
 13 Could I ask if those files were retrieved by
 14 Operation Acura?
 15 **A. Again, those files weren't retrieved, is my**
 16 **understanding, because that was, again, a Manchester leg**
 17 **of the enquiry because Rochdale, of course, in the '80s,**
 18 **was controlled by Greater Manchester and the storage at**
 19 **Rochdale and any further storage would have been**
 20 **Greater Manchester's. So that's one of the many reasons**
 21 **why that primacy of the investigation was passed over to**
 22 **Greater Manchester.**
 23 Q. Do you have any information at all about what that 1980s
 24 investigation might have pertained to?
 25 **A. I'm sorry, I don't have any now.**

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1 MS HOYANO: With the chair's permission, I would like to put
 2 those questions to one of the Greater Manchester Police
 3 witnesses who will be coming later in the inquiry, just
 4 so we can clarify this question.
 5 Thank you very much.
 6 **A. Thank you.**
 7 MR ALTMAN: Thank you very much, Mr Jacques. Thank you for
 8 coming.
 9 THE CHAIR: Thank you, Mr Jacques.
 10 **A. Thank you.**
 11 **(The witness withdrew)**
 12 MR ALTMAN: The next witness is Gregor McGill, please. Will
 13 you be taking a break this afternoon, may I ask, so that
 14 we know where we are?
 15 THE CHAIR: Yes, we shall be taking a break, at a time that
 16 is convenient.
 17 MR ALTMAN: Of course.
 18 MR GREGOR ANTHONY MCGILL (sworn)
 19 Examination by MR ALTMAN
 20 MR ALTMAN: Mr McGill, full name, please?
 21 **A. Gregor Anthony McGill.**
 22 Q. Your current position?
 23 **A. I am Director of Legal Services at the Crown Prosecution**
 24 **Service.**
 25 Q. Which you have been since 1 January last year?

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1 **A. 2016, yes.**
 2 Q. Did you join CPS London as a crown prosecutor in 1991,
 3 before progressing to the position of Branch Crown
 4 Prosecutor?
 5 **A. I did.**
 6 Q. In 2001. Did you leave the CPS in the following year to
 7 join Her Majesty's Customs and Excise?
 8 **A. I did.**
 9 Q. I assume as a lawyer?
 10 **A. I did.**
 11 Q. In 2005, were you transferred to what was then the newly
 12 formed Revenue and Customs Prosecutions Office, RCPO?
 13 **A. I was, yes.**
 14 Q. Where you set up and headed the Serious Organised Crime
 15 Division at RCPO in late 2005/early 2006?
 16 **A. I did.**
 17 Q. Then following the merger of RCPO and CPS, were you
 18 appointed head of the Fraud Prosecution Division at the
 19 CPS?
 20 **A. I was.**
 21 Q. Before taking on the role of Legal Director CPS London
 22 in 2010?
 23 **A. Yes, I did.**
 24 Q. Then from 2012 until the end of 2015, were you the head
 25 of the Organised Crime Division at the CPS?

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1 **A. I was, yes.**
 2 Q. And now, as you have told us, Director of Legal
 3 Services. What does that mean? Is that a legal role or
 4 an executive function?
 5 **A. It is a legal role -- it is both a legal role and an**
 6 **executive role. I have responsibility for the**
 7 **continuous improvement of our legal decision making and**
 8 **our case preparation.**
 9 Q. Thank you very much. You, Mr McGill, have made a very
 10 lengthy statement which runs, including tables, to
 11 56 pages.
 12 **A. Yes.**
 13 Q. I take it you had assistance with it?
 14 **A. I did, yes.**
 15 Q. It is not a criticism, but a reality. I am going to ask
 16 you not every part of it, but just selected parts.
 17 **A. Very well.**
 18 Q. Just so you understand. I will help by inviting your
 19 attention to relevant paragraph numbers as and when the
 20 need arises?
 21 **A. Thank you, Mr Altman.**
 22 Q. First, where I want to start is the bottom of page 6,
 23 the role and practice of the DPP prior to the creation
 24 of the CPS. We have already heard -- and you may have
 25 been in the hearing room when this evidence was given --

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1 of course you will confirm that the CPS was set up in
 2 1986?
 3 **A. Yes.**
 4 Q. It came into being as a result of the Prosecution of
 5 Offences Act 1985 and, if needs be, we will ask you
 6 a little more about that in a moment or two.
 7 **A. Very well.**
 8 Q. Let's start with your paragraph 17. Was this another
 9 Prosecution of Offences Act, but that of 1879, that
 10 created the office of Director of Public Prosecutions?
 11 **A. Yes, it was.**
 12 Q. Was he, the director, charged with the duty to act in
 13 cases of "importance and difficulty"?
 14 **A. That's right, yes.**
 15 Q. You say for nearly a century prosecutions continued to
 16 be prosecuted on a local basis?
 17 **A. Yes.**
 18 Q. What the 1879 Act did was to set down his duty, the
 19 director's duty, to institute and conduct criminal
 20 proceedings for offences which were to be prescribed in
 21 regulations and was it discovered that, as at 1946, the
 22 regulations prescribed that it was his duty to institute
 23 and conduct criminal proceedings for (a) any offence
 24 punishable with death; (b) any case referred to him by
 25 another government department in which he considered

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<p>1 criminal proceedings should be instituted; (c) any case 2 which appeared to him to be of importance or difficulty 3 or which, for any other reason, required his 4 intervention? 5 A. Yes, indeed. 6 Q. Those were the three principal criteria. Was he also 7 empowered to give advice to government departments, 8 clerks to justices, chief officers of police and others 9 "as he may think right in any criminal matter which 10 appears to him to be of importance or difficulty"? 11 A. That's entirely right, Mr Altman, yes. 12 Q. Of course I am taking this entirely from your helpful 13 statement at paragraph 18. Those were the instances in 14 which the director in those days became involved? 15 A. Yes. 16 Q. So far as you were able to judge, was that the position 17 up to and including the late 1960s/early '70s? 18 A. As far as I could find out, Mr Altman, yes. 19 Q. Was it right to say that the chief officer of police, of 20 every police district, had to report to the DPP offences 21 punishable with death, offences the prosecution of which 22 had to be undertaken by the DPP or which required his 23 consent to prosecution and cases in which it appears 24 that the advice of the DPP was desirable? 25 A. Yes, indeed.</p> <p style="text-align: center;">Page 105</p>	<p>1 Q. Of course that has changed, that one word, in more 2 recent times. We will come to that. But this is 3 a quotation that you have taken from 4 Sir Thomas Hetherington, who succeeded 5 Sir Norman Skelhorn as DPP. 6 A. Yes. 7 Q. He explained the policy and evidence submitted to the 8 Royal Commission on criminal procedure in 1978, and it 9 is worth a quotation publicly. He said: 10 "The test normally used in the department in 11 deciding whether evidence is sufficient to justify 12 proceedings is whether or not there is a reasonable 13 prospect of conviction; whether, in other words, it 14 seems rather more likely that there will be a conviction 15 than an acquittal. Indeed, the very first regulations 16 under which the Director of Public Prosecutions work 17 provided that he should prosecute wherever it appears 18 that the offence or the circumstances of its commission 19 is or are of such a character that a prosecution in 20 respect thereof is required in the public interest. 21 That is still the dominant consideration." 22 You make clear at your 25 that you were unable to 23 find specific information on the issue from 1970 but 24 were working on the basis that that was the position 25 a few years earlier?</p> <p style="text-align: center;">Page 107</p>
<p>1 Q. Was there also a list of other offences that had to be 2 reported -- we don't have to go through the list, but 3 did they include indecent offences on a number of 4 children or young persons? 5 A. Yes. 6 Q. And by "a number of children or young persons", did that 7 indicate that the allegation had to embrace 8 a multiplicity of complainants? 9 A. I think that would be reasonable to assume, yes. 10 Q. Now, in those days, did the DPP's department consist of 11 a number of lawyers who in some cases you say would be 12 assisted by Treasury counsel, in other words, the office 13 would instruct Treasury counsel presumably for advice 14 and to prosecute cases? 15 A. Precisely so. 16 Q. At the Old Bailey, typically? 17 A. Typically. 18 Q. Your paragraph 23, please, on page 8. When asked to 19 advise the final decision whether or not to initiate 20 a prosecution remaining with the police until the 21 creation of the CPS in 1986, what was the test the DPP 22 in those days had to be satisfied about, the test to be 23 applied? 24 A. It's set out in paragraph 24 of my statement, Mr Altman. 25 It talks about a reasonable prospect of a conviction.</p> <p style="text-align: center;">Page 106</p>	<p>1 A. Indeed. 2 Q. Against that background, then, can we please look at the 3 first heading on your page 8, the decision not to 4 prosecute CS, being Cyril Smith, in 1970. 5 In paragraphs 26 to 28, you set out basic facts, 6 which we know. I am not going to trouble you for those, 7 save to ask you this: can you confirm that your 8 researches -- you deal with this in paragraph 26 -- show 9 that Sir Norman Skelhorn QC was DPP between 1964 and 10 1977? 11 A. Yes. 12 Q. We know -- I am just going to fill in some background, 13 Mr McGill -- just in terms of a couple of dates that 14 Detective Superintendent Leach's report was dated 15 11 March 1970, and it was eight days later, on 16 19 March -- we have seen this material, you have seen 17 it -- that the DPP provided his advice. I will ask you 18 about that in a moment or two. 19 A. Yes. 20 Q. So that we can fill in -- I don't know if you 21 appreciated this, but the letter in which the DPP's 22 office confirmed or acknowledged receipt of the file 23 from Lancashire Constabulary was 16 March 1970, which 24 was a Monday, it having been sent on the previous 25 Friday, 13 March, by Lancashire Constabulary. So with</p> <p style="text-align: center;">Page 108</p>

1 a weekend intervening, the DPP had effectively signed
 2 off his decision within about three working days, on the
 3 assumption that he'd received the file on the Monday,
 4 16 March, and it was done and dusted, if I dare use that
 5 expression, by the Thursday of that week. So it is
 6 important, perhaps, to look at what actual days were
 7 involved.

8 **A. Yes.**

9 Q. Have you been able to tell whether counsel were
 10 instructed?

11 **A. I haven't been able to find any information on that,
 12 Mr Altman.**

13 Q. If we just think about it, even in 1970, the idea that
 14 the DPP's office would receive a file on the Monday and
 15 the DPP was then able to advise on the Thursday,
 16 I suppose it is not impossible, but it is fairly
 17 unlikely, that counsel could have been instructed,
 18 advised and the DPP could have acted on that advice
 19 within three days?

20 **A. I can't speculate, Mr Altman. We charge now and we do
 21 charge some serious cases on a threshold basis quite
 22 quickly. I'm unable to speculate what happened in 1970
 23 because I wasn't a prosecutor then.**

24 Q. No. Nor was I, but what you can say is you found no
 25 evidence to suggest that counsel was instructed?

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1 **A. Absolutely, Mr Altman, yes.**

2 Q. Let's perhaps ignore the fact that counsel might have
 3 been instructed. Are you able to help us at all, from
 4 your general experience, Mr McGill, even though you
 5 weren't prosecuting in those days, whether, on the face
 6 of it, three or four days is an unusually speedy
 7 turnaround time?

8 **A. It is quite quick, Mr Altman, yes.**

9 Q. Especially when we are thinking about the nature of
 10 the case, the amount of paperwork that the DPP had by
 11 today's standards -- not very much -- but by then, I'm
 12 not sure, perhaps up to 90 pages of material in the case
 13 of a very high profile figure?

14 **A. Mr Altman, it is quick. It could be done. I can't
 15 speculate as to whether that was common or not in 1970.
 16 But it is a quick turnaround, yes, I accept that.**

17 Q. I would like your help with something, Mr McGill.
 18 I know what you are going to say, but I am going to ask
 19 you anyway.

20 I would like to be put up on screen, please,
 21 CPS002710. This is the acknowledgement letter from the
 22 director's office of 16 March:
 23 "I refer to your letter of 13 March 1970 and
 24 I acknowledge receipt of your file.
 25 "I will be writing to you again shortly when I have

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1 had an opportunity of considering this matter.
 2 "Yours faithfully."
 3 You're not a handwriting expert --

4 **A. I'm not.**

5 Q. -- any more than I am, but would it have been possible
 6 that the letter could have been signed on behalf of
 7 the director by somebody who was not
 8 Sir Norman Skelhorn?

9 **A. It's obviously possible. It could have been pp'd on his
 10 behalf, yes.**

11 Q. There is no pp there --

12 **A. No, there isn't.**

13 Q. -- but I think we can all probably come to the
 14 conclusion that that doesn't look like
 15 "Sir Norman Skelhorn" or the name "Skelhorn". The
 16 reason I ask is, when we come to the actual decision
 17 letter, which I am going to invite everybody's attention
 18 to now, which is CPS002711, we will see the same
 19 signature.

20 **A. It certainly looks the same, Mr Altman.**

21 Q. Anyway, the point is made. I suppose it is possible
 22 that somebody could have signed it off on his behalf.
 23 It is not altogether unheard of -- assistants or that
 24 sort of thing?

25 **A. The DPP would have been assisted by other lawyers.**

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1 Q. I'm sure.

2 **A. I can't speculate as to whether that happened in this
 3 case, but, yes, the DPP would have been assisted by
 4 other lawyers.**

5 Q. Thank you for that, Mr McGill. Can we put this back up,
 6 please?

7 Ultimately, though, who was the final arbiter? Who
 8 was the decision maker here? Was it the DPP or somebody
 9 on his behalf? Let's say he didn't go to counsel.
 10 Clearly, there were lawyers in the department. Might
 11 a lawyer have looked at this and then given his advice
 12 to the director for the director to agree or disagree
 13 with the advice, as the case may be, and write the
 14 letter that we look at, or -- is that a possibility? Or
 15 might it have been solely looked at by the director?

16 **A. Again, I'm speculating. I don't know, because I wasn't
 17 in the department then. It is entirely possible that
 18 some of the legal research and the work would have been
 19 done on behalf of the director.**

20 Q. Let's have a look at what the letter says:
 21 "Dear Sir ..."
 22 This is addressed to the chief constable:
 23 "I have considered your file and I observe that
 24 eight young men, whose ages range from 19 to 24 years,
 25 allege that between 1961 and 1966 Smith submitted them

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<p>1 to various forms of indecency and I also observe that 2 Smith denies their allegations. Any charges of indecent 3 assault founded on these allegations, as well as being 4 somewhat stale, would also be, in my view, completely 5 without corroboration. Further, the characters of some 6 of these young men would be likely to render their 7 evidence suspect. 8 "In the circumstances, I do not consider that if 9 proceedings for indecent assault were to be taken 10 against Smith, there would be a reasonable prospect of 11 a conviction." 12 There is the expression of the test of the day: 13 "I do not, therefore, advise his prosecution." 14 It is couched in terms of "advice", advisory. Do 15 you have any view, yourself, Mr McGill, from everything 16 you understand, it being within the province of 17 the police in those days to make a charging decision if 18 they had wanted, unlike today, where the CPS makes the 19 decision, whether they could have gone ahead and done 20 it, despite this? 21 A. I suppose it's possible, Mr Altman. They had the power 22 to charge. Whether they would have done, when they'd 23 had express advice from the DPP, I don't know. 24 Q. No. Again, I suspect I know the answer from you, 25 Mr McGill, but let me ask you anyway, certainly by</p> <p style="text-align: center;">Page 113</p>	<p>1 that will make it easier all round. 2 Was the general rule on corroboration this, that the 3 evidence of one competent witness tended to be enough to 4 support a verdict, except in perjury, but there were 5 exceptions to it, and the important exceptions -- this 6 is on your page 10, and I am just going to bullet point 7 them and you see if I have got it right. 8 A. Very well. 9 Q. The exceptions included some sexual cases where there 10 was a requirement for corroboration before a defendant 11 could be convicted? 12 A. Yes. 13 Q. It meant that there had to be some other material 14 evidence implicating the defendant? 15 A. Yes. 16 Q. That where a complainant's evidence was on oath, 17 corroboration was not essential in law, unlike in the 18 case of unsworn testimony of children where there was 19 a statutory requirement for corroboration? 20 A. Yes. 21 Q. That, as a matter of practice, judges were obliged to 22 warn juries to exercise additional caution when 23 considering convicting a person of a sexual offence, 24 which is what we are focusing upon, on the basis of 25 uncorroborated evidence; is that right?</p> <p style="text-align: center;">Page 115</p>
<p>1 today's standards, this is a very short decision in 2 writing: do you have any experience of decision letters 3 of this kind being as short as this from that period? 4 A. I don't. I haven't seen any others. I accept it is 5 a short letter. 6 Q. There were three points, really, being made by the 7 director within it: it was stale. In other words, he 8 meant the allegations were old? 9 A. Mmm-hmm. 10 Q. Or at least, by that time, about five years old, 11 thereabouts? 12 A. Mmm-hmm. 13 Q. Second, it suffered from a lack of corroboration; and, 14 third, he alighted on the characters of some of those 15 young men which would be likely to render their evidence 16 suspect; in other words, they would be discreditable? 17 A. Yes, that's what it says, yes. 18 Q. Now, in your statement, paragraphs 29 to 55, you have 19 very helpfully set out the relevant law in 1970, and it 20 will be a complete matter of relief for you, Mr McGill, 21 that I am not going to ask you to argue or give us 22 a lecture on what the rule on corroboration was in the 23 1970s. Perhaps it will be easier if I put to you and 24 you can either say, yes, I have got it right or, "No, 25 you have got it wrong, Mr Altman", because I suspect</p> <p style="text-align: center;">Page 114</p>	<p>1 A. Precisely so. 2 Q. That a judge would point out to a jury what was capable 3 of amounting to corroboration, but the jury would decide 4 if it did? 5 A. Absolutely. 6 Q. So in such cases, corroboration was looked for and 7 juries were warned of the dangers of acting on it in all 8 cases of sexual offending, irrespective of age or sex of 9 the complainant, and it even went to the remarkable 10 lengths of being required even if identity was in 11 issue -- 12 A. Precisely. 13 Q. -- rather than the act itself? 14 A. I'm sorry, Mr Altman. Yes, precisely so. 15 Q. It turned out that failures by judges to give juries the 16 requisite warning were fatal on appeal? 17 A. Yes, the proviso wouldn't be. 18 Q. The proviso, in those days, where there had been no 19 miscarriage of justice, despite the particular ground of 20 appeal being made out, would not be exercised where the 21 Court of Appeal would sometimes say, "There's been no 22 miscarriage of justice nonetheless", the proviso would 23 not be exercised in cases where the corroboration 24 warning hadn't been given? 25 A. Precisely so, Mr Altman, yes.</p> <p style="text-align: center;">Page 116</p>

<p>1 Q. If you go to your page 11, the warning that was given 2 you set out in paragraph 38. This is a quotation that 3 you have taken from an authority, Henry and Manning, in 4 1969: 5 "Experience has shown ..." 6 This was geared towards a female complainant: 7 "... that female complainants have told false 8 stories for various reasons and sometimes for no reason 9 at all. If a proper warning has been given, the jury 10 may convict on the complainant's uncorroborated evidence 11 if they have no doubt that she is speaking the truth." 12 So that was the nature of the warning that was given 13 in such cases to juries up and down the country in cases 14 of sexual complaint? 15 A. Yes. 16 Q. Your paragraph 44, over the page. You summarise the 17 position as set out in a leading text on the law of 18 evidence, Phipson, the 11th edition, which was 1970, and 19 so this is contemporaneous with the events we are 20 considering here? 21 A. Yes. 22 Q. Where they say at page 682: 23 "What the judge has to do in cases of alleged sexual 24 offences is to use clear and simple language that will, 25 without any doubt, convey to the jury that there is</p> <p style="text-align: center;">Page 117</p>	<p>1 story, according to the police officer at the time, in 2 the absence of any evidence of collusion. 3 What was the position at that time, Mr McGill, as 4 your researches indicate to you? In other words, could 5 one complaint unproven support the unproven complaint of 6 another complainant where there was similar fact? 7 A. Well, I'm sorry to sound like a lawyer, but it wasn't 8 entirely clear in 1970. There were two lines of 9 authority. If I can summarise it, there was the Sims 10 line of authority, which tended to suggest that it 11 could; and there was the Flack line of authority that 12 tended to suggest that it couldn't. That's it put very 13 simply. Because the law was so confused, I think, 14 Mr Altman, a case did eventually make its way through to 15 the House of Lords for the clarification, and that case 16 was Kilbourne. 17 Q. In the end, I think Kilbourne came to the view -- 18 I think you set this out in paragraph 51, am I right? 19 A. 49, I think. 20 Q. Is it 49 you begin? 21 A. I begin at 49, yes. 22 Q. It wasn't until early 1973, you say, two years after the 23 DPP's decision in 1970, that the House of Lords 24 reconsidered the question where it was alleged that 25 a series of sexual offences of a similar nature had been</p> <p style="text-align: center;">Page 119</p>
<p>1 a danger of convicting on the complainant's evidence 2 alone. It is dangerous because such allegations are 3 very easy to fabricate and extremely difficult to 4 refute. The judge had then told the jury that, bearing 5 the warning well in mind, they must look at the 6 particular facts of the case before them and if, having 7 given full weight to the warning that it is dangerous to 8 convict, they come to the conclusion that in the 9 particular case the complainant, without any doubt, is 10 speaking the truth, then the fact that there is no 11 corroboration doesn't matter, and they are entitled to 12 convict whether the issue is consent, identification or 13 anything else." 14 But there was a little wrinkle through all of this 15 which you highlight at your paragraph 48 and onwards, 16 because the law became increasingly complicated. 17 A. It did. 18 Q. And perhaps as it ever does when it becomes complicated, 19 inconsistent and discrepant. But you deal with the 20 question, could evidence of other unproven allegations 21 amount to corroboration, and that was the situation here 22 that confronted the DPP. Whether this was the decision 23 he made is another matter. But in this case we have 24 multiple unproven allegations from different 25 complainants, all of them telling a fairly similar</p> <p style="text-align: center;">Page 118</p>	<p>1 committed on a number of different persons, often 2 children, in Kilbourne. The jury had to be directed 3 upon the extent to which the evidence of one victim may 4 be used to assist them in considering whether the 5 allegation involving another victim had been proved, and 6 at 51, you say: 7 "The House of Lords said in the case: 8 "Evidence should not be accepted as corroborative 9 where there was a real chance of collusion between 10 witnesses". 11 So, clearly, if there was collusion between 12 witnesses, it was obvious that it couldn't have any 13 corroborative effect because they weren't independent of 14 each other? 15 A. Precisely so, Mr Altman. 16 Q. But the comments were obiter, and for nonlawyers that 17 means the comments were not material to the decision in 18 the House of Lords? 19 A. Yes. 20 Q. But it was said later in the case of Johansen, in 1977, 21 that the comments should be followed unless there were 22 sound reasons for not doing so. 23 Then at paragraph 52, you deal with the case of 24 Sims, which you have mentioned. At 53, you deal with 25 the case of Flack.</p> <p style="text-align: center;">Page 120</p>

1 At paragraph 55, you come back to Phipson On
 2 Evidence, the 11th edition, where they considered -- the
 3 authors considered a number of scenarios, including
 4 this, inadmissible. In other words, they were saying
 5 the following scenario was inadmissible:
 6 "A is a schoolmaster charged on 16 counts with
 7 indecent assaults on boys from the school. Evidence of
 8 such an assault on one boy is not admissible for the
 9 purpose of proving such an assault on any of the others,
 10 citing Flack in support of the proposition."
 11 **A. Yes.**
 12 Q. So whether that was the final word or not, it was
 13 a fairly authoritative word at that time, but of course
 14 although that's Phipson in 1970, this is, as you point
 15 out, a couple of years before Kilbourne seemed to come
 16 to the sensible view that multiple unproven complainants
 17 could corroborate each other, as long as they were
 18 independent or there was an absence of evidence of
 19 collusion?
 20 **A. Yes, Mr Altman.**
 21 Q. So in order to have proved the case that was presented
 22 to the DPP, doing the best you can, Mr McGill, what
 23 would require to have been proved for a number of
 24 indecent assaults against Smith?
 25 **A. Well, they would have had to have -- the lawyer looking**

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1 **at it, Sir Norman, would have had to have satisfied**
 2 **himself along the Sims line that they were capable of**
 3 **supporting the allegations and were capable of**
 4 **corroborating the initial allegation. It says on my**
 5 **page 14:**
 6 "The same considerations would apply to a case where
 7 a man is charged with a series of indecent offences
 8 against children, whether boys or girls; that they all
 9 complained of the same sort of conduct shows that the
 10 interest of the defendant was taking them in, and was
 11 not of a paternal or friendly nature but for the purpose
 12 of satisfying lust."
 13 **It is about complaining about the same sort of**
 14 **conduct.**
 15 Q. Did Flack, or might Flack, have had any bearing if the
 16 DPP of the day was sitting there with Sims in one hand
 17 and Flack in the other?
 18 **A. Well, I think it is significant that Flack was a 1969**
 19 **authority, and it was the most recent authority from the**
 20 **Court of Appeal, so it would have been persuasive and**
 21 **would probably have been -- if any authority was in**
 22 **someone's mind, it would have been the most recent**
 23 **authority.**
 24 Q. The effect of Flack was to say in such cases
 25 a multiplicity of allegations, albeit similar, ought to

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1 be tried separately and not together?
 2 **A. Indeed. It basically said they weren't cross-admissible**
 3 **and they should be tried separately.**
 4 Q. On your page 16, paragraph 56 and onwards, you analyse
 5 the DPP's advice in 1970. What was your view,
 6 Mr McGill, looking at your paragraphs 56 to 59, whether
 7 the DPP reasonably came to the view that the allegations
 8 were "completely without corroboration"?
 9 **A. First of all, I think the way the decision was**
 10 **communicated in 1970 is not how we would do it today.**
 11 **We would probably, I hope, give better-reasoned**
 12 **decisions than that. But I can't comment on whether**
 13 **that was common for the day in question.**
 14 **I think, if I could take you to paragraph 58,**
 15 **Mr Altman, having looked at it -- and can I quote from**
 16 **my --**
 17 Q. That's what I would like you to do.
 18 **A. I say:**
 19 **"I have concluded that, had he considered the**
 20 **overall evidential picture, including CS's claim of**
 21 **innocent association, together with the judgments in**
 22 **R v Sims and R v Flack, it is difficult to see how he**
 23 **would have come to any other conclusion but that there**
 24 **was indeed corroboration of the complainant's account or**
 25 **at least a good arguable case that that was the**

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1 **position."**
 2 Q. But you acknowledge that the position wasn't clear, and
 3 you have already made the point, before Kilbourne?
 4 **A. It was anything but clear, in my opinion, Mr Altman. It**
 5 **was a difficult situation, I think, for any lawyer**
 6 **looking at the law at that time.**
 7 Q. One thing which is absent from the DPP's letter of
 8 19 March is any suggestion of collusion. Do you agree?
 9 **A. There's no suggestion --**
 10 Q. He talks about "completely without corroboration".
 11 "Corroboration" was a term of art in those days. We
 12 still use the word but --
 13 **A. Not in the legal sense.**
 14 Q. -- not in the way it was used in those days. He doesn't
 15 say there is evidence of collusion?
 16 **A. He doesn't.**
 17 Q. He is silent about the concept of collusion.
 18 **A. Yes.**
 19 Q. What about the DPP's view -- your paragraph 60 -- about
 20 the characters of some of the complainants would be
 21 likely to render their evidence suspect? Was that
 22 reasonable or not?
 23 **A. I can't comment on what might have been reasonable in**
 24 **1970. It is certainly not something that we take into**
 25 **consideration in the same regard today.**

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1 Q. The fact is that they were vulnerable?
 2 **A. Yes.**
 3 Q. The fact that they were vulnerable would make it more
 4 likely that they would fall foul of the law and
 5 therefore their characters, or the characters of some of
 6 them, was not going to be a very unusual feature in any
 7 case like this, especially where predatory individuals
 8 tend to target vulnerable people?
 9 **A. That is the way we would look at it today, Mr Altman.**
 10 **I don't know how it was looked at in 1970, but society**
 11 **was quite different in 1970.**
 12 Q. Not least also because the very attraction of
 13 a vulnerable individual to a predatory offender is that
 14 person is going to be someone who is less likely to
 15 complain or, if that person does complain, be believed?
 16 **A. Indeed.**
 17 Q. From anything that you have seen, Mr McGill, there is
 18 nothing to indicate whether that kind of thought process
 19 was current or popular in the 1970s?
 20 **A. I can't speculate on that, Mr Altman, no. I can only go**
 21 **on what I have seen here.**
 22 Q. What about the third issue which the DPP raised in his
 23 letter, that the allegations were "somewhat stale"? Was
 24 that valid?
 25 **A. It is difficult to say. Certainly, if I can use the**

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1 **overarching term "delay", delay was a factor that was**
 2 **perhaps much more in prosecutors' and lawyers' minds in**
 3 **the 60s, 70s, 80s, and probably up to the 90s, than it**
 4 **is now. Indeed, the first edition of the code, which**
 5 **I looked at in preparing this statement, said that**
 6 **prosecutors should be wary about instituting offences of**
 7 **more than three years old. That was in 1986.**
 8 **So, yes, I can't say whether it is valid or not. It**
 9 **is certainly not something that we would take into**
 10 **consideration as much today as perhaps it might have**
 11 **been taken into consideration in the past.**
 12 Q. Again, if we look at the reality, delay may be brought
 13 about because people are fearful, or were fearful, in
 14 making complaints, especially in relation to somebody
 15 quite as powerful as Cyril Smith would be?
 16 **A. Yes, we would refer to it a myth or a stereotype now,**
 17 **saying you would expect a complaint to be made very**
 18 **quickly. There could be very good reasons why**
 19 **a complaint isn't made quickly.**
 20 Q. I'm glad you raised that, Mr McGill, because, as you
 21 will confirm, there have been a lot of lessons learned
 22 over the decades, and dispelling myths is one of
 23 the things which judges trying sexual offences are
 24 enjoined to instruct/direct juries about, dispelling
 25 myths in rape cases, whether people should complain

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1 immediately, why they don't complain immediately and how
 2 people behave, that there is no stereotypical behaviour
 3 which juries should come into the jury box with
 4 preconceived ideas about?
 5 **A. Exactly right, Mr Altman, and that's where I think**
 6 **sometimes we have fallen foul in the past, and**
 7 **His Honour Judge Rook has been at the forefront of**
 8 **training the judges on the way to do this.**
 9 Q. Absolutely, and many barristers as well?
 10 **A. Indeed.**
 11 Q. Overall, let me ask you this question in relation to
 12 this topic: did you think the DPP's decision was
 13 reasonable in all the circumstances or not, in light of
 14 the law as it stood in 1970?
 15 **A. I think that Sir Norman would have found himself in**
 16 **a difficult position on the law. I think it is**
 17 **difficult to say that it wasn't a reasonable decision**
 18 **based on the confusion of the law at that time.**
 19 Q. Now I would like to ask you about something else which
 20 you don't deal with in your statement, but I am sure you
 21 know about, Mr McGill, which is what the DPP or the
 22 DPP's office said to the media, the Rochdale Alternative
 23 Press and others, in 1979. You know about that material
 24 and what came out from the Security Service?
 25 **A. The only material I have seen is the material that has**

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1 **come from the Security Service, yes.**
 2 Q. Today, what is the CPS's general policy for dealing with
 3 media enquiries?
 4 **A. We have a communications office that deals with those**
 5 **enquiries that come from the media. We have values that**
 6 **say that we are open and transparent and we communicate**
 7 **openly about our decision making.**
 8 Q. It should go without saying that, above all, if there
 9 are media enquiries of the CPS press office, you, or the
 10 organisation generally, would be at great pains to make
 11 sure that what the media is told is accurate and
 12 truthful?
 13 **A. Absolutely.**
 14 Q. Do you think that the policy of the director would have
 15 been any different in 1979?
 16 **A. I can't speculate what the policy would have been.**
 17 **I think it would be strange to think that you would have**
 18 **a policy that stated that you wouldn't be truthful to**
 19 **the media.**
 20 Q. I wonder if we can just bring up, to remind ourselves,
 21 INQ000963, please. I wonder if we are able to bring up
 22 the article. I know it is going to be difficult to read
 23 in this format.
 24 This is the RAP article from May 1979. Paragraph 6
 25 is headed "The DPP". It is on the right-hand side.

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1 I wonder if the TrialDirector can bring that up. I'm
 2 sure you have looked at this, Mr McGill. It is not
 3 brilliant. Let me read it, Mr McGill, and I will take
 4 it slowly. It is really just half of this paragraph
 5 that I need to remind everybody of:
 6 "An approach to the DPP failed to confirm that
 7 a file [I think] had been brought to the attention of
 8 the director's office."
 9 I'm just paraphrasing:
 10 "On our first request for information, the DPP's
 11 press office agreed to answer the question of whether or
 12 not the file had been received by them. After making
 13 the appropriate search, we were told that they had
 14 failed to find such a file. A further approach brought
 15 the official statement from the director ..."
 16 And the director at this time was of course
 17 Hetherington:
 18 "... the DPP cannot trace such a case being referred
 19 to us but cannot confirm or deny receiving it. The
 20 director did confirm that under the then applicable
 21 regulations the 'chief office of police shall report to
 22 the DPP offences which include indecent offences upon
 23 a number of young persons'.
 24 That's what we looked at earlier:
 25 "We also wrote to Sir Norman Skelhorn, the man who

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1 was the Director of Public Prosecutions at the time of
 2 the investigation. RAP's letter was forwarded to him by
 3 one of his clubs, the Athenaeum. On Wednesday,
 4 25 April, we received a phone call from someone claiming
 5 to be Sir Norman on holiday and from a coin-box phone
 6 who said that he could remember nothing at all about
 7 such a case. RAP also interviewed Mr Palfrey, the Chief
 8 Constable of Lancashire at the time. He agreed that
 9 such a file should have been sent, but said, 'I can't
 10 say for sure whether the file was sent or not'. He told
 11 us to approach police HQ, which we have done several
 12 times. Their final comment was: 'We decline to
 13 comment'.
 14 I am sure it is of a speculative nature, Mr McGill,
 15 and you will tell me it is, but Sir Norman Skelhorn, in
 16 1979, is unlikely to have had, in the seven years that
 17 had passed from 1970, many cases quite like this one
 18 across his desk?
 19 **A. Who knows, Mr Altman?**
 20 Q. There is only one Cyril Smith.
 21 **A. No, but he would have referred to him a number of**
 22 **serious cases over that period.**
 23 Q. What we do know from the Security Service material --
 24 perhaps we don't need to bring it up -- is that
 25 certainly from their point of view, and

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1 Sir Thomas Hetherington himself accepted in April 1979,
 2 so this was just before the RAP article was published,
 3 that lies had been told by the DPP's office?
 4 **A. First of all, Mr Altman, this is 1979, before the**
 5 **setting up of the CPS. We have looked for documents and**
 6 **we haven't been able to find any documents about this.**
 7 **From what you said, and I haven't got it in front of**
 8 **me now, I think the statement that was made in this was**
 9 **that he could neither confirm nor deny.**
 10 Q. That was the press office, yes. My point is that it is
 11 rather unlikely that the DPP's office did not know,
 12 because that's the DPP's office rather than
 13 Sir Norman Skelhorn, who actually phoned RAP to say that
 14 he had no recollection of it. It is hardly likely, is
 15 it, that the DPP's office would have no institutional
 16 memory of receiving a file in the case of Cyril Smith
 17 seven years earlier, is it?
 18 **A. I can't comment on that, Mr Altman.**
 19 Q. I take it, as far as the materials you have looked at,
 20 and such access to the materials you have, that there is
 21 nothing that you have that sheds any light on why false
 22 representations may have been made either by the former
 23 DPP or by the current DPP, the then current DPP's, press
 24 officers?
 25 **A. I have seen no documentation about this matter,**

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1 **Mr Altman, other than that you have shown me today and**
 2 **from the security services.**
 3 MR ALTMAN: I'm getting stereo requests for a break,
 4 Mr McGill, and it is a suitable moment because I am
 5 coming on to a new topic.
 6 **A. Thank you, Mr Altman.**
 7 MR ALTMAN: If the chair and panel would like a break, that
 8 is a good time for one.
 9 THE CHAIR: Thank you, Mr Altman. We will take 15 minutes.
 10 Thank you.
 11 (3.20 pm)
 12 (A short break)
 13 (3.37 pm)
 14 THE CHAIR: Mr Altman, the panel have some questions, but we
 15 will leave them to the end, until after Ms Hoyano has
 16 asked her questions as well.
 17 MR ALTMAN: Thank you very much.
 18 Mr McGill, before I do move on, can you go back to
 19 your paragraph 53, please.
 20 **A. Yes.**
 21 Q. It deals with Flack because it was one of the cases
 22 you've mentioned that would have been available to the
 23 DPP at the time of his decision making in this case.
 24 In Flack, you say:
 25 "The question arose as to whether in a case where

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1 there was a complete denial that any incident at all had
 2 taken place and that no question of identity, intent,
 3 system" -- and I focus on "system" -- "guilty knowledge
 4 or rebutting a defence of innocent association ever
 5 arose, the evidence of one complainant could corroborate
 6 that of another."
 7 What that is saying is that, in the case of multiple
 8 complainants, where there is evidence of system, and
 9 apparently this comes all the way -- it is a line of
 10 authority, in effect, from Sims in 1946, all the way up
 11 to Flack, where there was evidence of system, the
 12 prosecution could lead that evidence in the case of
 13 complaints by multiple complainants as, in effect,
 14 corroborative evidence. Was that something you
 15 understood?
 16 **A. Indeed. That's why, ultimately, I came to the**
 17 **conclusion that if he had looked at the law in that way,**
 18 **he probably would have favoured the Sims line. I think**
 19 **you also have to look at what the defence of Mr Smith**
 20 **was, what he said was, "I was acting in loco parentis**
 21 **and there was no indecency", so there was no denial that**
 22 **it had taken place as well. I think that's relevant as**
 23 **well.**
 24 Q. Let's move on, then, to the rationale for not
 25 prosecuting Smith in 1998. That's your paragraph 63 and

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1 onwards.
 2 The first question: why did the allegations against
 3 Smith resurface in 1998?
 4 **A. I think it was as a result of an investigation that had**
 5 **been started by the South Wales Police.**
 6 Q. Yes, Goldfinch.
 7 **A. Yes, as a result, I think a call had come through to the**
 8 **South Wales Police about an incident in Rochdale which**
 9 **the South Wales Police I think then passed on to the**
 10 **relevant police force.**
 11 Q. That's right. The relevant police force was Greater
 12 Manchester Police?
 13 **A. It was.**
 14 Q. The SIO at the time, Detective Superintendent Stelfox,
 15 who sent an advice on to a CPS Branch Crown Prosecutor,
 16 who was the reviewing lawyer --
 17 **A. Yes.**
 18 Q. -- requesting a review, and this was part of
 19 Operation Cleopatra. In a couple of sentences, how had
 20 the law changed between 1970 and 1998 regarding who took
 21 the ultimate decision to prosecute and the basis of such
 22 decisions?
 23 **A. The CPS was set up by the Prosecution of Offences Act in**
 24 **1985 and the CPS became operational in 1986, so that was**
 25 **a major change.**

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1 Q. What was the test, the nature of the test that the
 2 CPS -- I don't particularly want to go through all the
 3 Codes for Crown Prosecutors --
 4 **A. I'm grateful.**
 5 Q. -- and all of their iterations over the years, but what
 6 was the fundamental test that the CPS needed to be
 7 satisfied of before prosecuting?
 8 **A. We refer to it as a realistic prospect of a conviction.**
 9 **If we are satisfied that the evidential test is met and**
 10 **the present iteration of that is, is it more likely than**
 11 **not that a conviction will result? We then go on to**
 12 **consider the public interest test.**
 13 Q. So it is really one test but two stages?
 14 **A. Absolutely.**
 15 Q. These days called the Full Code Test?
 16 **A. The Full Code Test.**
 17 Q. As distinct from the Threshold Test --
 18 **A. Exactly.**
 19 Q. -- which you mentioned earlier? What about
 20 corroboration? Had that gone between 1970 and 1998?
 21 **A. The law had been changed considerably. The requirement**
 22 **for there to be corroboration of the unsworn evidence of**
 23 **children had been removed and, in 1994, the need for**
 24 **corroboration in sexual offences had been removed as**
 25 **well.**

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1 Q. Certainly, no longer were judges to warn juries,
 2 although they could in suitable cases, but they were
 3 fairly exceptional?
 4 **A. They were.**
 5 Q. And subject to discretion?
 6 **A. Yes.**
 7 Q. The reason for its removal was, amongst other things,
 8 its increasing technicality?
 9 **A. Yes.**
 10 Q. The rules became inflexible --
 11 **A. Yes.**
 12 Q. -- as we saw. The warnings, on any sensible view, were
 13 regarded as inappropriate?
 14 **A. The language I think we have seen in some of them was**
 15 **not what we would expect in the 1990s, I think.**
 16 Q. They had become so complex, the rules, that they
 17 bordered on the unintelligible?
 18 **A. Yes.**
 19 Q. Creating anomalies?
 20 **A. Yes.**
 21 Q. And the significant change of perception as to the
 22 reliability of evidence given by children?
 23 **A. Yes.**
 24 Q. And particularly offensive to women?
 25 **A. That was I think one of the main drivers, yes.**

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<p>1 Q. Your paragraph 74 and onwards. Why did the reviewing 2 lawyer in 1998 decide not to prosecute Cyril Smith? 3 I preface that question by acknowledging there was 4 a draft advice which I don't think we have to look at 5 now, followed by a more formal final advice, which was 6 fairly and largely derivative of the draft advice. But 7 what was the effect of the advice that he gave? 8 A. Well, essentially, the reviewing lawyer decided in 1998 9 that the evidential test was met, but in simple terms, 10 Mr Altman, he concluded that if a prosecution was 11 started, the court was likely to uphold a defence 12 application of abuse of process. 13 Q. Abuse of process, which is something I think we have 14 touched on but without mentioning the concept. Delay, 15 for example, that was one of the grounds that could be 16 argued in aid of an application to stay a prosecution on 17 grounds of abuse of process? 18 A. Yes. 19 Q. Is that right? 20 A. Yes, certainly in the 1990s, yes. 21 Q. It became very fashionable in the 1990s and afterwards, 22 and it was often the case that cases would be stopped by 23 judges on applications to stay and what would happen is, 24 if a judge upheld the argument made by the defence, the 25 indictment would be stayed?</p> <p style="text-align: center;">Page 137</p>	<p>1 the reviewing lawyer. GMP001129. Page 15, paragraph 13 2 at the foot of the page: 3 "By way of conclusion and summary, I have little 4 hesitation in expressing the view that applying the Code 5 of Practice for Prosecutors, there is sufficient 6 evidence to proceed against S [Smith] in 1998 for 7 offences which occurred in the mid 1960s. In my view, 8 there would be a realistic prospect of a conviction in 9 respect of each of the offences generated by each of 10 the complainants." 11 If we look just above in the third paragraph, the 12 last three lines: 13 "Whilst there may be a realistic prospect of 14 a conviction in respect of one or more offences, there 15 is no guarantee of a conviction." 16 But the code doesn't require guarantees, does it? 17 A. It is realistic prospect. 18 Q. Realistic prospect: 19 "... nor is there a guarantee that any of 20 the identified witnesses would be willing or able to 21 give evidence." 22 That's also an occupational hazard, Mr McGill? 23 A. Yes. 24 Q. Then at the top of the next page, does the reviewing 25 lawyer say:</p> <p style="text-align: center;">Page 139</p>
<p>1 A. Precisely so. 2 Q. Meaning there would be no prosecution in effect? 3 A. Yes. 4 Q. There are typically two grounds: one, where it is unfair 5 to try the defendant; or, secondly, where he can't have 6 a fair trial? 7 A. Yes. 8 Q. But what drew the reviewing lawyer, in this particular 9 instance in 1998, to conclude that no prosecution should 10 be instituted were his views about the significant 11 happening on 25 March 1970, when Superintendent Leach 12 went to see Smith and said there would be no further 13 action? 14 A. Mmm. Well, he didn't state that in quite so -- 15 Q. Not in those stark terms? 16 A. What he talked about was what's known as the legitimate 17 expectation, that Mr Smith had been told -- or had been 18 given a firm indication that he wouldn't be prosecuted, 19 and he referred to the delay. These incidents were said 20 to have taken place I think between 1961 and 1966, and 21 that we were looking at them in 1998, so there had been 22 a significant delay. Those two factors together led him 23 to conclude that there would be a successful application 24 for abuse of process. 25 Q. Let me put up page 15 of the final advice of 17 June of</p> <p style="text-align: center;">Page 138</p>	<p>1 "Despite that prospect, it would not be appropriate 2 to institute proceedings for two reasons. First, S is 3 entitled to rely upon the doctrine of legitimate 4 expectation that he will not be prosecuted. His 5 expectation is strengthened by the lapse of 27 years. 6 That expectation cannot be effectively overturned by 7 resort to 'special circumstances' suggesting that 8 proceedings should be instituted to maintain public 9 confidence in the criminal justice process." 10 In your view, was he right to take into account his 11 view of the success of the abuse of process argument in 12 defeating the prospect of a conviction when he'd already 13 come to the view that there was a realistic prospect of 14 conviction? 15 A. I think in my view, Mr Altman, a prosecutor conducting 16 the Code Test has to ask himself or herself whether, if 17 you institute proceedings, a case is likely to be 18 stopped for an abuse of process. I think it is rightly 19 considered at the evidential stage. I think any 20 prosecutor considering a case like this in these 21 particularly unusual circumstances would ask himself 22 that question. 23 Q. Was he right to come to the view that there was 24 a realistic prospect of conviction, or should he have 25 advised that there was no realistic prospect of</p> <p style="text-align: center;">Page 140</p>

1 conviction, in his view, because an abuse of process
 2 argument would have succeeded?
 3 **A. Well, that's an interesting question.**
 4 Q. That's why I asked it.
 5 **A. If that was me, I would have probably concluded that the**
 6 **evidential test wasn't met. If I had concluded myself**
 7 **that an abuse of process was likely to be successful,**
 8 **I probably would have said that the evidential test**
 9 **wasn't met.**
 10 Q. At your paragraph 92, you say that the reviewing lawyer
 11 made his own decision, which wasn't tested by the
 12 courts, and he predicted how he considered the courts
 13 would react --
 14 **A. Yes.**
 15 Q. -- setting out what his principal reason was.
 16 Then I think at 104 -- this time you are dealing
 17 with the 2012 review -- you say:
 18 "He brought to bear his judgment on the evidence and
 19 factual matrix presented to him in 1998/99, of course he
 20 became back to the advice the year after, as would be
 21 expected of a Crown Prosecutor in his position.
 22 However, it would have been unusual at that time for
 23 a Crown Prosecutor to make a decision to institute
 24 proceedings or not in this case based largely on an
 25 assessment made by him of the likely success of an

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1 application to stay the proceedings before such an
 2 argument could be fully litigated before a judge."
 3 So my question arising out of a combination of those
 4 two paragraphs is: given that he had arrived at the view
 5 that there was, or would be, to use his phraseology,
 6 a realistic prospect of conviction based on the evidence
 7 that was presented to him, ought it to have been left to
 8 a judge to make a decision about any argument of abuse
 9 of process that was put before the court?
 10 **A. It could have been left to a judge. We encourage our**
 11 **prosecutors, if they have made a decision that they**
 12 **think an abuse of process is likely to be successful, to**
 13 **have the courage of their convictions. However, as you**
 14 **know, Mr Altman, the case law is that we should only**
 15 **remove a case from court if it is clear that an abuse of**
 16 **process application would succeed. I think in this case**
 17 **my own personal view is, I don't think his decision was**
 18 **unreasonable, but, as I have said, another prosecutor**
 19 **might have taken a different view.**
 20 Q. At your paragraph 105, and I know this deals with his
 21 1999 decision, you say:
 22 "In other respects, [the reviewing lawyer's]
 23 approach to 'corroboration' of the complainants'
 24 accounts (he said there was none) is open to criticism,
 25 although he nevertheless concluded in 1998 that the

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1 evidential test was satisfied, that is, that the
 2 evidence presented to him from the complainants and from
 3 the surrounding circumstances provided a realistic
 4 prospect of a conviction. It is also right that he did
 5 point to the fact that 'the prosecution case is not
 6 founded on a single assertion by a single complainant,
 7 but by eight separate complainants giving virtually the
 8 same account!.'
 9 What was the criticism that you had in mind of his
 10 use of the term "corroboration"?
 11 **A. I don't think, in those circumstances, I would have used**
 12 **the word "corroboration", because I think it could be**
 13 **misconstrued. But by that stage, there was no legal**
 14 **requirement for corroboration. I think he was using it**
 15 **in, if I can say, the evidential sense of the word**
 16 **rather than the legal sense of the word.**
 17 Q. You used the terminology "legitimate expectation", which
 18 you have borrowed from the lawyer's advice which I have
 19 just reminded everybody of.
 20 **A. Yes.**
 21 Q. In a sentence or two, if you can achieve that,
 22 Mr McGill, what was the law about that? Was it to do
 23 with being given promises or was it something different?
 24 **A. Essentially, boiled down, it was that a defendant who**
 25 **had been informed of a prosecutorial decision should be**

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1 **entitled to rely on it unless there effectively was**
 2 **a material change of circumstances.**
 3 Q. A material change of circumstance would be what?
 4 **A. If significant further evidence became available, would**
 5 **be one. That's not an exhaustive list, but that's the**
 6 **classic sense, where you would maybe look at a decision**
 7 **again.**
 8 Q. Would it be incumbent on the person conveying the
 9 message to the suspect that no further action is being
 10 taken to qualify that assertion with the further
 11 assertion "unless further evidence comes to light"?
 12 **A. That's certainly how we do it now, Mr Altman.**
 13 Q. Yes, I know. Do you know if that is how it was done in
 14 those days?
 15 **A. I don't. From the documents I have seen in this case,**
 16 **it appears that it wasn't.**
 17 Q. No, certainly not. What were the special circumstances
 18 that the reviewing lawyer was talking about in that
 19 advice?
 20 **A. Well, it is difficult to know because the only documents**
 21 **I have really seen are what -- he doesn't specify what**
 22 **those special circumstances were. I think he talks**
 23 **about, in the document, the integrity of the criminal**
 24 **justice system.**
 25 Q. Yes, he does. I was questioning and seeking your help,

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1 Mr McGill, with what he might have meant. Was that
 2 a matter of law? Was that a factual matter that he had
 3 in mind? Are you able to interpret it?
 4 **A. I am not able to interpret it, other than to say that**
 5 **that wasn't in the code at that stage, although it was**
 6 **inserted into a later edition of the code, the 2010**
 7 **version.**
 8 Q. Yes.
 9 **A. But I don't know where he got that phrase from in**
 10 **1998/99.**
 11 Q. No.
 12 **A. The code that was in force in 1998 talks about special**
 13 **reasons for restarting a prosecution. It doesn't talk**
 14 **about special circumstances.**
 15 Q. What might have been the special reasons for restarting
 16 at that time?
 17 **A. In simple terms, I think the code sets out, if the**
 18 **decision was wrong or, again, if there was material**
 19 **evidence that had become available that wasn't**
 20 **originally available when the original decision was**
 21 **made, in simple terms, Mr Altman. It is not a verbatim**
 22 **quote from the code.**
 23 Q. No, I appreciate that. Thank you. So that was 1998.
 24 Then we come to 1999, because we know as a matter of
 25 history, and the panel have heard a little about this

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1 already, that Sergeant Vincent Hill, who was an officer
 2 on Operation Cleopatra, was asked to re-examine and
 3 reinvestigate, and he did, and he submitted a report to
 4 his senior officer, by then Roberts, in March 1999, and
 5 that report found its way back to the same reviewing
 6 lawyer, who produced an advice of 21 May 1999, which, if
 7 we go, please, to GMP001129 at page 59, you see at the
 8 top where he was asked -- I think I'm right in saying,
 9 Mr McGill -- to look at the accounts of two other
 10 complainants:
 11 "I am satisfied that there is no new evidence which
 12 would alter my view as to whether proceedings should be
 13 instituted in respect of the eight original complaints.
 14 "There are now two completely new complaints but the
 15 prospect of convictions is unrealistic."
 16 In the body of that advice, I think he sets out why.
 17 I think there were credit issues -- is that
 18 right? -- in relation to one or both of the complainants
 19 that the reviewing lawyer was discomfited by?
 20 **A. That was certainly his view, yes, in respect of one.**
 21 Q. In respect of one. In respect of the other, was it that
 22 an offence wasn't made out?
 23 **A. That was his view: he wasn't satisfied that an offence**
 24 **known to law was made out.**
 25 Q. Do you agree with him?

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1 **A. Difficult to know on credit. Again, looking at the**
 2 **basis of his conclusion, I don't think it is**
 3 **unreasonable, bearing in mind what he took into**
 4 **consideration, and in respect of the other allegation,**
 5 **yes, I think he was correct on that.**
 6 **What I do think, though, is that there was some**
 7 **scope for using that evidence if there was a trial to**
 8 **strengthen the overall allegation.**
 9 Q. Meaning?
 10 **A. You could use it in rebuttal, perhaps.**
 11 Q. So, in other words, perhaps if he had used the
 12 expression "thought outside the box a little", even
 13 though the evidence of these two new complainants did
 14 not amount to much within themselves, or did not go in
 15 support of new charges, they might go in support of
 16 the other complainants as bolstering a case which was
 17 fit to go to a jury?
 18 **A. Yes. They might not found counts themselves, but they**
 19 **could be relevant admissible evidence.**
 20 Q. Corroborative evidence, in old money?
 21 **A. Yes.**
 22 Q. Which brings us to the 2012 review. We have at the same
 23 reference, GMP001129 at page 61, a report is how it is
 24 headed in relation to Operation Cleopatra by
 25 a Divisional Crown Prosecutor. How does he fit into

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1 this? What was the purpose of this report at that point
 2 and how did it come about, do you know?
 3 **A. I don't know precisely how it came about, Mr Altman.**
 4 **Looking at it, it appears to have arisen from Operation**
 5 **Goldfinch and the question that came through from**
 6 **South Wales Police to Greater Manchester Police to have**
 7 **a look at these allegations again.**
 8 Q. Without seeking to identify any more closely this
 9 individual, he was a Divisional Crown Prosecutor. Which
 10 division? Was it South Wales or Manchester?
 11 **A. It will be Manchester.**
 12 Q. So he writes a report, and then the whole case, really,
 13 for review goes to a Senior Crown Advocate of the next
 14 day who writes an opinion on 15 November, which is at
 15 GMP001129 at page 65.
 16 Again, maybe you don't know, Mr McGill, but why did
 17 this come about? Why was that opinion written? What
 18 was the point of it? Who asked for it?
 19 **A. I don't know the specifics. It just says at the top:**
 20 **"I have been asked to express an opinion ..."**
 21 **It doesn't say --**
 22 Q. Why or by whom?
 23 **A. -- why or by whom.**
 24 Q. His opinion, at the foot of page 66, over into 67, is:
 25 "Over the last 40 years, the court's attitude to

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1 offences of this nature has evolved. Inferences can now
 2 be drawn from silence ..."
 3 That's a reference to, I assume, the "No comment"
 4 interview by Smith on 27 February 1970?
 5 **A. Yes.**
 6 Q. "... and the law relating to corroboration of evidence
 7 and bad character has changed."
 8 As we know it did in the Criminal Justice Act 2003:
 9 "Further, the recent authorities on abuse of process
 10 have looked more towards the prejudice caused to the
 11 defendant by any promise made by the prosecution or by
 12 any delay in proceedings.
 13 "In my opinion, had the original complaints been
 14 referred to the CPS today, it is likely that authority
 15 would have been given to charge 'S'.
 16 Authority of whom?
 17 **A. The charging lawyer of the Crown Prosecution Service.**
 18 Q. "However, in my opinion, the advice of [the reviewing
 19 lawyer] based on the law as it then was cannot be
 20 faulted."
 21 As a generalisation, and this is not an exercise in
 22 criticism, you will understand, Mr McGill --
 23 **A. Of course.**
 24 Q. -- could it be faulted?
 25 **A. I wouldn't use the words "cannot be faulted". I think**

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1 **there are aspects of the way that the reviewing lawyer**
 2 **in 1998 approached the case that could be criticised,**
 3 **although I have to say I don't think overall his**
 4 **decision was an unreasonable one.**
 5 Q. No. Then finally in this regard, a different reference,
 6 please, INQ000962. This is one of those things,
 7 Mr McGill, that we are used to in this day and age, the
 8 CPS making public statements, this one dated
 9 27 November 2012. Why did the CPS make a public
 10 statement about Cyril Smith on that date, do you know?
 11 **A. I don't know. This was a statement made by the Chief**
 12 **Crown Prosecutor for the CPS North West.**
 13 Q. Was that Nazir Afzal?
 14 **A. Yes.**
 15 Q. Who is no longer with the CPS?
 16 **A. He is no longer with the CPS.**
 17 Q. Penultimate topic, not very long. Prosecutorial
 18 culture, policy and law has clearly shifted since 1970
 19 regarding child sexual abuse. Did the 1986 Code for
 20 Crown Prosecutors have anything in particular to say,
 21 and by all means refer to your statement at
 22 paragraph 116, about sexual offences. Paragraph 116.
 23 **A. Yes. Do you want me to --**
 24 Q. Yes, just help us, if you can, with -- clearly culture
 25 and prosecution practice moved on?

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1 **A. Yes.**
 2 Q. Lessons are being learned and things change. But what,
 3 in 1986, did the -- I suppose one of the earliest
 4 versions of the code have to say?
 5 **A. It talks about whether there was any element of**
 6 **seduction or corruption, and looking for evidence like**
 7 **that when deciding whether and, if so, in respect of**
 8 **whom proceedings should be instituted.**
 9 Q. Are these public interest factors, the second stage of
 10 the test, or realistic prospect factors?
 11 **A. These are public interest factors.**
 12 Q. So this is, once you've got past the evidential stage,
 13 this is the next stage: is it in the public interest to
 14 prosecute?
 15 **A. Yes.**
 16 Q. Right.
 17 **A. It is interesting there, actually, what it says:**
 18 **"Should doubt still remain, the scales will normally**
 19 **be tipped in favour of prosecution."**
 20 **That's the earliest edition of the code, though.**
 21 Q. Things haven't changed. If anything, they have perhaps
 22 moved in that general direction?
 23 **A. Yes, I think that's a fair way of putting it, Mr Altman.**
 24 Q. Did matters move on in the 1990s?
 25 **A. Yes, I think we developed a number of legal -- we gave**

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1 **our lawyers legal advice and policy statements as to how**
 2 **they should approach these cases. It must be said that**
 3 **the major change has happened in the present century.**
 4 **There has been a real change in the way that we have**
 5 **approached this type of case, and there have been three**
 6 **things, I think, that have really changed the way that**
 7 **we approach them.**
 8 **First was the merits-based approach of how**
 9 **prosecutors make their decisions. The second is that**
 10 **the current director and the previous director have been**
 11 **very keen that this type of offending should be looked**
 12 **at by specially trained lawyers. And the third thing,**
 13 **I think, that is really significant is that now we have**
 14 **got a victim's right to review policy, which enables**
 15 **a victim -- I use the word "victim" in a non-pejorative**
 16 **sense, because it is in our policy. If a prosecutor**
 17 **makes a decision not to charge, there is a further stage**
 18 **where it can be looked at by another independent**
 19 **prosecutor. I think we have moved on -- those three**
 20 **things show that we have moved on considerably from**
 21 **where perhaps we were 20 years ago.**
 22 Q. I think I'm right in saying that nondecisions are even
 23 judicially reviewable?
 24 **A. Yes.**
 25 Q. And have been reviewed?

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1 **A. They have been. And are frequently reviewed.**
 2 Q. I don't want to go through each of the changes in the
 3 code. I think we can both agree that things have moved
 4 on in the general direction which you have generally
 5 agreed with, and your statement sets out at great length
 6 each and every change, or material change, in the code
 7 over the years?
 8 **A. We have modernised the language and made it, I think,**
 9 **easier to understand, if I can put it that way.**
 10 Q. At your page 42, there is, if I may say so, Mr McGill,
 11 a breathtaking series of different guidance and policy
 12 documents, which I dare say crown prosecutors have had
 13 to struggle with over the years --
 14 **A. Yes.**
 15 Q. -- in the field of sexual offending?
 16 **A. Including this crown prosecutor, Mr Altman.**
 17 Q. I'm sure. But it is all there, chapter and verse, if it
 18 helps anybody who wishes to understand what there is
 19 available to crown prosecutors and those who prosecute
 20 on behalf of the Crown Prosecution Service?
 21 **A. Yes, they are available for counsel as well.**
 22 Q. Absolutely, to give guidance, hopefully, I suppose, to
 23 make a proper, unchallengeable decision?
 24 **A. Yes.**
 25 Q. If we take all of the facts known to us and we make the

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1 decision in light of current policy guidance, Code for
 2 Crown Prosecutors and law on the facts as were presented
 3 to Sir Norman Skelhorn in March 1970, what do you think
 4 the likely decision would be today: to prosecute or not?
 5 **A. I think the likely decision today would be that Mr Smith**
 6 **would be prosecuted.**
 7 MR ALTMAN: Thank you very much, Mr McGill. That's all
 8 I want to ask you. As the chair indicated before we
 9 began this afternoon, there will be a few questions from
 10 Ms Hoyano and then the panel want to ask you a question
 11 or two, I dare say.
 12 Examination by MS HOYANO
 13 MS HOYANO: Thank you, chair. I think I can reduce
 14 substantially the number of questions that you kindly
 15 gave me permission to ask, given the testimony of
 16 the witness already.
 17 Just looking at the decision not to prosecute
 18 in March 1970, and accepting that of course this was
 19 before the CPS had been established, even so, in 1970,
 20 the Director of Public Prosecutions was considered as
 21 holding a public office; is that not so?
 22 **A. I have tried to find out. Certainly today we are**
 23 **ministers of justice and consider ourselves --**
 24 Q. Yes.
 25 **A. I have seen nothing to suggest that the DPP in 1970**

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1 **would be anything different.**
 2 Q. Yes. I have seen many dicta in cases before that
 3 exactly referring to the prosecutor as being a minister
 4 of justice. As a minister of justice, he or she would
 5 be required to be politically impartial?
 6 **A. Yes.**
 7 Q. I appreciate this is a hypothetical: would it be
 8 inappropriate for a Director of Public Prosecutions to
 9 receive a communication from a Member of Parliament on
 10 behalf of a constituent regarding an ongoing
 11 investigation?
 12 **A. No, I don't think it would be inappropriate. I don't**
 13 **know what happened in 1970.**
 14 Q. I don't think any of us know, yes.
 15 **A. No, I appreciate that. It is not uncommon to get such**
 16 **letters today. I do receive them. We have to be**
 17 **careful about how we reply to them because we can't deal**
 18 **with the evidence, but we do get letters making**
 19 **representations on behalf of constituents from MPs.**
 20 Q. That's a revelation to me, so thank you for telling me.
 21 Could I ask about the Home Secretary because the
 22 Ministry of Justice and the Crown Prosecution Services
 23 are, I believe, under the umbrella of
 24 the Home Secretary, in terms of accountability to
 25 parliament?

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1 **A. No, that's not right.**
 2 Q. Okay. All right.
 3 **A. The Crown Prosecution Service is an independent**
 4 **prosecution service. It is superintended by the**
 5 **Attorney General and the Attorney General accounts to**
 6 **parliament for the Crown Prosecution Service. But the**
 7 **DPP is an entirely independent prosecutor.**
 8 Q. Thank you for correcting me on that. Would it,
 9 nonetheless, with the responsibilities that the
 10 Home Secretary has for the administration of justice
 11 overall, be inappropriate for a Director of Public
 12 Prosecutions to receive representations from the
 13 Home Secretary in relation to an ongoing investigation?
 14 **A. It's very difficult to answer that question. Certainly**
 15 **you wouldn't expect a senior politician to seek to**
 16 **influence the Director of Public Prosecutions. I'm**
 17 **confident that, even if they did, they would not be able**
 18 **to do so. The director is entirely independent.**
 19 Q. You are speaking from your experience today?
 20 **A. I can only speak from my --**
 21 Q. Indeed.
 22 **A. -- experience today.**
 23 Q. Thank you.
 24 Now I would like to move to the advice of the Branch
 25 Crown Prosecutor of 17 June 1998. I wonder if that

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1 might just be available so we can bring it up on the
 2 screen again.
 3 There is no record of the meeting with Cyril Smith
 4 in which the actual -- what happened in the meeting
 5 regarding the precise wording of the assurance that was
 6 given him in 1970, as Mr Altman has noted.
 7 MR ALTMAN: GMP001120_011.
 8 MS HOYANO: I'm not there at the moment. Maybe I can
 9 continue while we are looking for it.
 10 Do you know what the Branch Crown Prosecutor
 11 considered the "assurance in regard to this matter"
 12 meant? Was that in relation to Cambridge House or in
 13 regard to the complainants of 1969.
 14 **A. I'm making a conclusion based on the document. My**
 15 **conclusion is that the reviewing lawyer was just looking**
 16 **at the allegations that he was considering.**
 17 Q. It is the breadth of the assurance that I think I am
 18 asking about. Perhaps I could test it by
 19 a hypothetical. What would the Crown Prosecution
 20 Service have done if one of the original complainants
 21 had made a more serious complaint, for example, of rape
 22 against Cyril Smith? Would the assurance that had been
 23 given to Cyril Smith in March or April 1970 be treated
 24 by the CPS as binding?
 25 **A. Can I just ask a question of clarification?**

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1 **I appreciate I'm not supposed to ask questions. Do you**
 2 **mean a further allegation that built on the original**
 3 **allegation that was made in the 1960s?**
 4 Q. Yes, one of the original complainants. In other words,
 5 it moves from indecent assault to perhaps another
 6 allegation by the same complainant against Cyril Smith
 7 that is much more serious?
 8 **A. I think it would be considered in the way that the Crown**
 9 **Prosecution Service would consider any new allegation.**
 10 **It would be capable, I suppose, of amounting to further**
 11 **evidence, because it would be based on a different set**
 12 **of facts. It would have its own difficulties in regard**
 13 **to credibility, and there would have to be questions**
 14 **raised about that. But it could constitute something**
 15 **that we could look at anew, yes.**
 16 Q. Now, I would like to turn to the legitimate expectation
 17 doctrine. If I could take you, please, to paragraph 92
 18 of your witness statement.
 19 **A. Thank you, yes.**
 20 Q. You say:
 21 "He suggested that ..."
 22 That is to say the Branch Crown Prosecutor:
 23 "... 'special circumstances' that might justify
 24 instituting proceedings to maintain public confidence in
 25 the criminal justice system did not override Smith's

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1 legitimate expectation."
 2 I am going to take this question in stages; all
 3 right? In considering this legitimate expectations
 4 doctrine, is there any evidence that the Branch Crown
 5 Prosecutor considered any countervailing factors or
 6 arguments that there were special circumstances
 7 justifying overriding that doctrine? I've got three
 8 examples to give you, but there may be others as well.
 9 First of all, the expose in 1979 by the Rochdale
 10 Alternative Press and Private Eye suggesting that
 11 a prominent politician was being protected from being
 12 prosecuted for sexual offences. Is there any evidence
 13 that he considered that?
 14 **A. The only document I have seen is the reviewing lawyer's**
 15 **note, and there is no reference to it in the note.**
 16 Q. Would you consider that that would be a relevant
 17 countervailing circumstance to be considered?
 18 **A. The crown prosecutor, in making his decision, is**
 19 **required to look at the evidence that's submitted to**
 20 **him. He applies the code. The crown prosecutor asks**
 21 **himself, is there sufficient evidence and is it in the**
 22 **public interest?**
 23 **Of course he has to put his decision in context, and**
 24 **there may be surrounding information that enables him to**
 25 **do that. But in making his decision, he makes his**

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1 **decision based on the evidence, and nothing else.**
 2 Q. Mr Altman put to you, what really does it mean when
 3 considering the integrity of the criminal justice
 4 system. Would you agree with me to this extent, that
 5 there were issues alive in the public arena as to the
 6 integrity of the criminal justice system right from
 7 1979?
 8 **A. I can't answer that question because I don't know what**
 9 **the reviewing lawyer knew. He didn't refer to it in his**
 10 **advice. So I can't speculate as to what he said.**
 11 **I have seen the article. There is a Private Eye**
 12 **article that I have been referred to which shows that**
 13 **there were some concerns. How far those concerns had**
 14 **got, I really don't know.**
 15 Q. Fair enough. My second possible countervailing
 16 circumstance is what was clear on the police file, which
 17 was the attempts by Cyril Smith and his political allies
 18 to intimidate witnesses and to obstruct the police in
 19 their investigation, and that is documented in the
 20 police file which the reviewing lawyer had. Would that
 21 be a relevant countervailing consideration?
 22 **A. I think we need to be careful. The police file may not**
 23 **be the file that the prosecutor gets. The police will**
 24 **have their own file of their investigation. When they**
 25 **seek advice from the Crown Prosecution Service, they**

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1 **will send what they call an evidential file and ask us**
 2 **to make a decision on the evidence. It doesn't**
 3 **necessarily mean that the prosecutor will have**
 4 **everything or will know everything that the police know**
 5 **in their investigation file.**
 6 Q. I wonder if my friend, the counsel to the inquiry, could
 7 assist me on this, because I think I, at least, have
 8 been proceeding on the assumption that the original
 9 police investigation file was also sent back to the CPS
 10 in 1998 or 1999. Do we have any information on that?
 11 MR ALTMAN: You carry on.
 12 MS HOYANO: Yes, fine, thank you.
 13 Thirdly, the other countervailing consideration is
 14 actually a dictum by Lord Justice Rose in Townsend in
 15 1997 in talking about promises not to prosecute in which
 16 his Lordship says:
 17 "A breach of promise not to prosecute did not
 18 necessarily and ipso facto give rise to abuse."
 19 I think we can put in square brackets there "of
 20 process". Is there any evidence on the file that the
 21 Branch Crown Prosecutor considered that aspect? In
 22 other words, the mere assurance itself did not -- in and
 23 of itself would not be sufficient to constitute breach
 24 of -- sorry, abuse of process?
 25 **A. There is nothing in this document to suggest that,**

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1 **although it was pretty well known that you have to --**
 2 **just because an abuse -- just because a promise had been**
 3 **made, it didn't necessarily mean there would be**
 4 **a successful abuse of process. Each case had to be**
 5 **looked at on its own particular facts.**
 6 Q. Okay. Would you agree with me that, on the face of
 7 the advice, there is no consideration of any
 8 countervailing considerations that would suggest that
 9 public confidence in the criminal justice system could
 10 be damaged by a refusal to prosecute Cyril Smith?
 11 **A. Certainly there doesn't seem to be -- that doesn't seem**
 12 **to have been developed in the reviewing lawyer's advice,**
 13 **absolutely.**
 14 Q. Thank you. I appreciate that's as far as you can go,
 15 Mr McGill.
 16 **A. Yes.**
 17 Q. Just referring you still to that same paragraph, 92,
 18 isn't it the case that the Branch Crown Prosecutor was
 19 simply wrong in concluding that the legitimate
 20 expectation doctrine would bar, and should bar, the
 21 prosecution in the absence of any clear evidence of
 22 prejudice to Mr Smith and without considering any
 23 countervailing special circumstances and not sending the
 24 case to a trial judge for the arguments to be tested?
 25 **A. I have thought about that quite carefully. I don't**

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1 **think -- I think this was a finely balanced decision,**
 2 **and I don't think, based on the law on abuse of process**
 3 **as it was in the 1990s, where a lot more credence was**
 4 **given to applications of abuse of process, particularly**
 5 **where there had been a legitimate expectation, and**
 6 **I have set out in my statement the authorities, and**
 7 **a lot more credence was given to delay in bringing**
 8 **proceedings. Having looked at the authorities, I don't**
 9 **think I can say that the reviewing lawyer was wrong,**
 10 **particularly when you take into account -- when we look**
 11 **at abuse of process today, we are looking specifically**
 12 **at the prejudice to the defendant.**
 13 **Back in the 1990s, and Mr Altman stated this when he**
 14 **asked me a question, there was much more emphasis on**
 15 **whether it would be fair in all the circumstances to try**
 16 **the defendant, and that didn't necessarily mean that you**
 17 **had to show prejudice. So the law on abuse of process**
 18 **was much easier to satisfy in 1998 than it was in 2017.**
 19 **So I don't think the reviewing -- I wouldn't classify**
 20 **the reviewing lawyer's decision in 1998 as wrong.**
 21 Q. I just have three more questions, so I will be brief.
 22 In paragraph 10 of the advice of 1999, if we could
 23 just go to that -- I'm sorry, I don't have the -- it is
 24 core document -- GMP001129, page 58. I can just read it
 25 to you. It is brief. The reviewing lawyer says -- he

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1 speculates:
 2 "... the defence would labour the political aspects
 3 of the case ..."
 4 Given what you have just said about how the
 5 prosecutor has to focus solely on the Code Test, the
 6 Full Code Test, was this a relevant consideration in
 7 a decision not to prosecute a person prominent in public
 8 life that there would be political debate potentially in
 9 the trial?
 10 **A. I don't read that as being a rationale for not**
 11 **prosecuting. I think a prosecutor looking at a case**
 12 **such as this has to understand the context in which the**
 13 **allegations are made, because what a prosecutor has to**
 14 **do in making a decision is actually ask themselves, "If**
 15 **I prosecute this, if I put myself in the place of**
 16 **the defence, how would the defence seek to defend**
 17 **this?", and I think a prosecutor has to think through**
 18 **various options in making a decision.**
 19 **So I think it is quite reasonable for a prosecutor**
 20 **to ask themselves the context in which the allegations**
 21 **are made, but actually not to take those -- that context**
 22 **into account in making the decision because the decision**
 23 **is based solely on the evidence.**
 24 Q. I'm afraid I'm a bit lost on that answer, because you
 25 are saying they should take it into account but not that

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1 they should apply -- make a decision on the evidence?
 2 **A. No, I think you have to -- you can only make the Code**
 3 **Test on the evidence that's provided to you. But,**
 4 **actually, you have to think through, if I charge this**
 5 **case, how am I ultimately going to prove it and how**
 6 **might it be defended? And the prosecutor has to come up**
 7 **with a case strategy as to how they might deal with**
 8 **legitimate forms of cross-examination that the defence**
 9 **may -- may -- undertake in a trial. We exist in an**
 10 **adversarial system. If a case like this is charged, you**
 11 **can expect it to be, I will say, robustly defended. And**
 12 **a prosecutor, when charging, has to have a strategy as**
 13 **to how -- what might arise and, if it arises, how they**
 14 **might deal with it.**
 15 Q. I agree that one has to proactively build the case, and
 16 develop the case for presentation in court, but you have
 17 told us that the decision to prosecute should be based
 18 only on the evidence, so why would it be relevant that
 19 there will be political controversy in relation -- and
 20 political matters raised in court? Doesn't that come in
 21 at a later stage?
 22 **A. No, I don't think it does. I think if you were charging**
 23 **this case against an individual like this, you would**
 24 **know that -- well, you would suspect that one of**
 25 **the defences that might be made is that this prosecution**

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1 **is politically motivated, or the allegations are**
 2 **politically motivated, and you might want, as**
 3 **a prosecutor, to think, well, if that is what is going**
 4 **to be said, how might I deal with that?**
 5 MS HOYANO: Thank you. Those are all my questions. Thank
 6 you.
 7 THE CHAIR: Thank you, Ms Hoyano.
 8 Sir Malcolm, do you have a couple of questions?
 9 Questions from THE PANEL
 10 PROF SIR MALCOLM EVANS: Thank you, Mr McGill. We have
 11 a small number of questions. The first relates to the
 12 1970 DPP decision, and it is a simple enough question:
 13 what is the evidence that shows that Sir Norman Skelhorn
 14 was the actual decision maker, given that the signature
 15 on the letters do not appear to be his?
 16 **A. It is on DPP notepaper. I am not an expert in**
 17 **handwriting. I don't know whether it is his handwriting**
 18 **or not. I just go on the fact that it is on DPP**
 19 **notepaper.**
 20 PROF SIR MALCOLM EVANS: Thank you. From just a cursory
 21 attempt to read the signature, as a layperson reading
 22 a signature on a document, it appears to say something
 23 like "Hutchins" or "Hutchinson" who appears to have
 24 signed both the letter of acknowledgement of receipt of
 25 the file as well as the letter of decision. Has anyone

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1 any information or knowledge as to who such a person
 2 might be or whether there was such a person at the time?
 3 **A. I'm sorry, sir, I have no knowledge. We haven't been**
 4 **able to find out.**
 5 PROF SIR MALCOLM EVANS: Thank you. Finally, and
 6 I appreciate that you may not have much to say on this,
 7 but I would like to ask the question of you anyway, in
 8 1979, if we turn to the communication from the DPP press
 9 office concerning the 1970 decision, a rather striking
 10 phrase was used, that of not being able to confirm or
 11 deny. Do you have any thoughts as to what might be
 12 meant by it being used in this context?
 13 **A. I recognise it as a phrase that is used. I don't know**
 14 **why it would be used in this context. It is usually**
 15 **used when we don't want to confirm or deny whether we**
 16 **have done something.**
 17 PROF SIR MALCOLM EVANS: Thank you very much.
 18 MR ALTMAN: Are there any more questions?
 19 THE CHAIR: Yes. Mr Frank?
 20 MR FRANK: Thank you. You were asked if you could provide
 21 information relating to the role of the DPP prior to
 22 1986, which is why I am asking you this question, even
 23 though I know it is before your time and you won't have
 24 any personal knowledge of it particularly. Can I make
 25 it clear that I am not asking you, if your answer is in

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1 the affirmative, to name any names. In fact, I am
 2 inviting you not to do so if the answer is affirmative.
 3 Does that make sense?
 4 **A. Thank you, yes.**
 5 MR FRANK: Can I ask you, because you have told us the
 6 society would be very different in the 1970s and it
 7 wouldn't take a genius to know that. Are you aware from
 8 your researches whether there were any other cases in
 9 the 1970s where influential political figures were not
 10 prosecuted on the advice of Sir Norman Skelhorn, who was
 11 the then Director of Public Prosecutions? Are you aware
 12 of whether there were any other such cases during that
 13 time?
 14 **A. I am not aware. I have no information on that.**
 15 MR FRANK: Thank you very much.
 16 THE CHAIR: Thank you. Ms Sharpling?
 17 MS SHARPLING: Thank you. Mr McGill, you have said it would
 18 be difficult to imagine a press policy that promoted
 19 failures to be truthful, in answer to Mr Altman's
 20 question, but I want to ask you, have the standards of
 21 openness changed over the years in relation to the
 22 press? We have heard today, for example, of the CPS
 23 issuing public statements. Was that the case perhaps
 24 10, 20, 30, 40 years ago?
 25 **A. No, it's changed an awful lot over the time that I have**

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<p>1 been a prosecutor. When I joined in 1991, actually, we 2 were pretty much encouraged not to talk to the press at 3 all, and things have changed considerably, and we are 4 much more open, transparent and prepared to discuss our 5 decision making in 2017 than we were back when I joined 6 in 1991. It has been a sea change. 7 MS SHARPLING: I'm conscious that you weren't around at the 8 relevant time of the decision in the 1970s, but do you 9 have any knowledge or does your research tend to suggest 10 that the policy of openness with the press was one that 11 was in force or not in force at the time? 12 A. I have no information about that at all. 13 MS SHARPLING: Thank you. 14 THE CHAIR: Thank you very much, Mr McGill. 15 MR ALTMAN: Chair, before Mr McGill goes, all I was going to 16 do is point out that there is a document dated 17 21 May 1998, and we don't need to bring it up, but the 18 reference is GMP001129 at page 1, which was the file 19 that went from Detective Superintendent Stelfox on 20 21 May 1998 to the Branch Crown Prosecutor for him to 21 give the advice that culminated in the document of 22 17 June 1998 which we looked at. What that tends to 23 indicate, where he says "Attached is the file of 24 evidence we discussed the other day", and Stelfox was of 25 the Greater Manchester Police, that if Lancashire</p> <p style="text-align: center;">Page 169</p>	<p>1 2 Examination by MR ALTMAN17 3 4 MR TIMOTHY JACQUES (sworn)31 5 6 Examination by MR ALTMAN31 7 8 Questions from THE PANEL96 9 10 Examination by MS HOYANO98 11 12 MR GREGOR ANTHONY MCGILL (sworn)101 13 14 Examination by MR ALTMAN101 15 16 Examination by MS HOYANO154 17 18 Questions from THE PANEL166 19 20 21 22 23 24 25</p> <p style="text-align: center;">Page 171</p>
<p>1 Constabulary had the file, they must have passed it or 2 it went to or became encompassed by Greater Manchester 3 Police. They simply sent it to the CPS, and that 4 appears to be the means by which the CPS came into 5 possession of the file. That's all I have to say. 6 THE CHAIR: Thank you, Mr Altman. Thank you again, 7 Mr McGill. You have been here for quite a while. 8 Thanks for your appearance. 9 A. Thank you. 10 THE CHAIR: We will reconvene tomorrow at 10.30 am. Thank 11 you. 12 (4.33 pm) 13 (The hearing was adjourned to 14 Thursday, 12 October 2017 at 10.30 am) 15 16 17 I N D E X 18 19 Opening remarks by MR ALTMAN1 20 21 WITNESS A4 (affirmed)3 22 23 Examination by MR ALTMAN3 24 25 WITNESS A2 (affirmed)17</p> <p style="text-align: center;">Page 170</p>	

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