

<p>1 Thursday, 14 February 2019 2 (10.00 am) 3 THE CHAIR: Good morning, everyone, and welcome to day 4 of 4 this public hearing. In particular, welcome to Mr Frank 5 for his return. 6 Ms Hill? 7 MS HILL: Good morning, chair. I'll call, please, 8 Chief Constable Michelle Skeer. 9 MS MICHELLE SKEER (sworn) 10 Examination by MS HILL 11 MS HILL: Good morning, Chief Constable Skeer. 12 A. Good morning. 13 Q. You have provided the inquiry with two witness 14 statements, dated 21 January and 8 February this year, 15 respectively OHY006993 and OHY006999, which I formally 16 adduce, please. 17 You are Chief Constable Michelle Skeer currently 18 serving with Cumbria Constabulary. You are the current 19 NPCC lead for the management of sexual offenders and 20 violent offenders, and it is in that capacity that you 21 are replying to the request from the inquiry to provide 22 evidence; is that right? 23 A. Yes, indeed. 24 Q. Give the panel, please, a brief overview of your own 25 background.</p> <p style="text-align: center;">Page 1</p>	<p>1 A. As you said, I'm chief constable of Cumbria. My 2 background has been predominantly in criminal 3 investigation, but I've been the NPCC lead for this area 4 of business since 2011. But my background is 5 predominantly crime and the investigation of crime. 6 Q. To be clear, you have adopted some witness evidence 7 given by police Sergeant Gill Cherry in her evidence 8 with reference OHY004929, and some of the information 9 that she has obtained was by way of contacting, I think, 10 a previous staff officer of yourself. But you are 11 effectively giving evidence from all of those pools of 12 material. Is that fair? 13 A. Yes, that's fair. 14 Q. Can I ask you, please, to deal with some general matters 15 by way of the Civil Orders regime. You have explained 16 in your witness statement the way in which you 17 understand the Civil Orders regime operates, and you 18 provided a certain amount of material to the inquiry 19 that illustrates the training that took place and the 20 guidance that was given to various police officers. 21 Can I ask you to bring up, please, exhibit GCCC1, 22 which is OHY004926. This, I think, is material that was 23 provided to us originally through the statement from 24 PS Cherry. 25 If we can go to the internal page 2, please, this is</p> <p style="text-align: center;">Page 2</p>
<p>1 an email that's referred to in Sergeant Cherry's 2 statement at paragraph 14, a document that's referred to 3 there. The evidence she has given is that the orders 4 went live on Sunday, 8 March 2015. An email was sent 5 with a letter from ACPO dated 6 March, a College of 6 Policing briefing sheet and a template application. 7 I think what this email does is reflect the information 8 being cascaded to police forces; is that right? 9 A. Yes, that's correct. 10 Q. You can see essentially, if we just scroll through it 11 relatively briefly, the email refers to the orders going 12 live on 8 March. If we scroll down, please -- we don't 13 need to see all those names, just to scroll down to the 14 content for these purposes. Sorry, it's on the next 15 page, I think, please. 16 You can see references there to 8 March, and then if 17 we can scroll briefly through, the following enclosures 18 that were sent are the ACPO guidance document, ACPO as 19 it was then. I think that's signed by you. This is you 20 writing in your capacity by then as national policing 21 lead for the management of sexual offenders and violent 22 offenders and drawing forces' attention to the new 23 orders and the guidelines; is that right? 24 A. Yes, that's correct. 25 Q. We can just, for completeness, scroll through, please,</p> <p style="text-align: center;">Page 3</p>	<p>1 to see that there is a briefing sheet that begins at 2 internal page 6 that runs through several different 3 pages, and it includes, if we continue, please, to 4 internal page 10, a template -- the panel might just 5 want to look at this -- for how to apply for one of 6 these orders, both interim and then a full SHPO, Sexual 7 Harm Prevention Order, and then a similar document, 8 please, at internal page 12, for an interim or a full 9 Sexual Risk Order, SRO. Is that right? 10 A. Yes, that's correct. 11 Q. I think further information was circulated to forces 12 in April 2015. Perhaps just bring up, if I may, 13 OHY004924_002. What that enclosed, if you scroll down, 14 please, to the content, was a spreadsheet for recording 15 SROs that were applied for and granted or not. I think 16 that's what the data capture was that was sought. There 17 was a different kind of updated form for notifying SROs. 18 If you go, please, to internal page 5. Just help us 19 understand this form, please, chief constable. What was 20 this intended to do? 21 A. It was -- well, it was around the SRO, because I was 22 introducing new Civil Orders. We were simplifying the 23 Civil Orders. But obviously the SRO is where there is 24 no conviction, and this was the area that we wanted to 25 monitor to see if they were getting through the courts,</p> <p style="text-align: center;">Page 4</p>

<p>1 the court process, and what the takeup was and if they 2 were being granted, and if they weren't being granted, 3 perhaps the reason for that non-granting of the order. 4 Because in the previous Civil Order regime, there'd been 5 very few RSHOs which preceded the SRO. So the whole 6 idea of us collating -- it at that time was on 7 a four-monthly basis, we now collate them on a quarterly 8 basis -- is so that we can keep an eye on how the SROs 9 were progressing. 10 Q. Perhaps that relates also to internal page 4, please. 11 Can I go back to internal page 4. I think this is the 12 spreadsheet that was referred to. 13 A. Yes. 14 Q. Is that what you are talking about? 15 A. Yes. 16 Q. It is quite hard to read, but essentially what forces 17 were being asked to do is complete the fact of an 18 application having been made, and then if you look into 19 internal column G -- it is pretty hard to see -- they 20 were being asked to record whether the application was 21 successful or not. 22 A. That's correct. 23 Q. Then the form that we were looking at, which is internal 24 page 5, is a form to be completed I think when a person 25 had been made subject to an SRO.</p> <p style="text-align: center;">Page 5</p>	<p>1 A. Yes. 2 Q. This form would presumably help with the onward 3 monitoring of that; is that right? 4 A. Yes, that's correct. 5 Q. The pack also includes, at internal page 8, some further 6 training material, I think some PowerPoint information, 7 about Sexual Risk Orders; is that right? 8 A. Yes, that's correct. It was just bringing -- 9 Q. And SHPOs, forgive me, both. 10 A. Yes. It was bringing officers up to -- that they knew 11 what the changes were and actually how they were going 12 to work. So they were given that information as we went 13 live with the new system. 14 Q. I think for the purposes of data recording, perhaps the 15 panel can be taken to internal page 10. ViSOR, I think 16 we heard a bit about yesterday, is the database on which 17 some of this data is captured; is that right? 18 A. Yes, that's correct. 19 Q. What is being said by the slides here is, what you can 20 do on ViSOR now: 21 "Add SHPOs and SROs (interim and full) 22 "Add conditions/requirements to the above Orders (by 23 using 'User Defined Requirement')." 24 Does this permit individual forces to record whether 25 there is a foreign travel condition on one of these</p> <p style="text-align: center;">Page 6</p>
<p>1 orders? 2 A. Yes, it should be recorded on the offender, the 3 registered sex offenders, on their personal record 4 within ViSOR. There is restrictions with ViSOR, which 5 I'm sure you have probably already heard within the 6 inquiry because it is principally a case management 7 tool, and so in terms of the statistics, this was about 8 setting out for officers how they could record within 9 ViSOR. 10 Q. But what it does mean is that alongside the offender's 11 name, it would indicate whether he or she was restricted 12 from foreign travel? 13 A. Yes. 14 Q. Is there anything else in the slides that you feel the 15 need to draw to the panel's attention? 16 A. I don't think so. It was just around actually raising 17 the awareness with officers and the forces because we 18 were obviously making a significant change in terms of 19 the Civil Orders and making sure that they knew where 20 they were recording, how they could apply and where they 21 were recording them within ViSOR. 22 Q. Thank you. 23 I will take that down, please, and pull up 24 briefly -- I can take this evidence, I think -- 25 OHY004929_005. That's Sergeant Cherry's witness</p> <p style="text-align: center;">Page 7</p>	<p>1 statement where she summarised some further training 2 material. 3 Scroll in, please, on paragraphs 15 to 17. 15 deals 4 with the slides and documents we have just looked at. 5 I think there was further training in April 2016, your 6 exhibit GCC3 deals with that; a CPD event in July, 7 advertised in April. 8 There was further communication, I think, around 9 your exhibit GCC4. If we can scroll in on paragraph 17, 10 please. What does that relate to? 11 A. Paragraph 17, it was around -- we sent emails out 12 around -- and the -- which had a copy of the Home Office 13 guidance, part 2, attached to it, and then briefing 14 sheets were attached as GCC4. I'll just get it up on 15 the -- 16 Q. Perhaps we can just bring up the briefing sheet briefly 17 to show the chair and panel the sort of thing you are 18 talking about. It is OHY006401_004. 19 I think it is a sort of straightforward sheet about 20 how to manage SROs, and then on the following page, 21 there's more of a flowchart-type presentation of 22 the information; is that right? 23 A. Yes. It was that process chart as to how people could 24 apply and what happened, whether or not it was granted 25 or not granted.</p> <p style="text-align: center;">Page 8</p>

<p>1 Q. Then I think some further training material, if you go 2 back, please, to Sergeant Cherry's witness statement, 3 OHY004929_006, and scroll in on 18 to 20 at the top. 4 Just for completeness, you have provided, through her 5 witness statement, some further slides that are given as 6 part of the training by the College of Policing for 7 offender managers on the MOSOVO course, and then there 8 was information given at the presentation, I think, in 9 2017 about risk management in this area. Is that 10 broadly right?</p> <p>11 A. Yes, that's correct. So the MOSOVO course is the course 12 that all offender managers have to attend, and then we 13 run national conferences in conjunction obviously with 14 the CPD event that you have already alluded to, and it 15 was about raising awareness on Civil Orders and actually 16 sharing best practice across.</p> <p>17 Q. I think we will just perhaps bring up the most recent 18 ones of those, which are the September 2017 slides at 19 your GCC6, which is OHY004922_002, please. This was at 20 the conference in September 2017, the national MOSOVO 21 conference.</p> <p>22 I think if you just scroll through, you can see on 23 internal page 3, there's discussion around Notification 24 Orders. But then we get, at internal page 5, to Sexual 25 Risk Orders.</p> <p style="text-align: center;">Page 9</p>	<p>1 Increasing use pre-charge and use of interim orders. 2 Tell us a little bit about those two principles, please.</p> <p>3 A. Yes, this was from the Metropolitan Police, who utilise 4 SROs as a way of additional management of offenders 5 whilst they were undergoing investigation. Just another 6 means of actually safeguarding until we -- the 7 investigation was complete and we might have a full 8 Civil Order.</p> <p>9 Q. Then what's being posited here is the use of interim 10 orders --</p> <p>11 A. Yes.</p> <p>12 Q. -- alongside either bail or at the end of bail, I think, 13 those interim orders being replaced then with a SHPO if 14 somebody is convicted with similar conditions, and if 15 somebody is not convicted, a full SRO; is that right?</p> <p>16 A. Yes, that's correct. It's just to increase 17 safeguarding.</p> <p>18 Q. In fact, if we go over to internal page 6, please, the 19 benefits of using the SRO in that way are set out: 20 "Effective conditions to reduce risk with meaningful 21 sanctions. 22 "Notification 'lite' requirements. 23 "Judicial oversight of process. 24 "Can be progressed to full orders even if criminal 25 investigation cannot proceed."</p> <p style="text-align: center;">Page 10</p>
<p>1 Help us, if you can, please, with the internal 2 page 7 bullet points that set out the challenges of 3 the Sexual Risk Order process. I think this is perhaps 4 the challenges of using it in an interim way, is it?</p> <p>5 A. Yes, it is, in terms of just managing it through, but 6 the Metropolitan Police were using it as a way of -- you 7 know, the additional safeguarding. So they have just 8 highlighted the challenges of actually doing that 9 interim hearing, you know, potential costs of obtaining 10 Civil Orders, and then management of the cases of ViSOR, 11 so the volume of cases because you're having interim 12 orders alongside full orders.</p> <p>13 Q. The practical issue I think this raises is it 14 effectively requires early disclosure of the prosecution 15 case?</p> <p>16 A. Yes.</p> <p>17 Q. Is there anything else on the topic of that background 18 and training material that you would like to draw to the 19 panel's attention?</p> <p>20 A. No. I think you've highlighted it sufficiently. 21 There's been a range of -- whether it's MOSOVO 22 conference, whether it's CPD, whether it's briefing 23 sheets or whether it's the formalised training to 24 actually raise, I suppose, knowledge of Civil Orders 25 across nationally, especially when we moved from the old</p> <p style="text-align: center;">Page 11</p>	<p>1 system to the new system.</p> <p>2 Q. Just some further points of detail about how the orders 3 operate that you give in your first witness statement, 4 please.</p> <p>5 Could I bring up, please, OHY006993_002 and scroll 6 in, please, on paragraph 5.</p> <p>7 We heard a little bit about the standard of proof 8 yesterday, chief constable, but just help the panel 9 understand what you are saying here about the McCann 10 case and its relevance.</p> <p>11 A. Well, Civil Orders have obviously got a criminal 12 standard of proof, so it's looking at the necessity, 13 proportionality and the relevance of the conditions that 14 you're asking for as part of the Civil Orders. So it 15 can't be a blanket approach to the Civil Orders because 16 of the standard of proof that's required, so it's got to 17 be bespoke to the offender that you are protecting -- 18 there's got to be a sound rationale as to why that is 19 protecting a member of the public.</p> <p>20 Q. So there are two elements I think you're drawing out 21 here. One is that the behaviour relied upon has to be 22 proved to the criminal standard.</p> <p>23 A. Yes.</p> <p>24 Q. And, secondly, that, because of a human rights context, 25 necessity and proportionality need to be made out.</p> <p style="text-align: center;">Page 12</p>

1 **A. Yes, that's absolutely right.**
 2 Q. Just generally -- I don't know if you can help with
 3 this -- we heard some evidence yesterday from Mr Jones
 4 that there had been cases where, if it wasn't possible
 5 to link the offending with travel, then it was difficult
 6 to obtain a travel restriction, and specifically he
 7 highlighted two cases where the travel restriction was
 8 limited to one country. So is that sort of
 9 proportionality approach what you have experience of, or
 10 do you want to comment on those two particular points?
 11 **A. That's absolutely right, how you have articulated it.**
 12 **Because it is a criminal standard of proof, you've got**
 13 **to have some information, intelligence, to actually**
 14 **apply for that part of the order. So if it was**
 15 **a foreign travel element, but actually there was no**
 16 **intelligence or information to say that that offender**
 17 **had been abroad or was intending to travel abroad, it**
 18 **would be very difficult to get a foreign travel element**
 19 **on that Civil Order because of the proportionality and**
 20 **the necessity. You've got to prove that it's reducing**
 21 **harm. So if there's no travel element, it becomes very,**
 22 **very difficult, and certainly in terms of actually**
 23 **restricting to certain countries of travel as well.**
 24 Q. So do you share that that's an expectation that you
 25 would have? If you were to apply for a Foreign Travel

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1 **the overall management of registered sex offenders. So**
 2 **we have notification requirements, we have very detailed**
 3 **risk assessment tools, both static and dynamic. We also**
 4 **link in two other alerting systems, whether that's**
 5 **Schengen 2 at the moment in time, depending what happens**
 6 **on 29 March, but also Green Notice, Diffusion Notice,**
 7 **et cetera.**
 8 **So it is about actually there's wider management of**
 9 **registered sex offenders apart from Civil Orders.**
 10 **Civil Orders is a very important part, but it's just one**
 11 **tool in the toolbox for that overall management.**
 12 Q. I'd like to move on now to some statistics, please.
 13 Could I ask you to pull up, please, Sergeant Cherry's
 14 statement, please, OHY004929_003, just to give the panel
 15 some statistics here.
 16 Interrogation of the ViSOR database, if we scroll in
 17 at the top of this page, please, revealed that, looking
 18 at the previous orders, the number of Foreign Travel
 19 Orders made since 1 August 2008 was 81. That's the
 20 number at the top of the page. Is that right?
 21 **A. Yes, that's correct.**
 22 Q. So that ran from 1 August 2008 until the new regime came
 23 in in 2015.
 24 **A. Yes, that's correct.**
 25 Q. Because then FTOs expired as a possibility?

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1 Order that limited someone's movements to every country
 2 in the world, for example, how easy do you think that
 3 would be to obtain?
 4 **A. I think that, under the current legislation, that would**
 5 **be very difficult because of ECHR, because you're having**
 6 **to be proportionate and we've got to show that it's**
 7 **necessary to protect -- you know, to protect children**
 8 **and vulnerable people from harm.**
 9 Q. So insofar as foreign travel restrictions are obtained,
 10 your understanding, very broadly, is that it's more
 11 typical that they are limited to particular countries;
 12 is that right?
 13 **A. Yes, that's correct.**
 14 Q. You say -- please can we scroll in on paragraph 6 on the
 15 next page -- that it's important to recognise that these
 16 are preventative orders and are not to be seen as
 17 punitive.
 18 **A. Yes.**
 19 Q. They are not the only options open to police forces in
 20 trying to manage such offenders, but one of a number of
 21 options.
 22 What are you trying to draw out for the panel there?
 23 **A. I suppose what I'm trying to sort of point you to is**
 24 **actually the wider management of sex offenders. So**
 25 **Civil Orders is one part of what we do in terms of**

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1 **A. (Witness nods).**
 2 Q. The figure for RSHOs, Risk of Sexual Harm Orders, was
 3 498.
 4 **A. Yes, that's correct.**
 5 Q. Under the new regime you have given very recently
 6 completely up-to-date figures, chief constable. Can
 7 I go to your second statement, which is OHY006999_002.
 8 Again, you have helpfully brought the panel right up to
 9 date to 31 December of last year. The figure is that
 10 18,792 SHPOs had been made, of which 18,480 were full,
 11 312 were interim, and 455 SROs had been made, of which
 12 275 were full and 180 were interim. Is that right?
 13 **A. Yes, that's correct.**
 14 Q. You have given a breakdown by force, I think, as best
 15 you can, of this data. Can I bring up, please,
 16 OHY004836_001. This, I think, breaks down by each of
 17 the individual forces in the country the interim and the
 18 full SHPOs and SROs. Is that right?
 19 **A. Yes, that's correct.**
 20 Q. If the panel would just like to scroll through those.
 21 But is it fair to look at it in this way: the numbers
 22 generally of full SHPOs appear to be higher than the
 23 number of full SROs?
 24 **A. Yes, that's correct.**
 25 Q. So we can typically see most forces have got the SHPO

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<p>1 figures to be in the hundreds, but the SRO figures are 2 often in single figures or just about in double digits. 3 Is that right? 4 A. Yes, that's correct. And that's something that I would 5 expect, because the SHPOs are obviously on conviction, 6 and the SROs will be before somebody is convicted. 7 Q. In terms of the greater breakdown of that data, the 8 questions that were asked by the inquiry involved trying 9 to understand in more detail what had led to each of 10 those orders. 11 Can I bring up, please, OHY004929_003. If we scroll 12 down to the bottom part of this document, please, the 13 inquiry was interested to understand in relation to each 14 order the nature of the behaviour or offending which led 15 to the order; the length of time the order was imposed 16 for; whether the individual subject of the order had 17 travelled abroad prior to the order being made; and, go 18 over the page, please, to request 4: whether the 19 individual re-offended following the order; the nature 20 of that offence if she or he did commit such an offence; 21 whether she or he had travelled abroad. 22 I think broadly the position is that sort of 23 granularity about each of those orders is not easy to 24 capture nationally. That's based at a local force 25 level. Is that a broad summary?</p> <p style="text-align: center;">Page 17</p>	<p>1 A. It's captured within ViSOR and you need to go to 2 individual forces to actually get the granular detail, 3 because actually orders are applied for and managed by 4 those local teams, those local forces. 5 Again, it references my previous point about ViSOR 6 was brought in as a case management system. It is 7 a very good system because it links police, probation 8 and prisons together, but it was a case management 9 system and not to, you know, retrieve statistical data. 10 I think that's why we then went to six forces to 11 actually drill down into those cases. And as we have 12 already said, it was nearly 19,000 Civil Orders, which 13 is quite a lot of Civil Orders. 14 Q. I think as we will hear later on this morning, chair, 15 you made the point that if the inquiry wanted that level 16 of granularity, we should go to individual forces, and 17 we have gone to six forces to try to get 18 a representative sample. 19 A. Yes, to try and give you a feel of actually that 20 information that's held locally and how the local forces 21 manage. 22 Q. I think you can help with this: that the selection of 23 those forces was done in conjunction with the NPCC and 24 Operation Hydrant, wasn't it? 25 A. Yes, it was.</p> <p style="text-align: center;">Page 18</p>
<p>1 Q. There was a deliberate attempt to choose six forces that 2 would help the panel get a broad picture. 3 A. Yes, to get a spread, yes. 4 Q. In terms of the way in which the foreign travel element 5 of any order is recorded, we know from -- and I hope 6 I put this correctly -- the MAPPA data, we can distil 7 nationally from the MAPPA reports what the foreign 8 travel element of SHPOs is. We saw those figures 9 yesterday. 10 Can you help us with how the foreign travel element 11 of SROs nationally would be understood? 12 A. That's through our quarterly data retrieval from forces 13 on SROs, which we started when the new Civil Order 14 regime came in. So we get those figures quarterly, 15 which would have a foreign travel element attached to 16 it. The reason they don't appear in the MAPPA annual 17 report is because it's MAPPA eligible offenders that 18 appear in the MAPPA annual report and, of course, as we 19 have already said, SROs relate to people that have not 20 been convicted as yet. 21 Q. Can you help us, then, with the number of SROs that have 22 had a foreign travel element attached to them since SROs 23 were brought in? 24 A. I could get you that information, certainly. 25 Q. Could you?</p> <p style="text-align: center;">Page 19</p>	<p>1 A. And I could submit that in writing -- 2 Q. I'm grateful. 3 A. -- if that would help, yes. 4 Q. It certainly would, because we weren't very clear about 5 how easy it was to obtain that nationally. 6 A. Yes. 7 Q. But I think you're saying it's done in a regular sort of 8 mechanistic way -- 9 A. Yes. 10 Q. -- each quarter, and so you would be able to provide 11 a figure from the implementation date of these orders 12 in March 2015 -- 13 A. Yes. 14 Q. -- up to 31 December 2018? 15 A. Yes, I believe so, and I can submit that in writing. 16 It's on those figures -- it's on the spreadsheet that we 17 collate on that quarterly basis from forces. 18 Q. When we looked at the MAPPA data yesterday, the SHPO 19 figures, with foreign travel restrictions, they were 20 quite low per year, they were in single figures. Can 21 you give the panel any broad impression of whether 22 that's similar with SROs or are you not able to say 23 today without the information? 24 A. I would rather have the information in front of me, but 25 I would anticipate it would be the same as SHPOs because</p> <p style="text-align: center;">Page 20</p>

1 **it comes back to that issue around relevance,**
 2 **proportionality and necessity, and actually being able**
 3 **to point to information or intelligence that suggests**
 4 **that individual is going to travel.**
 5 Q. In fairness, we know from your helpful data that overall
 6 there are only, if I can call it that, 455 SROs that
 7 have been made at all --
 8 **A. Yes.**
 9 Q. -- since they came in. It is going to be, therefore,
 10 a proportion of those that have foreign travel
 11 restrictions.
 12 **A. Yes.**
 13 Q. But your anticipation is, if one can -- I know it is not
 14 a perfect science. We know from the
 15 18,000-and-something SHPOs there were very, very few
 16 that had foreign travel restriction orders; I think
 17 single figures.
 18 **A. Yes.**
 19 Q. Your anticipation is of the 455 SROs, there will be
 20 a similar pattern?
 21 **A. I think that would be absolutely fair to say, yes.**
 22 Q. We would be very grateful for the confirmation of that
 23 in due course, thank you.
 24 I am asked to probe this a little further with you.
 25 Does the NPCC therefore collate on a regular basis from

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1 **went from sort of January 2014 to actually see what the**
 2 **breakdown was for each of the forces.**
 3 Q. Is it, though, necessary to have this kind of national
 4 view by force in order to assess whether the regime is
 5 effective?
 6 **A. Well, the statistical data is one thing, but we also**
 7 **have a series of national and regional and local**
 8 **meetings where we look at policy, procedure and actually**
 9 **the overall management of registered sex offenders and**
 10 **actually how we can drive up standards and what changes**
 11 **we may need to bring in.**
 12 **So the stats is part of that picture, and we get --**
 13 **when we do get regular figures as to the Civil Orders,**
 14 **we know that the Civil Orders -- because we were pushing**
 15 **to actually increase the number of Civil Orders. But**
 16 **it's not just the statistics; it's about actually the**
 17 **whole mechanism we have got in place in terms of**
 18 **the national and the regional meetings, where we meet**
 19 **practitioners and we actually experience what are the**
 20 **issues in management of those offenders, and actually**
 21 **how can we improve the whole system in conjunction with**
 22 **our partners. Because obviously offenders are managed**
 23 **at a local level, through the MAPPA arrangements, which**
 24 **are really very good, the MAPPA arrangements.**
 25 **So it's both, I think. It's the stats but it's also**

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1 each individual force how it is using Civil Orders? In
 2 your quarterly review that you do, do you look at the
 3 figures for each individual force?
 4 **A. We collate figures for the SRO on a quarterly basis,**
 5 **because that was the Civil Order that we thought we were**
 6 **going to have perhaps more issue with, because it was on**
 7 **non-conviction. That data does exist, so on the SHPOs**
 8 **it does exist within ViSOR, but, like we have already**
 9 **said, ViSOR has its limitations, but we would be able to**
 10 **search for that SHPO within the ViSOR system. But we**
 11 **have never specifically sort of collected Civil Order**
 12 **information on, you know, offenders abroad, abusing**
 13 **abroad. That doesn't appear in the MAPPA annual report.**
 14 Q. The count of data that I took you to -- can we bring
 15 this up again, please, OHY004836 -- where you are
 16 looking across each force at how many orders they are
 17 applying for and obtaining, is this process of looking
 18 across individual forces to see the patterns nationally
 19 something that the NPCC does regularly, or was this done
 20 for the purpose of answering questions that the inquiry
 21 had put?
 22 **A. This was for the purposes -- we can get this data**
 23 **regularly, but we collect the SRO more regularly because**
 24 **we do that on a quarterly basis. But we broke it down**
 25 **force by force for the purposes of the inquiry. So we**

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1 **through the structures that we have got in place to**
 2 **actually drive up standards.**
 3 Q. So do you feel overall you are in a position at the NPCC
 4 level to conduct an accurate review of the efficacy of
 5 these orders on a regular basis?
 6 **A. Yes, I believe so. Because, you know, they are**
 7 **contained within the ViSOR system. We know that the**
 8 **Civil Orders have -- you know, the takeup has been much**
 9 **better since we simplified them, since the changes in**
 10 **2015. We regularly speak to practitioners through those**
 11 **regional and national groups that I have alluded to,**
 12 **where we talk through different issues, not just on**
 13 **Civil Orders but on the wider management of registered**
 14 **sex offenders.**
 15 **So I don't see that as a huge issue. It's within**
 16 **the ViSOR system. It's just that you can't do it at**
 17 **a push of a button; you've got to do it in conjunction**
 18 **with the local forces.**
 19 Q. Do you collate and review data on the success rate of
 20 these applications? We saw that spreadsheet for I think
 21 SROs --
 22 **A. SROs, yes.**
 23 Q. -- at the beginning. Do you track how many SROs and
 24 SHPOs are applied for and how many are granted?
 25 **A. Yes, we believe that that sits -- well, on the SRO, we**

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1 obviously get that quarterly, and that's part and parcel
 2 of that, looking at what's granted and what hasn't been.
 3 Then in terms of the SHPOs, that sits, I believe, on the
 4 offenders management record within ViSOR, so we should
 5 be able to get that information as to how many have been
 6 applied for and how many have been granted.
 7 Q. So could you provide the inquiry with the SRO data from
 8 your quarterly reviews in terms of how many SROs applied
 9 for did not get granted and how many did get granted?
 10 A. Yes, I could, but that's -- the reason we put that in
 11 place was very much so we could actually check if there
 12 were any issues that were being raised that we needed to
 13 address or if there was any evidence of a practice that
 14 one particular force was doing that we wanted to share
 15 out with other forces.
 16 So, yes, in the same as what I said before, I could
 17 actually provide that in writing from that data that we
 18 collate.
 19 Q. Thank you. I'm sure we would be grateful for that. It
 20 would be more difficult to do that for the SHPOs because
 21 of the way they are recorded; is that right?
 22 A. Well, they're on the individual records of
 23 the offender -- it should be on the individual record,
 24 but it depends where it is on the record. But I can
 25 certainly look at that for you to see if we can submit

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1 actually increased quite significantly since 2015.
 2 So on conviction, we get a SHPO, and sometimes we go
 3 back for a variation. So if something has altered in
 4 the offender and how we need to manage that offender, we
 5 may go back to the court for a variation on that order.
 6 So it could be that we put a foreign travel element, for
 7 argument's sake, on that variation.
 8 But, yes, in terms of at point of conviction, we
 9 have quite a good success rate.
 10 Q. But is this fair to assume, though, that in deciding
 11 whether or not to apply for one of these orders, police
 12 forces will receive advice about the proportionality and
 13 necessity element and about the criminal standard of
 14 proof?
 15 A. Yes, they will. So they'll go through -- so with CPS,
 16 so they will have that conversation with the Crown
 17 Prosecution Service at time of prosecution, at
 18 conviction. If it is outwith the conviction process and
 19 we are going for a variation, that will be through legal
 20 services in each individual force.
 21 Q. Generally, then, to conclude this part of the questions,
 22 you indicate that you regard the Civil Order regime as
 23 an effective and efficient way of managing offenders or
 24 prospective offenders, bearing in mind it is only one of
 25 the elements in the toolkit. Could I ask you to look at

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1 that at the same time as the SRO.
 2 Q. Thank you. We would be grateful.
 3 A. As an individual offender, all the information about
 4 that individual offender should be on the ViSOR record,
 5 whether that's from police and if probation have been
 6 involved or if prisons have been involved, it should be
 7 on that case record.
 8 Q. So the case record will indicate that the police tried
 9 to obtain an order and failed.
 10 A. It should do.
 11 Q. My question is: how easy is it going to be for you to
 12 provide a national picture of the success or failure
 13 rate of SHPOs?
 14 A. As we have already said, ViSOR has its limitations, but
 15 I will certainly take that away and have a look to see
 16 if I can do it at the same time as the SRO data because
 17 it should sit on the record.
 18 Q. I know it is difficult without the data in front of you,
 19 but do you have an impression of the success rate of
 20 applications? Are they difficult to obtain or generally
 21 granted or you can't say?
 22 A. We actually get a good success rate for the SHPOs and we
 23 have had a better success rate on the SROs than under
 24 the old system. But the SHPOs are generally done at
 25 point of conviction, and we have found that they have

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1 the list of key concerns and proposed reforms document
 2 that I think you were provided with --
 3 A. Yes.
 4 Q. -- where we have distilled, I hope helpfully, into
 5 numbered paragraphs concerns about the Civil Orders
 6 regime raised by witnesses. As you see at paragraphs 1
 7 through to 7, they are principally around, firstly, not
 8 enough foreign travel restrictions being applied, and
 9 then about particular issues about the way in which the
 10 orders are obtained or applied for.
 11 Do you want to comment on those concerns at
 12 paragraphs 1 to 7 raised by other witnesses, chief
 13 constable?
 14 A. Yes, I would, if I may.
 15 So we have perhaps already covered some of
 16 the concerns in terms of actually we apply for the
 17 Civil Orders under the criminal standard of proof that
 18 we have already articulated, so it has got to be
 19 proportionate, it has got to be necessary and relevant
 20 and bespoke to that individual offender. So we are not
 21 allowed to do blanket approaches on offenders. So
 22 a good example of that would be we can't say an RSO
 23 cannot go onto the internet at all. It has to be
 24 bespoke to the offending of that individual. So we do
 25 work within ECHR.

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<p>1 Training has been mentioned in some of those first 2 few paragraphs. You have obviously seen some of 3 the training that we have already delivered, but it gets 4 delivered on a MOSOVO course, so the offender managers 5 course. It is a long course. We do that. We send 6 briefing documents out. We have done CPD events. It's 7 obviously already been mentioned on the conference as 8 well. So in terms of training, I think there's been an 9 awful lot of training.</p> <p>10 It also appears on the approved professional 11 practice, which policing does in conjunction with the 12 College of Policing. So Civil Orders features quite 13 heavily within that document.</p> <p>14 So in terms of training on Civil Orders, I think we 15 have done an awful lot of work on those.</p> <p>16 We also, you know, in terms of breaches -- so 17 I think that indicates that, actually, we positively 18 police, because we breach offenders on the Civil Orders 19 and we take them back to the court, if that's necessary, 20 and they get obviously another conviction and we might 21 look for another variance on that. So the breaches are 22 perhaps a good indication.</p> <p>23 In terms of -- there's a mention here that there's 24 a heavily reliance on the individuals, the registered 25 sex offenders, to notify of travel, but that is part and</p> <p style="text-align: center;">Page 29</p>	<p>1 parcel of the notification requirements, and we have 2 other monitoring systems that we utilise to actually 3 manage that offender.</p> <p>4 So I think on paragraphs 1 to 7, that's probably 5 what I would perhaps like to highlight.</p> <p>6 Q. Just a perhaps related question: can I ask you whether 7 or not you think there is consistency in decision-making 8 between local police forces on these issues? We see the 9 statistics, but do you think generally there is 10 consistency of decision-making or that there's slightly 11 different approaches?</p> <p>12 A. I mean, you're always going to have slightly different 13 approaches because you have 43 individual forces. 14 However, what I would say is they have all intended the 15 MOSOVO course and, like I've already said, around the 16 CPD events and the briefing documents that we send out. 17 We also circulate evidence of good practice that some 18 forces perhaps have got a Civil Order through the court, 19 which might have been quite a tricky one.</p> <p>20 So in terms of consistency of decision-making, it is 21 within a framework of what's been trained out, but 22 obviously you do have slight differences because you've 23 got 43 forces applying for the Civil Orders, but they 24 have to do it within that framework, I would suggest.</p> <p>25 Q. Can I ask you to look at OHY006401_003, please, which is</p> <p style="text-align: center;">Page 30</p>
<p>1 I think an email around some of this training 2 documentation, just to anchor your understanding of it. 3 This comes from GCC4, which is part of the guidance 4 material and the flowchart being circulated. But the 5 email I think that comes between the NCA and your staff 6 officer is saying this, if you can scroll down to the 7 last part of this email:</p> <p>8 "... Graham and I have liaised with some local 9 forces in order to confirm if they have a force policy 10 or an opinion on the subject. Generally it has been our 11 impression that few forces appear to have a specific 12 policy."</p> <p>13 I think this is particularly around Sexual Risk 14 Order applications, in particular where there's no 15 further action taken against an individual. That's the 16 context in which it's being raised, I think.</p> <p>17 A. Yes.</p> <p>18 Q. "I am therefore making contact with you to ask if you 19 are aware of any national policy or whether you have any 20 thoughts, opinions or advice that you could offer us 21 prior to our submissions on the proposed CEOP policy."</p> <p>22 You can then go back, please, to internal page 2 of 23 this document, and the reply, I think, from Detective 24 Inspector Harkins was:</p> <p>25 "I have attached the original documents, the</p> <p style="text-align: center;">Page 31</p>	<p>1 briefing documents. I would be interested to see your 2 proposal. It's something I'm looking at in Cumbria but 3 this process will be added to APP (... due to be 4 published ... been saying that for a while ... I'm in 5 the process of relinquishing this post."</p> <p>6 Is there, to your knowledge, force policies about 7 when to apply for SROs if no further action is taken 8 against an individual? Do forces generally have their 9 own policies on this?</p> <p>10 A. This is part of the APP that I talked about before. The 11 APP is what police forces nationally do in conjunction 12 with the College of Policing.</p> <p>13 Q. I think we have heard about this before, but just give 14 the full title for that.</p> <p>15 A. Authorised policing practice. So that is overarching, 16 and within that APP is a whole section on Civil Orders, 17 and I would expect forces -- I think that's what Helen 18 Harkins was alluding to, the APP. So you wouldn't have 19 separate policies in 43 different forces; you would 20 refer to the APP and that's what forces refer to.</p> <p>21 Q. So when this email exchange is dated November 2016, do 22 you think in the interim since that, it has in fact been 23 added to the APP?</p> <p>24 A. It is in the APP. I can assure you of that. It's in 25 the APP. We are just in the process of reviewing that</p> <p style="text-align: center;">Page 32</p>

1 **APP because you constantly review it, but, yes,**
2 **Civil Orders features in the APP.**
3 Q. Can I ask you, then, to turn to the issue of how it
4 might be improved in terms of this particular system and
5 look, please, at the proposed reforms beginning at
6 paragraph 8 of the concerns and reforms document and
7 just scroll down through those and offer any comments
8 you have. You will see there are some that are perhaps
9 at an international and national level and there are
10 some granularity points around notifications, but then
11 also the proposals around blanket travel ban. Can you
12 offer any views on those proposals, chief constable?
13 **A. Okay. I mean, in terms of leadership, I will talk about**
14 **NPCC leadership and leadership in forces. I think that**
15 **is a high level. We lead at a national, regional and**
16 **local level. We are linked very heavily into partners,**
17 **and I have alluded to the MAPPA process in terms of**
18 **actually how we manage registered sex offenders on**
19 **a day-to-day basis, and I think the multi-agency public**
20 **protection arrangements are some of the best that is**
21 **seen internationally, and that's how we manage**
22 **offenders.**
23 **So I think in terms of leadership within policing,**
24 **I think it is strong in this area, and the MOSOVO teams**
25 **are very experienced. They are individuals that have**

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1 **A. I think, again, that is difficult. I mean, we have**
2 **alerting systems that are in place, so if you look at,**
3 **you know, SIS II 36, for argument's sake, you will find**
4 **the vast majority of individuals on there are registered**
5 **sex offenders, so we have an alerting system in place.**
6 **But we even get challenges on that from registered sex**
7 **offenders, because a lot of them will say that they have**
8 **served their sentence, they have passed licence**
9 **conditions, they are giving in the community and why are**
10 **they having these extra restrictions. So you have got**
11 **to justify why you are putting alerting systems on**
12 **individuals.**
13 **So I think --**
14 Q. Sorry, just to interject, that system is a way of
15 informing another country, is it, of that person's
16 travel?
17 **A. It is.**
18 Q. But doesn't stop them travelling, it just notifies --
19 **A. It alerts --**
20 Q. -- the incoming country to their presence, and you're
21 saying the presence of someone's name on that system has
22 led to challenges; is that right?
23 **A. Yes. Yes, that's correct. So it's about that**
24 **proportionality and, actually -- and the ECHR within**
25 **this country, you know, could cause potential issues**

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1 **worked in that field usually for a long period of time**
2 **because they are passionate about the area.**
3 **We have talked about all the manager training, so**
4 **I won't go through that again, and actually some of**
5 **the other methods that we utilise in terms of with**
6 **SIS II and Green Notice, et cetera, and how we link in**
7 **with the NCA.**
8 **I think in terms of a complete travel ban, I think**
9 **that would be really difficult under the current**
10 **legislation and ECHR because of the -- some of**
11 **the issues I have already alluded to, the fact that we**
12 **have got to make the Civil Order bespoke to the**
13 **individual, and if foreign travel is not part and parcel**
14 **of that, because we have got that civil -- the criminal**
15 **standard of proof, how do we actually prove that to get**
16 **the Civil Order? That's why there is, you know, few**
17 **numbers of that foreign travel element because it**
18 **doesn't relate to the offender.**
19 **So I think in terms of getting a complete ban on**
20 **travel like they have done in Australia, I think that**
21 **would be very difficult under our current legislative --**
22 **what we have got in place here.**
23 Q. Do you have a view on the American system of providing
24 unique identifiers or stamps in offenders' passports?
25 Are you able to comment on that?

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1 **with both of those systems. I'm not saying**
2 **I necessarily disagree, but under the current**
3 **legislation, we would find that very difficult to do.**
4 Q. I think two specific points, if I may.
5 Do you think there is a need for any further
6 training to police officers on these issues?
7 **A. I honestly -- I mean, you can never be complacent and**
8 **you've got to continuously -- that's why we do the**
9 **continuous professional development, and we update our**
10 **MOSOVO training. Actually, there's a lot of training,**
11 **there's a lot of briefings, that goes out on**
12 **Civil Orders. I think the fact that the uptake of**
13 **Civil Orders has been fairly significant since we**
14 **simplified the process in 2015 suggests to me that,**
15 **actually, people do understand the presence of**
16 **Civil Orders and how you apply for them and actually how**
17 **they can help manage an offender in that wider context**
18 **of offender management.**
19 Q. So is it fair to infer from that, then, that the reason
20 for the relatively low numbers, if that in fact be the
21 case once we get the SRO figures, is not a lack of
22 understanding by police forces; it is more about the
23 legal framework that's quite limiting?
24 **A. That's what I would say, yes.**
25 Q. Finally on this, please, one issue that was discussed

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<p>1 with Mr Jones yesterday was the fact that there can be 2 no closed evidence at an SRO or a SHPO hearing, and he 3 therefore indicated that that might cause issues because 4 intelligence is often gained on sex offenders but could 5 not be used in a closed hearing on the current regime. 6 Do you think the ability to do that in order to 7 obtain a SHPO or an SRO, in particular with a foreign 8 travel element, would lead to the system being more 9 effective? 10 A. I think that would lead to more effectiveness, yes, 11 definitely. Because sometimes we may be in possession 12 of intelligence, but it's only intelligence which 13 actually could inform a court in a closed session that 14 we perhaps can't do it currently. 15 Q. I hope I summarise his evidence fairly, but I think his 16 view was that while that change to the legal framework 17 might be vulnerable to challenge, there is at least some 18 precedent for closed evidence being used in obtaining 19 other orders in the terrorism field or the immigration 20 field. Is that your understanding too? 21 A. Yes. 22 Q. Do you have a view overall on whether that sort of 23 framework would be likely to be challenged or would be 24 human rights compliant, or can you not say? 25 A. I couldn't say.</p> <p style="text-align: center;">Page 37</p>	<p>1 Q. Is there anything else on the Civil Orders regime, chief 2 constable, that you would like to bring to your 3 attention? 4 A. No, I think the only thing in addition which perhaps 5 doesn't appear on here which actually could strengthen 6 the Civil Order regime is looking at sort of positive 7 prohibitions on Civil Orders, where you are actually -- 8 because they are preventive currently. If you put 9 a positive obligation on an offender, so an offender has 10 to submit to a polygraph, for argument's sake, or an 11 offender has to present themselves for a risk 12 assessment, that could also increase the 13 effectiveness -- the overall management of registered 14 sex offenders. 15 At the minute, it's preventative, but I think you 16 could put a much more positive obligation on the 17 individual. 18 Q. What sort of other things might be the subject of that 19 sort of a positive requirement? How do you imagine that 20 could be used? Perhaps some further examples. 21 A. Well, also in terms of actually them presenting 22 themselves for -- you know, to submit to a risk 23 assessment. So, you know, the ARMS risk assessment. 24 I think there's all sorts of positive prohibitions, but 25 at the minute it's preventative and I think that would</p> <p style="text-align: center;">Page 38</p>
<p>1 be a good step forward in terms of Civil Orders. 2 Q. Has there been any thinking brought to bear about 3 changing the regime in that way, apart from the evidence 4 you have just given? 5 A. In another area of business, it's being looked at 6 currently in the domestic abuse field. So I think it 7 would be something that could potentially come across to 8 this field. 9 Q. Can I take this document down and just turn briefly now 10 to two further topics. 11 Firstly, the issue of section 72 12 extra-territoriality prosecutions. Can I bring up, 13 please, OHY0006622_001, please, and scroll in on the 14 commentary under the heading "Request 1". This is the 15 initial response to the rule 9 letter that I think was 16 sent on your behalf. 17 A. Yes. 18 Q. Essentially, this is the position, is it, under 19 request 1: 20 "The NPCC does not hold central data on the use of 21 section 72. Section 72 is not an offence in itself. 22 There is no coding which would allow for the easy 23 retrieval of this information ... it may well be the 24 case that in order to obtaining meaningful 25 information ... a request would need to be sent to each</p> <p style="text-align: center;">Page 39</p>	<p>1 force area ..." 2 That's because section 72 is simply an enabling 3 provision; is that right? 4 A. Yes, that's correct, because it's recorded under the 5 substantive offence under NCRS, so it would be on 6 individual forces' crime systems. 7 Q. To the best of your knowledge, is there any regular 8 interrogation of what individual forces or, indeed, the 9 NCA are doing around section 72 so the NPCC can get an 10 overall view of how many of these international 11 prosecutions are taking place? 12 A. No, I wouldn't say there's regular interrogation. 13 There's never been any issues raised that section 72 is 14 causing a particular issue for forces, and actually you 15 will see -- I know you're going on to that evidence, but 16 some forces have actually utilised section 72. But it's 17 not something that we would collate on a regular basis. 18 Q. Is it not something, though, that is another element of 19 the toolbox in the fight against international sex 20 offending? 21 A. Yes, it's a means of actually -- yes, obviously 22 prosecuting an offender here, but I don't think there's 23 a lack of awareness within the specialist teams that 24 section 72 exists and how it can be utilised. So it -- 25 sorry.</p> <p style="text-align: center;">Page 40</p>

1 Q. If there are indeed limited numbers of prosecutions --
 2 and, again, I think on the statistics where we are on
 3 this is that we have the figures from the NCA and then
 4 we have some figures from local forces as to how many
 5 section 72 prosecutions they have initiated. But on the
 6 figures, is this right: nobody can tell the inquiry
 7 nationally how many section 72 prosecutions there have
 8 been in the last two years or three years?
 9 **A. I think that would be absolutely right because it's not**
 10 **collected in that way, because it's collected, as**
 11 **I said, on the substantive offence rather than against**
 12 **section 72.**
 13 Q. If there was felt to be a gap there and a need to
 14 understand how many of these international offenders are
 15 prosecuted here in this country each year, how could
 16 that be captured or recorded?
 17 **A. Well, I have already requested a change on the ViSOR**
 18 **system. We believe that we can capture it by putting**
 19 **a section 72 marker on the offender's ViSOR record. So**
 20 **that would give us some data going forward if the**
 21 **inquiry felt that was a useful thing to do.**
 22 Q. So that would enable you, sitting here in a year's
 23 time --
 24 **A. Yes.**
 25 Q. -- to say, "There have been 25 across the country this

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1 **the detective teams, who are well used to investigating**
 2 **serious offences. I think the issue of why there would**
 3 **be limited prosecutions -- sexual offences are very**
 4 **difficult to prosecute in any case, and then it's**
 5 **compounded with obviously the issues where offending is**
 6 **taking place abroad, so in terms of investigation,**
 7 **standards, continuity of evidence, victims in different**
 8 **countries. So I think it just compounds what is already**
 9 **a difficult field to prosecute in any case in terms of**
 10 **sexual offending.**
 11 Q. So can I ask you to look at the concerns and reforms
 12 document, paragraph 20 and onwards, please. Perhaps we
 13 can bring this up. It's INQ004049. It sets out
 14 concerns being raised about the low numbers of these
 15 prosecutions, but then some possible reasons for that,
 16 or challenges in using section 72.
 17 Is there anything in paragraphs 20 through to the
 18 end of 21 that you would like to comment on or disagree
 19 with or agree with?
 20 **A. I think I have already said, I think sexual offences**
 21 **per se are very difficult to prosecute for a whole host**
 22 **of reasons, and that can be compounded when an offence**
 23 **has taken place abroad. But I don't think it's any --**
 24 **it's because of any lack of awareness. I think people**
 25 **are well versed in actually knowing about section 72.**

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1 year" or something like that?
 2 **A. Yes, it would, because we could put a marker on the**
 3 **ViSOR. That would probably be the simplest thing to do.**
 4 Q. Is that something that's already in place, you're
 5 saying, or ...?
 6 **A. It is not in place but we have requested the change,**
 7 **because we do regular requests for change on the current**
 8 **ViSOR system. So that's scheduled in for June because**
 9 **it obviously became an issue for this inquiry. So we**
 10 **can actually collect it -- or put a marker on ViSOR**
 11 **which will allow us to collect it in the future.**
 12 Q. So your understanding is that, from June of this year,
 13 that will be recorded?
 14 **A. Yes.**
 15 Q. As I say, we are in a slight data gap at the moment. We
 16 will hear shortly from my learned friend about the six
 17 forces' experience of section 72.
 18 If in fact the numbers of prosecutions are also low,
 19 and we know from the NCA yesterday that their
 20 prosecutions are still in single figures, I think,
 21 overall, do you think the reason for that is any lack of
 22 awareness about section 72 at a local level?
 23 **A. I really don't believe so. I think in terms of**
 24 **section 72, it would be through the specialist teams**
 25 **that we have already alluded to, so the MOSOVO teams,**

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1 **It features in the Home Office guidance.**
 2 **We can put it in the APP under -- you know, if we**
 3 **felt that was a requirement, but it's certainly -- it's**
 4 **not been raised with me as an issue that people are not**
 5 **aware of section 72, and, in fact, forces have used**
 6 **section 72, but it's just been very low numbers.**
 7 Q. Does it not feature currently in the APP?
 8 **A. Section 72 doesn't, but the Civil Orders do. So as part**
 9 **of the review, we can put a paragraph on -- in terms of**
 10 **section 72, because I'm aware that obviously in the**
 11 **Home Office guidance it was raised yesterday as perhaps**
 12 **it could be more detailed, and that's certainly**
 13 **something I'm quite happy to take away and look at as**
 14 **part of that review of APP, which then could make it**
 15 **very clear for all, you know, as a reference document of**
 16 **policing practice.**
 17 Q. Is there any reason why you wouldn't include it in the
 18 APP?
 19 **A. No, you know, we can put it in the APP, no problem at**
 20 **all. There is a big section on Civil Orders. There is**
 21 **no reason why we can't put that in.**
 22 Q. Have you had any sense that police forces regard
 23 section 72 as a last resort? We have heard some
 24 evidence about that yesterday.
 25 **A. No, not at all. I mean, I think in terms of -- like we**

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1 have already said, you know, management of sexual
 2 offenders is high priority for all forces. The staff
 3 that work in this area of business are very dedicated,
 4 very passionate, very experienced. They have worked in
 5 the field for a long period of time. It certainly
 6 wouldn't be a last resort; it would be looking at the
 7 legislation as it stands and how we could best proceed,
 8 in conjunction with our CPS colleagues, but actually how
 9 we could proceed. And that liaison takes place with CPS
 10 and with NCA colleagues as well, for instance. But
 11 certainly not -- I wouldn't see it as a last resort at
 12 all.

13 Q. I think the NPCC itself hasn't formally reviewed the
 14 efficacy of this section. But can you look, please, at
 15 the proposed reforms on the next page of that document,
 16 and perhaps scroll through those that you feel able to
 17 comment on. So there's been various proposed reforms at
 18 perhaps an international level and then going down to
 19 on-the-ground support, support for victims.

20 I mean, if you are able to comment, chief constable,
 21 on these issues, please do.

22 A. We have already talked about that, you know, forces are
 23 aware of section 72 and where it would sit in police
 24 forces, it would sit in the specialist units, not, you
 25 know, the uniformed officer on the beat.

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1 communities.

2 Q. Is there anything generally that you could offer as
 3 a way to make the uptake of section 72 greater?

4 A. I think, in terms of -- the APP is one step. I think
 5 I could ensure that it was covered -- we know it gets
 6 covered in brief at some of the detective training, the
 7 sexual offences training, but we could make that
 8 prescribed within the training so we're covering a whole
 9 section on 72, which would strengthen that and link into
 10 the APP.

11 Q. Then finally, I don't think there's very much on the
 12 Disclosure and Barring topic that perhaps you can add.
 13 We heard some evidence about the international criminal
 14 certificate yesterday. Is there anything in the final
 15 section of this document that deals with Disclosure and
 16 Barring or, indeed, more general reform that you could
 17 comment on?

18 A. I think some of the Disclosure and Barring and the ICPC,
 19 in terms of actually perhaps getting that on a statutory
 20 or mandatory footing to me would make absolute sense in
 21 terms of safeguarding, and I do think that links in to
 22 the duty of charities or other organisations abroad that
 23 are employing people to make sure their safeguarding and
 24 child protection arrangements are in place so we can
 25 actually prevent offending, especially for those

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1 I would talk about perhaps, looking at 31 -- we
 2 manage over 58,000 currently registered sex offenders --
 3 I've got the exact figures here -- in the community,
 4 which are annual -- MAPPA annual report figures from
 5 sort of March last year. We are just about to do
 6 a count for this year for the MAPPA annual report which
 7 will go out in October of this year.

8 So the arrangements of managing that number of
 9 registered sex offenders in the community which is
 10 managed locally through MAPPA arrangements are very
 11 successful arrangements, it works very, very well. The
 12 reason it is so successful is because we work in
 13 partnership. It is at that local level, so we know the
 14 offenders, we get the intelligence, we get the
 15 information. So we link from the local up to the
 16 national where we need to in terms of the NCA. And
 17 MAPPA is very much a statutory arrangement, which
 18 I think has been recognised internationally as working
 19 well.

20 So, you know, I think the arrangements in terms of
 21 actually how many offenders that we actually manage are
 22 pretty good. But we're always looking to see where we
 23 can make improvements. But certainly from the policing
 24 perspectives, we feel the MAPPA arrangements work very
 25 well in that wider management of reducing harm to

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1 individuals that perhaps have not been convicted of an
 2 offence in the UK.

3 So, for me, it's about actually -- yes, I think
 4 statutory and mandatory, I think that would be really
 5 good, and it's looking at probably the capacity and how
 6 you would actually manage that. But to me for
 7 safeguarding that would make absolute sense, that if
 8 people are going to work abroad, they should have the
 9 correct vetting processes in place, however we do that.

10 Q. Is there anything else that you feel you need to draw to
 11 the panel's attention, chief constable?

12 A. I don't think so. I think I've covered everything.

13 Thank you.

14 MS HILL: Thank you, chief constable. Those are all my
 15 questions.

16 THE CHAIR: Thank you. We have no questions either. Thank
 17 you, chief constable.

18 THE WITNESS: Thank you.

19 (The witness withdrew)

20 MS HILL: Thank you, chair.

21 My learned friend Ms Benfield will now read and in
 22 part summarise evidence that's been obtained from six
 23 police forces. As I have indicated, the inquiry was
 24 assisted in this task in contacting six different
 25 forces, who have, in varying ways, conducted a sample of

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<p>1 their data. Ms Benfield will endeavour to present that 2 to you as best we can. That should take us up to the 3 mid-morning break. 4 MS BENFIELD: Chair, good morning. As Ms Hill has said, 5 there is evidence from six police forces you will find 6 in volume 1 of your bundle behind tab B. I propose to 7 go through the forces in order as they appear in the 8 bundle, pulling out salient aspects of the evidence as 9 it relates to the use of Civil Orders and section 72. 10 Statement of ASSISTANT CHIEF CONSTABLE SUZANNE SOUTHERN 11 (WEST MIDLANDS POLICE) (read) 12 MS BENFIELD: The first statement that appears at tab 1 is 13 that of Assistant Chief Constable Suzanne Southern of 14 West Midlands Police. If I could ask we bring up 15 OHY006936 and formally adduce that statement into 16 evidence. 17 On internal page 6, what is table 1, there is 18 a summary of West Midlands Police orders that are 19 currently managed by that police force. You will note 20 a total of 2,115 orders, including some that have 21 previously been archived. 22 Particularly relevant to the inquiry's consideration 23 of foreign travel, at 31 of the statement, there's 24 information on the single Foreign Travel Order that was 25 active from 2011 to 2015.</p> <p style="text-align: center;">Page 49</p>	<p>1 Just to summarise briefly the circumstances of that 2 order, it was that in February 2011, an offender was 3 arrested in Finland, having travelled to visit 4 a 15-year-old female. He was convicted in Finland for 5 an offence which, if committed in the UK, would 6 constitute an offence of engaging in sexual activity in 7 the presence of a child under 18. 8 Going through that statement, so now internal 9 page 7, paragraph 32, it's recorded that, on return to 10 the UK, the subject was made subject of a notification 11 order and West Midlands Police applied for and were 12 successful in obtaining a Foreign Travel Order, as there 13 was evidence that he had planned to travel to Sweden 14 with the child to have sex, where the age of consent is 15 15. He was prohibited from travel to Finland and Sweden 16 for five years. It is noted that there is no evidence 17 that he travelled abroad after the order had expired or 18 in breach of that order. 19 Turning through the statement, the witness notes at 20 paragraph 34 that there were no RSHOs, at paragraph 40 21 no SROs, and at paragraph 47 no SOPOs with foreign 22 travel restrictions. 23 Turning to paragraph 37, the witness provides 24 information in relation to a single SHPO which is 25 recorded as having a restriction that prevented travel</p> <p style="text-align: center;">Page 50</p>
<p>1 abroad. The detail of this order was that it was 2 imposed for life in May 2017, and included a five-year 3 travel ban on travel outside the UK. The offender 4 notified that he planned to travel to Thailand, but 5 attempted to travel to Cambodia to settle in breach of 6 his notification requirement, and so on return to the 7 UK, a travel ban was imposed for five years. 8 Chair, similar to the other forces, West Midlands 9 Police have provided a dip sample of cases, and you will 10 note, starting at internal page 11 of the statement, 11 what is paragraph 50, that West Midlands have provided 12 a table of their dip sampled cases. 13 It is notable that only one case -- so that on 14 internal page 12, numbered at 5 -- notes that there was 15 information in relation to foreign travel. 16 Turning over the page, the force has provided at 17 paragraph 51 information on breaches of Civil Orders 18 looking over a four-year period. 19 Chair, I intend to read paragraphs 60 to 61, which 20 run to internal page 15, in full, as they address the 21 view of the efficacy of the Civil Orders system as 22 presented by West Midlands Police: 23 "60. Practice is constantly evolving with the 24 exploration of new tactics to identify and pursue 25 offenders and the use of Civil Orders is seen as an</p> <p style="text-align: center;">Page 51</p>	<p>1 important tool in combating those involved in CSE 2 offending. The Civil Order regime provides law 3 enforcement agencies with the ability to place 4 restrictions on suspects, often prior to conviction, 5 where intelligence or evidence exists that suggest they 6 pose a risk to children. This has clear benefits when 7 considering the protection of children and the ability 8 to place travel restrictions either within an order such 9 as an SRO or SHPO or to obtain a Foreign Travel Order 10 helps to afford children outside the UK the same 11 protection as those within it. 12 "61. PPU staff dealing with child abuse 13 investigations and staff engaged in sex offender 14 management have a good working knowledge of the use of 15 these Civil Orders and the restrictions that can be 16 applied for, as they are a part of their everyday 17 working practice. This knowledge is being expanded 18 across the force through the training that is being 19 delivered." 20 Chair, starting at paragraph 63, West Midlands 21 Police provide information in relation to section 72. 22 At 63 it is recorded: 23 "West Midlands does not record data specific to the 24 numbers of offenders prosecuted using section 72, as 25 there is no requirement or mechanism to do so."</p> <p style="text-align: center;">Page 52</p>

<p>1 At paragraph 63, it is noted that there is no way on 2 the crime database to record this data, nor on ViSOR. 3 At paragraph 64, it is noted that there is no marker 4 or code on the police national computer to indicate that 5 a matter was prosecuted under section 72. 6 At paragraph 65, the force notes that enquiries were 7 made with the Crown Prosecution Service, who were 8 similarly unable to provide data on how many section 72 9 prosecutions were undertaken on behalf of West Midlands. 10 At 65, the witness notes anecdotally that section 72 11 prosecutions are not commonplace, and at 70 notes it has 12 not been possible to identify any positive prosecutions 13 under this legislation. 14 Turning to paragraphs 71 to 72, the witness notes 15 this doesn't mean that section 72 prosecutions would not 16 or are not considered. An example is provided where 17 a case was taken to the CPS in 2015, and section 72 was 18 considered, but it couldn't be used as the accused in 19 that case was not resident in the UK at the time of 20 offending. 21 At paragraph 72, the witness notes that the offender 22 was in fact prosecuted and for crimes committed in the 23 UK, including a sexual offence against a child, and the 24 court granted a lifetime Sexual Harm Prevention Order. 25 The witness concludes by addressing the use and</p> <p style="text-align: center;">Page 53</p>	<p>1 efficacy of section 72, and, starting at paragraph 77, 2 notes: 3 "77. Staff working within the PPU and especially 4 those involved in the investigation of child sexual 5 abuse, such as the child abuse investigation team and 6 the dedicated online child sexual exploitation team, 7 will have an understanding that offenders who commit 8 offences outside the UK can be prosecuted under UK law." 9 Turning to paragraph 78, it is noted: 10 "78. Although West Midlands Police have not had 11 cause to use the legislation, I believe that it is an 12 important tool, providing power to law enforcement 13 agencies that enhances the protection of children 14 outside the UK." 15 The witness notes: 16 "It is important that there is strong legislation 17 with regards to those involved in serious offending, 18 repeat offending and contact abuse that makes it clear 19 that our intent is that they will always be subject to 20 the full weight of the law whether they offend in the UK 21 or abroad." 22 The witness notes at the conclusion of that 23 paragraph: 24 "A number of high profile prosecutions using this 25 legislation have helped to convey that message."</p> <p style="text-align: center;">Page 54</p>
<p>1 At 79: 2 "79. The last decade has seen an advancement in 3 technology that has provided offenders with easy access 4 to the internet and an online world that offers them 5 easy access to vulnerable children across the world. 6 This accessibility and usage has seen a sustained and 7 quite considerable rise in the numbers of reported 8 offences to West Midlands Police and other law 9 enforcement agencies relating to online child sexual 10 exploitation and abuse. Couple this with the fact that 11 international travel is now relatively easy and 12 affordable, it is not unreasonable to conclude that we 13 will see an increase in the number of offenders 14 travelling abroad to offend. Section 72 provides the 15 power to deter and punish this type of offending." 16 At paragraph 80, the witness concludes: 17 "80. There are practical considerations in using 18 the legislation, as dealing with foreign jurisdictions 19 can have a varied response in terms of both quality and 20 timeliness, and the process can often be bureaucratic, 21 which can cause delay in bringing about a prosecution. 22 So whilst the section 72 legislation may be strong, 23 clear protocols and arrangements with foreign 24 jurisdictions is key to making it work effectively." 25</p> <p style="text-align: center;">Page 55</p>	<p>1 Statement of SOUTH YORKSHIRE POLICE (read 2 MS BENFIELD: Turning, now, please, to tab 2, it is the 3 second of the forces, South Yorkshire Police. If 4 I could formally adduce the statement at OHY006964 and 5 exhibits that are OHY006965 to OHY006967. 6 South Yorkshire Police has similarly provided data 7 in relation to the number of Civil Orders granted in 8 relation to current registered sex offenders. The 9 document that appears at tab 4 is exhibit SYP2, so 10 OHY006966, if that can be brought up on screen. This 11 provides a summary of South Yorkshire Police orders. 12 Turning back and using that as reference, at 13 paragraph 23 of the statement it is noted by the witness 14 that it is not possible to undertake a data extraction 15 from the system that would provide a summary of 16 the types of behaviour or the types of restriction 17 contained within the order. 18 Similarly, starting at paragraph 24, South Yorkshire 19 Police have provided a dip sample, and this time of 20 20 cases, and have identified four of those as containing 21 a foreign travel restriction. 22 If I could summarise two of those, the first being 23 case summary 1. 24 It is noted at paragraph 31 at internal page 3 that 25 the offender was subject to a Sexual Offences Prevention</p> <p style="text-align: center;">Page 56</p>

<p>1 Order and Foreign Travel Order issued by Scunthorpe 2 magistrates' court in November 2011. The originating 3 conviction was the rape of a child. When released from 4 prison in October 2011, the offender failed to notify 5 the authorities of travel to Ireland.</p> <p>6 At paragraph 32, it is noted that the foreign travel 7 restriction was not to travel outside the UK without 8 providing seven days' notice. An order was imposed then 9 for 60 months for a Foreign Travel Order and 10 indefinitely for a Sexual Offences Prevention Order, and 11 there was an investigation in relation to the possible 12 breach of travel order relating to obtaining of 13 a driving licence, considered to be a document with 14 which he could travel. It is noted, however, that no 15 further action was taken.</p> <p>16 At 33 it is noted the Foreign Travel Order has now 17 expired and there have been no offences since the order 18 was lifted.</p> <p>19 The second example that I will draw out is case 20 summary 4. It starts just at the bottom of internal 21 page 4 and detail starting at paragraph 39. It is 22 noted:</p> <p>23 "This offender is subject to a Sexual Harm 24 Prevention Order with travel restrictions not to travel 25 outside the UK without providing three weeks' notice of</p> <p style="text-align: center;">Page 57</p>	<p>1 the location and any travel companions." 2 It is noted at 40: 3 "40. The offender has carried out numerous sexual 4 offences over a period of 50 years and travels 5 extensively within the UK to seek to engage with 6 children with a view to carrying out sexual offences. 7 The travel restriction was put in place to prevent 8 travel abroad to offend. Other restrictions [have been 9 imposed]."</p> <p>10 South Yorkshire note the order is indefinite and 11 that he has not breached any of the travel restrictions. 12 Chair, turning through the statement now to internal 13 page 7, starting at paragraph 59, there is a summary of 14 breaches of Civil Orders. At 63, it's noted that three 15 cases were recorded as a breach of a Foreign Travel 16 Order. Two were in fact breaches of the notification 17 requirement and the third, the summary just mentioned, 18 in relation to an application to secure a driving 19 licence, which was deemed a document that could be 20 available for travel.</p> <p>21 Starting at 69, the inquiry has a summary of 22 the training that's provided on Civil Orders to South 23 Yorkshire Police, and it is noted that work has been 24 undertaken to raise awareness both of use and the 25 process of application and enforcement.</p> <p style="text-align: center;">Page 58</p>
<p>1 To conclude, at paragraph 80, on internal page 9, it 2 is noted: 3 "80. Over the past few years, particularly since 4 the changes were introduced in March 2015, awareness has 5 significantly increased. This is recognised due to the 6 increased demand for requests for advice relating to 7 such matters seen in both our legal services team and 8 our sex offender management teams. Specialist officers 9 especially appear to have good knowledge of the type of 10 circumstances that would lead to consideration of 11 Civil Orders, particularly in circumstances where there 12 are no relevant criminal convictions and/or no relevant 13 current proceedings ongoing."</p> <p>14 In relation to the possibility of increasing 15 effectiveness of Civil Orders, now on internal page 10, 16 paragraph 87, it is noted: 17 "87. The Sexual Risk Order is an area where work is 18 required to improve its use. Though awareness of it has 19 improved, the number of orders remains small. The 20 balance of proof of the act of a sexual nature is 21 understandably high and limits our ability to apply for 22 such orders if, for example, the information we have is 23 intelligence based and not evidence based. This can 24 equally apply in circumstances where an individual has 25 been acquitted by the criminal courts."</p> <p style="text-align: center;">Page 59</p>	<p>1 At paragraph 88, it is noted: 2 "88. In relation to the use of travel restrictions 3 specifically, we have only a small number of offenders 4 subject to any travel restrictions. The travel 5 restrictions have been imposed because the individual is 6 considered to pose a risk that warrants foreign travel 7 restrictions to protect children or vulnerable adults 8 abroad." 9 At the concluding sentence of paragraph 89, it is 10 noted: 11 "Offender managers who receive details about plans 12 to travel outside the UK ... do feel the information 13 notified should be wider and require the offender to 14 provide more information than is current expected in 15 law, for example, to cover information about travel 16 companions and other more specific details about 17 travel." 18 Moving on to section 72, now on internal page 11, it 19 is noted at paragraph 92: 20 "South Yorkshire Police do not record the use of 21 section 72 in an extractable format." 22 At 94, it is noted that it appears that the 23 knowledge and use of section 72 is very limited. Staff 24 do have some awareness that offending outside the UK can 25 be subject to prosecution in the UK in certain</p> <p style="text-align: center;">Page 60</p>

<p>1 circumstances.</p> <p>2 Reading down to paragraph 98, the witness notes:</p> <p>3 "98. In contrast to the above statement, which</p> <p>4 suggests limited usage of section 72, it is in my view</p> <p>5 a useful piece of legislation. Use of it would be</p> <p>6 effective in protecting children and adults outside the</p> <p>7 UK from offenders travelling to abuse abroad to avoid</p> <p>8 prosecution.</p> <p>9 "99. The nature of this offence means that offences</p> <p>10 may be prosecuted even when they are not offences in the</p> <p>11 country in which they take place. This would prevent</p> <p>12 offenders from travelling to exploit countries where the</p> <p>13 legal age of consent is below that of the UK. It would,</p> <p>14 however, also include where offenders may seek to</p> <p>15 transport children with the intention of offending.</p> <p>16 "100. The challenge in this is securing information</p> <p>17 relating to the offending from other countries,</p> <p>18 especially where the offence is not recognised in that</p> <p>19 country. This would also reduce the likelihood of</p> <p>20 offences being reported.</p> <p>21 "101. The legislation is also useful in prosecuting</p> <p>22 cases of domestic abuse and familial sexual abuse where</p> <p>23 offending take place outside of the UK and disclosures</p> <p>24 are made upon the victim's return."</p> <p>25</p> <p style="text-align: center;">Page 61</p>	<p>1 Statement LANCASHIRE CONSTABULARY (read)</p> <p>2 MS BENFIELD: The third force statement, which appears at</p> <p>3 tab 6, is that of Lancashire Constabulary. If I can</p> <p>4 formally adduce the statement, which is OHY006954, and</p> <p>5 then exhibits OHY006956 to OHY006959 and OHY006963.</p> <p>6 Starting within the statement at internal page 3,</p> <p>7 and if paragraph 20 could be put up on the screen, this</p> <p>8 provides, again, a summary as at 7 January 2019 in</p> <p>9 relation to current orders owned by Lancashire</p> <p>10 Constabulary.</p> <p>11 Again, Lancashire Constabulary have reviewed their</p> <p>12 data and provided exhibits of dip sampled cases to</p> <p>13 explore information in relation to the background,</p> <p>14 duration and nature of the order.</p> <p>15 If we could bring up what is the document at tab 10,</p> <p>16 the reference OHY006959, Lancashire have identified two</p> <p>17 cases that involve foreign travel restrictions.</p> <p>18 Just to address those briefly, the first is</p> <p>19 a Foreign Travel Order made after frequent travel by an</p> <p>20 individual to Thailand every month, an investigation</p> <p>21 into potential making of child images while in Thailand.</p> <p>22 It is noted that the Foreign Travel Order was made for</p> <p>23 three months while there was a live investigation, and</p> <p>24 noting that ultimately the case was not proceeded with.</p> <p>25 There was no further action on the offence.</p> <p style="text-align: center;">Page 62</p>
<p>1 Looking at the second itemised order, this is</p> <p>2 a Sexual Harm Prevention Order with foreign travel</p> <p>3 restrictions. It is noted that the nominal wanted to</p> <p>4 move to a country where he believed the age of consent</p> <p>5 is 14. It was an order imposed for life prohibiting</p> <p>6 travel to all countries outside the UK.</p> <p>7 Turning back to the witness statement -- so, again,</p> <p>8 this is back at tab 6 -- it is noted that there are no</p> <p>9 offences recorded by Lancashire for breaches of a</p> <p>10 Foreign Travel Order or a foreign travel restriction.</p> <p>11 Turning to paragraph 25 of the witness statement, it</p> <p>12 is noted that, although ViSOR has the ability to search</p> <p>13 for foreign travel restrictions, the sheer number of</p> <p>14 options when inputting data means there is a reasonable</p> <p>15 chance of information being input in such a way that it</p> <p>16 may not be retrieved in an automated search.</p> <p>17 At paragraph 26, the witness notes that by</p> <p>18 completing manual action, they were confident in their</p> <p>19 response to the request for information, but that steps</p> <p>20 have now been taken to ensure that any future orders</p> <p>21 with foreign travel restrictions are recorded in a way</p> <p>22 that allows the data to be preserved.</p> <p>23 You will note there is information on the training</p> <p>24 received by Lancashire Constabulary at 28 to 30 of</p> <p>25 the statement, so internal page 6.</p> <p style="text-align: center;">Page 63</p>	<p>1 At paragraph 31, observations on use, efficacy and</p> <p>2 improvement.</p> <p>3 If I could just draw out some of those points, it is</p> <p>4 noted that the constabulary has confidence that</p> <p>5 awareness of the benefits of Civil Orders is strong.</p> <p>6 Two cases with foreign travel restrictions are noted</p> <p>7 that provide a good example of where the requirement for</p> <p>8 foreign travel restriction has been recognised.</p> <p>9 It is noted they are unable to measure whether the</p> <p>10 use of foreign travel restrictions has been considered</p> <p>11 in all cases without a revisit to the case with the</p> <p>12 investigating officer.</p> <p>13 It is then noted that due to challenges in</p> <p>14 quantifying the effectiveness of foreign travel</p> <p>15 restrictions, consideration could be given to the</p> <p>16 introduction of measures to capture considerations as to</p> <p>17 whether an application is appropriate in each case and</p> <p>18 whether the investigating officer has considered it.</p> <p>19 Finally, it is noted that training provided to</p> <p>20 specialist staff should also be amended to ensure that</p> <p>21 foreign travel restrictions are discussed and considered</p> <p>22 within the Civil Orders input.</p> <p>23 Making a concluding comment on efficacy, the witness</p> <p>24 notes that it's also unknown, at the bottom of page 6,</p> <p>25 what the likely implications may be should the UK leave</p> <p style="text-align: center;">Page 64</p>

<p>1 the European Union and no longer have access to 2 information sharing arrangements currently in place, 3 including Schengen. The witness notes that this may 4 result in the requirement for increased reliance on 5 foreign travel notification.</p> <p>6 Section 72 is addressed at the top of internal 7 page 7, and at paragraph 32, it is noted that Lancashire 8 Constabulary does not currently have the ability to 9 retrieve information on the use of section 72. The 10 witness records that to obtain this information, 11 a search was conducted on all offences that were 12 committed outside Lancashire. It is noted that a set of 13 6,700 crime records were manually checked for crimes 14 where the offence was outside the UK, and none of these 15 resulted in a charge or conviction under section 72.</p> <p>16 At paragraph 33, it is noted that there is no 17 specific training given to Lancashire Constabulary staff 18 in relation to the use of section 72.</p> <p>19 At 34, it's noted that Lancashire Constabulary 20 accepts the awareness of the implications of section 72 21 is possibly low amongst staff due to the infrequent 22 nature of this type of investigation and, therefore, its 23 limited use.</p> <p>24 Concluding over the page, internal page 8, the 25 witness notes that training provided to specialist staff</p> <p style="text-align: center;">Page 65</p>	<p>1 should be amended to ensure that section 72 is discussed 2 and considered. The constabulary will be addressing 3 this via their CPD process and detective development to 4 ensure that specialist staff have increased awareness.</p> <p>5 Statement of ASSISTANT CHIEF CONSTABLE EMMA BARNETT 6 (STAFFORDSHIRE CONSTABULARY) (read)</p> <p>7 MS BENFIELD: Turning now to the fourth force, which is 8 Staffordshire Constabulary, the statement is at tab 12. 9 I formally adduce the statement of Assistant Chief 10 Constable Emma Barnett, which is OHY006977, and the 11 exhibit at OHY006978.</p> <p>12 At paragraph 13, the witness notes that 13 Staffordshire records information on Civil Orders across 14 four different databases, and notes at 14 that in each 15 system there are challenges when trying to extract the 16 information requested by the inquiry. It is noted that 17 none of databases have been designed for data extraction 18 research purposes and, therefore, search capability is 19 restricted.</p> <p>20 At 16 it is noted that ViSOR is the principal system 21 that's been used as the main source of information, and 22 information is provided in relation to the quantity of 23 orders managed by Staffordshire.</p> <p>24 Turning to paragraph 17 on internal page 3, it 25 states that unfortunately ViSOR only captures those</p> <p style="text-align: center;">Page 66</p>
<p>1 offenders residing within the force area. Therefore, 2 within the figures there will be cases where an order 3 was applied for and imposed in a different force area. 4 By way of comparison, the figures from the court system 5 and the police national computer are set out at 6 paragraphs 18 and 22 respectively.</p> <p>7 Turning to training provided to Staffordshire 8 police, it is noted at paragraph 36, internal page 6, 9 that the Civil Orders regime is embedded within 10 Staffordshire police and there is a level of awareness 11 across the organisation recognising the orders are an 12 invaluable tool when managing sexual offending, whether 13 that be the opportunity to prevent harm occurring in the 14 first instance or to prevent further harm in the future.</p> <p>15 The witness notes: 16 "In our bid to tackle child sexual abuse both in the 17 UK and abroad, orders provide law enforcement with 18 a level of control to manage the risk of offenders." 19 Turning to section 72, it is noted at paragraph 41 20 that due to section 72 giving law enforcement powers to 21 deal with suspects for the actual criminal offence they 22 have committed, it is not necessary for the information 23 pertaining to the use of section 72 to be recorded in 24 a mandatory search field. Therefore, data extraction 25 for any instances where section 72 has been used is not</p> <p style="text-align: center;">Page 67</p>	<p>1 possible because they are unable to search it.</p> <p>2 At 42 it is noted that anecdotally there is no 3 information on the use of section 72.</p> <p>4 At paragraphs 44 to 45, West Midlands CPS were 5 consulted, who provided two brief summaries on cases 6 that involved section 72.</p> <p>7 At 46, the witness concludes by stating that 8 section 72 is an essential tool for the UK law 9 enforcement, that there is a degree of knowledge of this 10 section within Staffordshire police; however, officers 11 are more broadly aware that sexual offences committed 12 outside the UK can be prosecuted here.</p> <p>13 Chair, I'm mindful of the time, if you consider it 14 appropriate to take the break now. Alternatively, 15 I could finish off the two remaining forces.</p> <p>16 THE CHAIR: I think you should finish them off.</p> <p>17 Statement of ASSISTANT CHIEF CONSTABLE WILLIAM JEPHSON 18 (HERTFORDSHIRE CONSTABULARY) (read)</p> <p>19 MS BENFIELD: I'm grateful.</p> <p>20 Turning now to what is Hertfordshire Constabulary, 21 you have the statement at tab 14, that of Assistant 22 Chief Constable William Jephson. I formally adduce the 23 statement, please, at OHY006935.</p> <p>24 At the bottom of page 1, in tabulated form, are the 25 orders managed by Hertfordshire Constabulary. Again,</p> <p style="text-align: center;">Page 68</p>

<p>1 turning to page 2, the force has provided a dip sample 2 of 15 cases to address the questions of 3 the circumstances in which orders made, data on breach 4 and also whether the order contained a foreign travel 5 restriction. 6 On the point of foreign travel restriction, chair, 7 if you turn past the table to what is page 8, the 8 witness observes that none of the cases that were dip 9 sampled had a foreign travel restriction. It is also 10 noted that the majority of Sexual Harm Prevention Orders 11 are gained at court on conviction and that judges are 12 very specific that the prohibitions we ask for have to 13 relate to the offence they are being sentenced for. 14 Travelling abroad would have to be part of their initial 15 offending for the travel restriction to be granted. 16 Turning to section 72, which is the paragraph just 17 at the top of internal page 9, it is noted: 18 "Hertfordshire have not used section 72 orders, 19 however since 2015, 27 section 72 orders are shown 20 within ViSOR for Hertfordshire." 21 Chair, a request for follow-up information is 22 outstanding from Hertfordshire Constabulary to clarify 23 what they mean by section 72 orders. Of course that 24 will be circulated on receipt. 25 It is noted:</p> <p style="text-align: center;">Page 69</p>	<p>1 "Following the request for information, the 2 constabulary have now undertaken a review of the use of 3 section 72 so as to satisfy themselves there is 4 appropriate training provided for staff." 5 Statement of DETECTIVE SUPERINTENDENT NICOLA BRAIN 6 (GWENT POLICE) (read) 7 MS BENFIELD: The final force is Gwent Police, and at tab 15 8 you have the statement of Detective Superintendent 9 Nicola Brain. If I could normally adduce that statement 10 at OHY006951 and the exhibit at OHY006982. 11 Turning to page 2, what is paragraph 4.1, again, the 12 inquiry has been provided with a summary of orders that 13 are managed by Gwent Police. 14 Turning through the statement, just to pick up on 15 the salient points, it's noted at internal page 4, 16 paragraph 10.2, that there are no Gwent Civil Orders 17 that provide foreign travel restrictions. 18 At paragraph 12.2, on internal page 5, it's noted 19 that, apart from Foreign Travel Orders, it's considered 20 that Civil Orders are ineffective in the protection of 21 children outside the UK, noting that imposed 22 restrictions cannot be acted on outside of the UK. 23 In relation to a more effective process, the witness 24 notes: 25 "We have in place a tried and tested process under</p> <p style="text-align: center;">Page 70</p>
<p>1 Interpol and Schengen for the protection of children 2 abroad and this is utilised effectively using the 3 trained liaison officers within Gwent Police MOSOVO 4 team." 5 Turning to section 72 -- chair, this is the final 6 page of the statement, internal page 6 -- it is noted at 7 paragraph 15.1 that the use of section 72 is not 8 recorded by Gwent Police. 9 At 16.1, that Gwent Police doesn't have specific 10 training on section 72. 11 And the concluding paragraphs, to read in full, at 12 17.3: 13 "17.3. Gwent Police have not used section 72 14 legislation, however it is appreciated that there is, 15 due to modern technology and ease of travel, there will 16 undoubtedly be an increase in these types of sexual 17 offences against children outside of the UK. 18 "17.4. Section 72 legislation is one preventative 19 investigative option available to officers to ensure 20 protection of children subjected to sexual offending 21 outside of the UK." 22 Chair, just to conclude, at appendix A, so that's 23 starting at final page 7 of the Gwent force statement is 24 a dip sample of 10 cases. None of those cases involve 25 restriction on foreign travel.</p> <p style="text-align: center;">Page 71</p>	<p>1 Chair, that concludes the evidence from the police 2 forces. 3 THE CHAIR: Thank you, Ms Benfield. 4 We will now take a break and return at 11.55 am. 5 (11.35 am) 6 (A short break) 7 (11.59 am) 8 MS HILL: Chair, can I call, please, Gregor McGill. 9 MR GREGOR MCGILL (sworn) 10 Examination by MS HILL 11 MS HILL: Thank you very much. 12 You are Gregor McGill. You are director of legal 13 services at the Crown Prosecution Service and you have 14 been in that position since 1 January 2016; is that 15 right? 16 A. That's right. 17 Q. Broadly, against a background of many years working in 18 the prosecution field; is that fair? 19 A. That's fair. 20 Q. You have provided a witness statement to the inquiry 21 with reference CPS004660, which I will formally adduce, 22 please, together with some of your exhibits that I will 23 refer to. That's a witness statement dated 24 3 January 2019. 25 Just broadly, can you give the panel a very short</p> <p style="text-align: center;">Page 72</p>

<p>1 overview of what the function of the Crown Prosecution 2 Service is? 3 A. Yes. It's set out in paragraph 5 of my statement. 4 Q. Perhaps I will just bring that up, then. It's 5 CPS0004660_002, paragraph 5 at the top. 6 A. It talks about advising the police and other law 7 enforcement agencies on cases for possible prosecution, 8 reviewing cases submitted by the police, determining any 9 charges in all but the minor cases, preparing cases for 10 court and presenting cases at court. 11 Q. You have been asked some questions, Mr McGill, about the 12 role of the CPS in relation to Civil Orders. Can 13 I perhaps scroll down, please, to paragraph 14 of your 14 witness statement on the next page of our internal 15 numbering. You make clear there that the CPS does not 16 collate data about these Civil Orders, save insofar as 17 you have some information about prosecutions for 18 breaches of those orders. Is that a fair summary? 19 A. Indeed. 20 Q. You have provided some figures in relation to breach 21 proceedings -- just to be clear, that's because you 22 initiate those breach proceedings as a prosecution for 23 a criminal offence; is that right? 24 A. Yes, when the evidence is brought forward by the police. 25 Q. You have provided some data about those breach</p> <p style="text-align: center;">Page 73</p>	<p>1 proceedings, and we will try and perhaps understand 2 those a little, if we may. Can I ask you to look at 3 your exhibit GM2. It is our CPS004665_001. We can 4 perhaps have that table brought up sideways on the 5 screen, if we can. 6 Doing the best we can to understand this, perhaps we 7 can try and scroll in a little bit, what I think this 8 document shows is, in the second column along, four 9 different types of breach proceedings. The first is for 10 breach of a SHPO or one of the old-fashioned SOPOs or 11 Foreign Travel Orders. There is then also provision for 12 breach of a Foreign Travel Order. There is then 13 provision for breach of a Sexual Risk Order, an SRO or 14 the old-fashioned RSHO, and there is then provision for 15 failure to comply with the requirement to surrender 16 the passport. 17 The figures, if one just looks at them broadly, 18 indicate very small numbers of prosecutions in the early 19 years of this table, but when we get to around 2015, 20 significant increases in the numbers. So one can see in 21 2015, a total of perhaps just over 300 prosecutions, and 22 then when we get to 2016, certainly the top line, 1,264 23 prosecutions in that category and 88 and 2 in the other 24 categories, and then 1,587, 1 and 145 for 2017. Is that 25 right?</p> <p style="text-align: center;">Page 74</p>
<p>1 A. That's what the figures seem to show, and the 2015 2 onwards is I think significant because that's when the 3 orders were revamped, I think, in 2015. 4 Q. Now, I don't know if you can help us with this, but can 5 I ask you to just keep in mind perhaps that last number 6 of just over 1,587 prosecutions. These are prosecutions 7 that you have identified as having arisen from cases 8 that reached a first hearing, if you see the heading of 9 this page; is that right? 10 A. Indeed, yes. 11 Q. I don't know if you can help with this, but the MoJ 12 figures we have -- can I pull up, please, MOJ000897 -- 13 give for 2017 a slightly lower figure at the very top in 14 terms of the number of breaches that have been 15 prosecuted. They give 1,414 plus 135. 16 I don't know if you can help us with the disparity 17 between your CPS figures and these figures. 18 A. I can't with any degree of certainty. From experience, 19 I can say that just because a case reaches a first 20 hearing, it can sometimes be discontinued before it goes 21 through to a final trial, or it could be dealt with in 22 some other way. 23 Q. That's what I assume. There's overall a slight drop-off 24 in the figures, and that might be explaining the 25 disparity, might it?</p> <p style="text-align: center;">Page 75</p>	<p>1 A. Yes. Sometimes people get sentenced for other offences, 2 sometimes people unfortunately die. There are sometimes 3 differences between our -- there are generally 4 differences between our figures and the official 5 statistics. 6 Q. What we can see from the MoJ figures, though, is that 7 the rate of conviction -- of the figure that the 1,414 8 are prosecuted for, the conviction figure is 1,099, and 9 then of the SRO figures it is 99 out of 135. Do you 10 have any observation to make on that percentage? 11 A. I think certainly in respect of the 1,414/1,099, that 12 looks at, with my mental maths, probably around 13 85/86 per cent, which in terms of a conviction rate -- 14 we don't judge ourselves by conviction rates, but in 15 terms of a conviction rate, it's not bad. You wouldn't 16 expect, in a system such as ours, to get a 100 per cent 17 conviction rate. 18 Q. You have been asked, I think, to provide information 19 about the way in which this data is recorded. I think 20 what we see on the figures that you originally gave us 21 from the CPS -- can I perhaps just go back, please, to 22 CPS004665. 23 Where there is mention of the breach of a Foreign 24 Travel Order in the first box and then in the second 25 box, the question that has been asked is: would it make</p> <p style="text-align: center;">Page 76</p>

<p>1 sense to record prosecutions for breaching any foreign 2 travel restriction element separately to inform any 3 attempt to analyse the efficacy of that provision? Are 4 you with me? Would it make sense to record the 5 prosecutions for breaching the foreign travel bit 6 separately? 7 A. I think there are a couple of points about that. If you 8 go to my paragraph 19, I think that's quite difficult 9 because the Foreign Travel Order requirement can 10 sometimes be subsumed in another document, in another 11 order. So lifting it out is a significant piece of work 12 for us. 13 Q. I see. So because at the moment a foreign travel 14 element will only ever attach in fact to a SHPO or an 15 SRO, you are saying -- 16 A. Since 2015, yes. 17 Q. -- that the recording wouldn't really permit that? 18 A. Yes. Our data doesn't have that -- I think the term is 19 sufficient granularity to enable us to do that. 20 Q. Can I ask you, please, to look at a document that we 21 will need to bring up, which is CPS004663. This is, 22 again, I think -- I think this is a slightly different 23 version, or perhaps an identical version, of 24 the document I was looking at, if this is 663. This is 25 665, I think. It is also 663 as well. Forgive me.</p> <p style="text-align: center;">Page 77</p>	<p>1 The question about this particular form of the data 2 is: is it possible to establish how many of 3 the orders -- it says here that this provides records in 4 relation to the failure to comply with the requirement 5 to surrender the passport under an SRO. How many of 6 these orders specifically on surrendering passports have 7 been made? Can you tell us how many SROs overall have 8 required the passport to be surrendered? 9 A. No, we don't have that data. 10 Q. That would be more data that's held by the orders being 11 made in the first place; is that right? 12 A. Indeed. Because, again, that could be kept within -- it 13 could be a specific requirement of an overall order. 14 Q. As you have indicated, your statistical pool is of 15 the prosecutions of that only. 16 A. Yes. 17 Q. I think, to be fair, we should record that the figures, 18 though, for prosecutions of a failure to comply with 19 a passport surrender are nil for 2017 and only 2 in two 20 of the years, and none elsewhere. So there are very, 21 very small numbers of prosecutions for that; is that 22 right? 23 A. Well, I don't know. I think that data needs to be 24 treated with a certain amount of caution. 25 Q. Well, the breach data is here, isn't it? Why does this</p> <p style="text-align: center;">Page 78</p>
<p>1 need to be treated with some caution? 2 A. Because it depends on a manual input of that data. 3 I don't know the basis on which that -- on how that data 4 has been compiled -- or how accurate that data is. 5 I can't tell that from this data. 6 Q. But this is the CPS statistics about these cases 7 reaching first hearing; yes? 8 A. As I said, our statistics come with a certain amount of 9 caveats. 10 Q. I see. 11 A. That's why they are not official statistics. 12 Q. I see. All right. So when you talk in your witness 13 statement about the government standards, if you like, 14 for statistical formality under the Statistics and 15 Registration Service Act 2007, these are not that. 16 A. Absolutely. 17 Q. But they are, nevertheless, data that is kept by the CPS 18 to reflect the number of prosecutions. 19 A. Yes. But we accept, whenever we publish such data, that 20 we always publish it with the caveats. 21 Q. I see. 22 You have given evidence in your witness statement 23 about the guidance given to CPS prosecutors on the 24 Civil Orders regime. Perhaps we can bring up, please, 25 CPS004661_001.</p> <p style="text-align: center;">Page 79</p>	<p>1 This, I think, is a document that comes out of 2 a suite of materials that gives the CPS prosecutors 3 guidance on particular topics; is that right? 4 A. Indeed. 5 Q. This sets out how SHPOs are applied for, what the test 6 is. Perhaps we can take the panel to the bottom of 7 internal page 2, where there is reference to the case of 8 Smith. Is it this line of law that generates the 9 proportionality issues about which we have been hearing? 10 A. Indeed. In making any application to the court for any 11 sort of order, a prosecutor would have to have in mind 12 that the order has to be made -- has to be necessary, 13 and that any provisions in it have to be a proportionate 14 response to the harm outlined. 15 Q. Go over the page, please, to internal page 3. There is 16 a list of potential prohibitions to be included within 17 a SHPO. We can see them numbered 1 through to 5. They 18 are, as far as 1 to 5 is concerned, very much focused on 19 internet use and computer use. If one goes over the 20 page, on to 6 and 7, that is also the case. 21 It is, though, right, isn't it, that a limit on 22 travel could be included within a SHPO? 23 A. There is the potential for that. You'd have to have the 24 evidence to show that it was both necessary and 25 proportionate.</p> <p style="text-align: center;">Page 80</p>

1 Q. Would there be any merit in including that as a reminder
 2 to prosecutors as a number 8, perhaps?
 3 **A. I think that you have to remember that prosecutors who**
 4 **are dealing with this type of offending are specialist**
 5 **prosecutors. They are specially trained, and they are**
 6 **in specialist units, who are used to dealing with this**
 7 **type of offending.**
 8 **So they have had training. They would probably know**
 9 **this. But there's always merit in reminding people of**
 10 **what is possible.**
 11 Q. Do you consider that, overall, there is sufficient
 12 awareness within CPS staff of the Civil Orders regime?
 13 **A. I think there is, yes. There's guidance, and, as**
 14 **I said, these offences, if I can use a generic term, are**
 15 **prosecuted by specialist prosecutors, specially trained,**
 16 **who are specialist in the prosecution of rape and**
 17 **serious sexual offences. They're experts.**
 18 Q. Can I have that taken down, please, and go now to
 19 CPS004660_003. It is paragraphs 18 and 19 of your
 20 witness statement, Mr McGill.
 21 You were asked for the CPS's views on the extent to
 22 which the Civil Orders regime is an effective safeguard
 23 to protect children overseas. Broadly, your response
 24 has been it is a matter for the Home Office; it is their
 25 responsibility, not the CPS's. You didn't seem to have

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1 comment on? You will see that they are set out at
 2 paragraphs 8 and onwards. You have heard, I think, some
 3 evidence about the prospect of outright travel bans,
 4 stamping passports, as other countries do. Is there
 5 anything in there that you would like to comment on?
 6 **A. Well, I think that we have to remember that we are**
 7 **subject to the jurisdiction of the ECHR, and some of**
 8 **the proposals would be, I think, problematic under the**
 9 **present state of the jurisprudence of both the UK courts**
 10 **and the European court.**
 11 Q. I think one issue that you may or may not have been made
 12 aware of is that Mr Jones yesterday was giving some
 13 evidence about the inability to use a closed material
 14 procedure or a PII procedure when applying for those
 15 orders.
 16 **A. Mmm.**
 17 Q. And suggested, perhaps, that if the regime was altered
 18 to permit that so that the court could be shown secret
 19 or closed intelligence material --
 20 **A. Sensitive material.**
 21 Q. Sensitive material -- sorry, shorthand -- that that
 22 would assist. Do you have a view on that process?
 23 **A. I haven't thought about that, because we generally don't**
 24 **have any part in the application for Civil Orders unless**
 25 **it's following conviction, and, generally, following**

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1 a view in particular about that. Is that right?
 2 **A. I don't think I'm an expert in being able to say whether**
 3 **they sufficiently safeguard children overseas. What**
 4 **I can say is, the Civil Order regime is a tool in**
 5 **a prosecutor's armoury to deal with allegations of**
 6 **offending by offenders. I don't think I can go any**
 7 **further than that, because I haven't done any research**
 8 **and I'm not aware of any research.**
 9 Q. I think you rightly flag the need for some caution
 10 around the statistics, although I think we may be doing
 11 a bit better on that front than we thought.
 12 Is there anything from the document I think you have
 13 been asked to look at, the concerns and reforms
 14 document, where evidence of other people about the
 15 Civil Orders regime has been summarised, that you would
 16 like to comment on or agree or disagree with?
 17 **A. Well, I think it is a long document, so I don't think**
 18 **I will say too much. I think what it does do is**
 19 **highlight, perhaps, the difference between sometimes**
 20 **what the expectation is of investigators and law**
 21 **enforcement and prosecutors and what is sometimes**
 22 **possible under UK law. I think it's that gap between**
 23 **that that sometimes causes that misunderstanding.**
 24 Q. Is there anything in terms of the proposals for
 25 reforming the Civil Orders regime that you feel able to

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1 **conviction, the material is before the judge in any**
 2 **respect. So it's not something that really comes across**
 3 **when we make these applications.**
 4 **I can see -- Mr Rob Jones is an investigator I know**
 5 **and have a great deal of respect for. I can see that**
 6 **that could, when law enforcement are making those**
 7 **applications, have some merit.**
 8 Q. I think you would know, would you, as he has said, that
 9 there is some precedent for that sort of model to apply
 10 for orders in a terrorism field or an immigration field?
 11 **A. Yes, there are -- there have been bespoke systems set up**
 12 **to enable that material to be brought before a relevant**
 13 **court.**
 14 Q. And with some success?
 15 **A. I understand so. It's not my area of expertise.**
 16 Q. I'm grateful. Turning then, please, to section 72, if
 17 I may.
 18 Can I ask you to look, please, at paragraphs 20 to
 19 24 of your witness statement. It is the next part of
 20 your witness statement. Just summarise, please, for the
 21 panel what the CPS's role is with respect to section 72.
 22 **A. Well, it's basically set out effectively in**
 23 **paragraph 20. As we have responsibility for prosecuting**
 24 **cases referred to us -- and I think that's important to**
 25 **realise. The responsibility for investigating cases is**

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<p>1 with the police or other law enforcement agencies, such 2 as the National Crime Agency, that may be investigating 3 these offences. But what section 72 means is that 4 prosecutors are able to utilise this section to 5 prosecute UK nationals and some others in certain 6 circumstances where such offences are committed abroad, 7 and we will advise the police on that and, where 8 appropriate, prosecute.</p> <p>9 Q. Just while we are there, just to remind ourselves, 10 I will bring up, please, if I may, one of the course 11 handouts that has been referred to in your witness 12 statement later on. It is CPS004427_014, please.</p> <p>13 I think this is a training material document that 14 was generally aimed at child abuse in a range of ways, 15 and this part deals with section 72. I'm not sure the 16 panel can see that, but this is, at the bottom, internal 17 page 14. It is part of a much longer document that 18 deals with a range of offences; is that right?</p> <p>19 A. That's right.</p> <p>20 Q. This document then tries to alert those who are going on 21 the training course to the ability to use section 72.</p> <p>22 A. Yes.</p> <p>23 Q. It sets out what the basic provisions are on internal 24 page 14.</p> <p>25 If one goes over to 15, please, there is</p> <p style="text-align: center;">Page 85</p>	<p>1 a distinction drawn, is there not, in the legislation 2 between a UK national and a UK resident -- that's 3 section 72(1) and 72(2).</p> <p>4 A. Indeed.</p> <p>5 Q. And then section 72(3) makes further provision. 6 Can you summarise what the legal provisions are for 7 the panel in terms of the difference between nationals 8 and residents?</p> <p>9 A. Section 72(1) makes it clear that parliament has 10 asserted extra-territorial jurisdiction over UK 11 nationals, and it says there: 12 "If a UK national does an act in a country outside 13 the UK, and the act if done in England and Wales or 14 Northern Ireland would constitute a sexual offence, the 15 UK national is guilty in that part of the UK." 16 There is a distinction under section 72, it is not 17 the same in respect of a UK resident, because there is 18 an element of dual criminality there.</p> <p>19 Q. Because what's required under section 72 for a resident 20 is that the offence is also an offence in the country in 21 question.</p> <p>22 A. Indeed. There is a clear distinction drawn by 23 parliament.</p> <p>24 Q. Then 72(3), just explain the meaning of that for the 25 panel, please. It is when a person is not a UK</p> <p style="text-align: center;">Page 86</p>
<p>1 national/resident at the time of an offence.</p> <p>2 A. Sorry, I haven't read this for a while.</p> <p>3 Q. Don't worry: 4 "If a person does an act in a country outside the UK 5 at a time when they were not a UK national or 6 a resident, the act constituted an offence under the law 7 in force in that country ... if done ... would have 8 [been an offence here] ... and the person meets the 9 residence or nationality condition at a relevant time, 10 proceedings may be brought." 11 I think it is about somebody who then returns to the 12 UK.</p> <p>13 A. Yes, that's what it's about.</p> <p>14 Q. So when we heard evidence earlier in the week from 15 Professor Binford about the dual criminality loophole, 16 that's the provision under section 72(2), this dual 17 criminality requirement for UK residents?</p> <p>18 A. Yes. I'm not sure I would define it as a loophole.</p> <p>19 Q. Can I ask for your views on it?</p> <p>20 A. To a certain extent -- and I have to be careful -- 21 legislation is a matter for parliament, and parliament 22 have legislated on this matter and they have been very 23 clear about what they have said. 24 I think the CPS would be neutral, essentially, about 25 this point. If you look at the Act, it's an Act that's</p> <p style="text-align: center;">Page 87</p>	<p>1 relatively recent. Applying the usual rules of 2 statutory interpretation, parliament intended to do what 3 it did, so we have to accept that. 4 So I wouldn't describe it as a loophole. It is an 5 intention of parliament. We would be neutral. If the 6 law was changed, we would utilise the law as it was 7 enacted by parliament.</p> <p>8 Q. Can you help with why there is this distinction between 9 nationals, residents and those who were neither but who 10 then return?</p> <p>11 A. Well, the general rule under UK law is that we assert 12 jurisdiction for matters that happen within the 13 jurisdiction of our own courts. The general rule is 14 that matters committed abroad are best dealt with within 15 the jurisdiction where those offences were committed. 16 Now, parliament has legislated to interfere with 17 that in certain respects, and section 72 is an example 18 of that. That's the general rule under UK law.</p> <p>19 Q. You have, I think, been made aware that there's been 20 suggestions that some regard the use of section 72 as 21 a matter of last resort or in extremis. Is that a CPS 22 policy?</p> <p>23 A. No.</p> <p>24 Q. What's your overall view on the number of times that 25 section 72 has been used, Mr McGill?</p> <p style="text-align: center;">Page 88</p>

<p>1 A. Well, it's difficult to come to a conclusion about that 2 because we don't keep data on that. If you look at my 3 paragraph 26, there are a number of cases there. 4 Q. Let's bring that up, please. It's your witness 5 statement, CPS004660. I think, for completeness, let's 6 go to internal page 4, first, your paragraph 25. 7 I think you have made clear that you don't keep 8 statistics on section 72 per se, for similar reasons as 9 we have already heard, you keep offence statistics, and 10 this is an enabling profession, not an offence 11 provision. 12 A. Absolutely. 13 Q. So you can't say exactly how many times it's been used, 14 but you've been made aware of a certain number of cases. 15 If we go over the page, please, to internal page 5, you 16 have been made aware of the operations Mr Jones has 17 referred to. You were the prosecuting authority in all 18 of those cases. 19 A. Indeed. 20 Q. You refer to the fact that the CPS have also advised on 21 other cases where 72 might be an issue. 22 A. Indeed. 23 Q. You say you have been asked for the view overall about 24 whether it is an effective safeguard. 25 You say at paragraph 28 that you're satisfied that</p> <p style="text-align: center;">Page 89</p>	<p>1 it is an effective tool for prosecutors, but you agree 2 that, while it's effective, its use can be complex and 3 resource-intensive. 4 So tell us a little bit more about that, please. 5 A. Well, section 72 itself is not a complex piece of 6 legislation, but what is complex is the challenges faced 7 by investigators and prosecutors in investigating and 8 prosecuting cases from foreign jurisdictions, and 9 sometimes operating in those jurisdictions can be quite 10 complex, and the evidence that you are seeking to obtain 11 from complainants/victims is also sometimes difficult to 12 get. 13 So it is very resource-intensive. You can't just 14 go on a plane and go to a jurisdiction and make 15 enquiries; you have to make diplomatic requests, you 16 have to do letters of request, you have to be 17 accompanied generally by local law enforcement. It 18 takes a lot of planning, it takes a lot of resource and 19 it takes a lot of time. 20 Q. Can I ask you on this topic to look at the reply to the 21 rule 9 that was made by the CPS in October of last year, 22 CPS004434_002, please. 23 In addition to some of the points that you have just 24 raised, if we scroll in on the top part of this 25 document, in answer to the question whether or not</p> <p style="text-align: center;">Page 90</p>
<p>1 there'd been any internal reviews or analysis of 2 the efficacy of section 72, it was said that the CPS had 3 consulted with various subject matter experts within the 4 organisation, and they had also said the requirement to 5 prove dual criminality for those offences which predate 6 section 72 can make the prosecution slower because the 7 CPS often have to send letters of request to the 8 relevant country for a statement confirming that the 9 conduct would be an offence in that country. 10 A. Yes. 11 Q. That relates to the earlier provisions of section 72 12 that required any prosecutions to also relate to an 13 offence in-country. 14 A. And the current resident. 15 Q. And the current resident provision. 16 Although section 72 removes the requirement to prove 17 dual criminality for UK nationals -- not for residents, 18 as you say -- it only applies for child sexual offences 19 and some thought it could be extended to encompass more 20 offences, albeit no specific concerns were identified 21 where this has been a problem. 22 Do you have a view on whether it could be used more 23 widely if it was extended to cover other offences? 24 A. It obviously could be used more widely if it was used to 25 cover other offences. The difficulty with that, of</p> <p style="text-align: center;">Page 91</p>	<p>1 course, is that section 72 is a deviation from the usual 2 practice of the UK courts with regard to jurisdiction. 3 Extending jurisdiction into other offences would be 4 something that parliament would have to consider. It 5 would be a matter for parliament. 6 Q. You make the point that because it captures offending 7 outside the UK, this excludes the CPS from prosecuting 8 offences which occurred in Scotland and Northern Ireland 9 and means that cases of multiple allegations spanning 10 different UK locations can result in multiple trials. 11 A. Indeed. 12 Q. Tell us a little bit more about what that means. 13 A. If you have a person who has committed offences in, say, 14 England, but also travels to Northern Ireland and 15 Scotland, you couldn't utilise section 72 to have all 16 those counts on one indictment. You would have to have 17 separate trials covering the offences in England and 18 Wales, a separate trial in Scotland and a separate trial 19 in Northern Ireland. 20 Q. Finally on this letter, it says: 21 "Anecdotally, there is a general view that 22 section 72 is often used in practice and with little 23 challenge from the defence. The amendment to remove 24 dual criminality for UK nationals was welcomed. The 25 anomaly in not being able to use the section for</p> <p style="text-align: center;">Page 92</p>

<p>1 offences committed in Scotland and Northern Ireland 2 could be improved." 3 What would that involve? 4 A. It would have to, I think, require parliament to look at 5 section 72 and amend its legislation to widen the scope 6 of it. 7 Q. Have there been any cases that you are aware of where 8 the current drafting has been a problem in that regard, 9 or could you imagine a scenario where such an amendment 10 would help? 11 A. I can't. I think we just manage the problems on 12 a case-by-case basis as they come up. Generally, if we 13 have got cases in Scotland, we will contact our Scottish 14 colleagues, have a case conference and determine which 15 cases we will prosecute and which cases sometimes will 16 come first. 17 Q. In terms of the statistical recording of prosecutions, 18 would it be possible to record section 72 prosecutions 19 separately? 20 A. Not without a change to how we record data. 21 Q. And could that be achieved without any difficulty? 22 A. Not really, no. It would require a change to our case 23 management system and a change to our reporting system, 24 which would be quite resource-intensive. 25 Q. But would there not be merit in the CPS being able to</p> <p style="text-align: center;">Page 93</p>	<p>1 say, "Nationally we can see that section 72 has been 2 used X number of times this year?" 3 A. Well, I would remind you of the limits of our data. If 4 we put a flag on a case, all it would do would tell us 5 where potentially section 72 was available. It wouldn't 6 then capture what we did with section 72 and whether we 7 used it, and there might be legitimate reasons for not 8 using it. So it may give -- the data may be collected, 9 but it may not be data that is particularly 10 statistically useful. 11 Q. But would it not be possible to record the numbers of 12 times it had been used to prosecute somebody? 13 A. Not without changing the way in which we collect data. 14 Q. But would that in itself be difficult? 15 A. Yes, it would, and it would require a resource. And it 16 needs to be remembered that, since 2010, we have lost 17 30 per cent of our budget, and what we have tried to do 18 is put our resource into front-line prosecuting, and we 19 get a number of requests to record data. We get 20 a number of requests to record data not just in this but 21 on other fields of criminality. Every time we have to 22 change, one, that's a cost for us in amending the way 23 that we do that, and also we have to divert resource 24 away from the front-line to our administrative functions 25 to capture that data.</p> <p style="text-align: center;">Page 94</p>
<p>1 Q. Can I ask you a few more questions about the training 2 material given to CPS prosecutors. 3 We have looked at the handout already. Can I bring 4 up, please, the jurisdiction guidance at CPS004429_001. 5 This is a separate document, I think, about the 6 jurisdiction position. It makes clear that section 72 7 permits there to be extra-territorial jurisdiction. It 8 then goes on to talk about very difficult jurisdictional 9 issues about whether material hosted overseas is within 10 the reach of the English criminal law. It will depend 11 on a range of factors, including who posts the material 12 on the site, where it is hosted, what the person intends 13 the material to do. 14 Can you help us a little bit more in understanding 15 what that relates to, these very difficult 16 jurisdictional issues? 17 A. I think if you read on, it talks about it would depend 18 on a range of factors, including who posted the material 19 on the site, where it is hosted and what the person 20 intends the material to do. If a website is hosted 21 abroad and is downloaded in the UK, you have to refer to 22 the case of R v Perrin. 23 This is a case, I think, relating to downloading 24 indecent images of children. Prosecutors have to be 25 alert in asking themselves before they decide what to</p> <p style="text-align: center;">Page 95</p>	<p>1 prosecute and where. Depending on where you are, you 2 have to ask yourself: was it downloaded in the 3 jurisdiction where you had your computer, was it 4 downloaded in the jurisdiction where the server is, or 5 is it downloaded in some other jurisdiction because of 6 the way the server operates? 7 Q. I see. 8 A. This is what this is aimed at: making sure that 9 prosecutors understand the technical implications of 10 what's happening. So sometimes you will need expert 11 evidence -- the prosecutor will need expert evidence 12 about the way the operating system operates and where 13 exactly the download occurred. 14 Q. So the reference to "very difficult jurisdictional 15 issues" is about a narrow set of cases that deal with 16 the hosting of internet material, not generally about 17 section 72; is that right? 18 A. That's how I read that, because, looking at section 72, 19 I don't see section 72 as a particularly complex piece 20 of legislation. 21 Q. Do you think that the training and materials provided to 22 CPS prosecutors around section 72 equips them to 23 understand it without difficulty? 24 A. I do, yes. Again, because I say, having looked at 25 section 72, I don't think it's a particularly complex</p> <p style="text-align: center;">Page 96</p>

<p>1 piece of legislation, and, of course, going back to what 2 I said earlier, the prosecutors who utilise it in this 3 field are experts in prosecuting this type of offending. 4 Q. Can I ask you to look again, please, at the concerns and 5 reforms document. Perhaps just bring this up: 6 INQ004049, please, internal paragraph 20, which flags 7 the fact that some have raised concerns about the 8 apparent low numbers of section 72 prosecutions at 9 paragraph 20, and then sets out a range of reasons why 10 that might be, or of challenges in using section 72 11 around things like the gathering of evidence abroad, 12 working together with teams abroad and things of that 13 nature. 14 Do you have any comment, Mr McGill, on paragraphs 20 15 to 22 here? 16 A. Again, as I said earlier on, I think -- there are 17 a number of statements there that I think show the gap 18 between sometimes what the expectation is and what is 19 possible under the current state of UK law. A good 20 example is paragraph 21(ii), referred to as 21 "bureaucratic obstacles or policies", and it talks there 22 about, at paragraph 32, the footnote, the Australian 23 Government policy of not cooperating with foreign 24 agencies in investigating crimes abroad which may lead 25 to the death penalty being imposed, and of UK law</p> <p style="text-align: center;">Page 97</p>	<p>1 enforcement agencies not sharing intelligence with 2 countries deemed to have a poor human rights record. 3 With great respect, that's not a bureaucratic 4 obstacle or policy; that's a pretty fundamental point of 5 principle. I think that's a very good example of 6 sometimes the practical issues and difficulties faced by 7 investigators and prosecutors in this complex field. 8 Q. The remainder of 21, in particular, at (iv), deals with 9 some of the challenges about obtaining evidence abroad. 10 Can you help us with this: are CPS staff given any 11 particular training in the cultural differences that 12 might apply in different law enforcement systems abroad? 13 A. Whether they're given training in the different cultural 14 challenges in getting evidence abroad -- we have broad 15 training on how to approach decision-making in these 16 cases and the myths and stereotypes and ensuring that 17 people understand how complainants/victims may behave 18 when they have been the subject of a sexual assault. So 19 there is plenty of that sort of training. 20 We do have access to the Foreign Office website 21 which enables us to get detailed information about each 22 individual country. We have access to the foreign 23 liaison officers that law enforcement have in various 24 countries. And, of course, we have an international 25 department ourselves that are able to give our</p> <p style="text-align: center;">Page 98</p>
<p>1 prosecutors guidance about the particular concerns and 2 challenges in a country. 3 So there are large amounts of resources, both 4 internal and external, to our prosecutors that enable 5 them to get the necessary information that they need to 6 effectively mount these prosecutions. 7 Q. When you refer to the foreign liaison officers that you 8 have access to, did I hear you say that was the NCA's 9 international liaison officers? Is that what you meant? 10 A. Generally, they are, yes. When I was dealing with the 11 NCA, they were known as foreign liaison officers. They 12 regularly change their names. 13 Q. Does that mean that if there are particular issues about 14 how a particular local enforcement agency operates in 15 a particular country, the CPS would have some 16 understanding of that? 17 A. Yes, generally, you would go through that ILO and say, 18 "We have got this potential case, can you give me some 19 advice as to how we might approach this, who we might 20 approach and how best to approach?" 21 So if you were doing an international letter of 22 request, say, you would ask that international liaison 23 officer and say, "Who should it go to? Who am I best to 24 send this to? Who would be prepared to have 25 a conversation with me about how best to draft that?"</p> <p style="text-align: center;">Page 99</p>	<p>1 So it is about tapping into all the resources that 2 are available to you to get the information that you 3 want. 4 Q. So do you feel overall that the CPS staff are equipped 5 sufficiently in gathering evidence from other 6 jurisdictions? 7 A. I do, yes. 8 Q. Some questions, please, about the right of review. You, 9 I think, can confirm for the panel, can you, that there 10 is in this country an ability for a victim to review 11 a decision not to prosecute in a particular case? 12 A. Yes, the victim's right to review policy. 13 Q. Should children outside England and Wales have that 14 right? 15 A. Yes, and I think under the policy they probably do 16 already. The definition of a victim under the policy is 17 quite widely drawn. Going back to the purpose of 18 the policy, the purpose of the policy is, if a decision 19 is wrong, it should be changed and it should be changed 20 as soon as possible. 21 I have caused enquiries to be made with the division 22 within the CPS who deals with this policy, and they have 23 said that if they received a request for such a review 24 from an interested party, and it was clear that that 25 interested party had the consent of the individual</p> <p style="text-align: center;">Page 100</p>

<p>1 victim -- and as a child, you would probably have to 2 have that consent -- that would qualify for a review 3 under our policy. 4 Q. I see. So your understanding is that, in fact, already 5 a child abroad or, indeed, an NGO representing a child 6 abroad could use that right to review? 7 A. Yes, and we have a discretion. The policy is not hard 8 and fast. We have a discretion in any event. I am 9 confident that, having spoken to the individuals who 10 hold that policy, we would be flexible enough to enable 11 that review to take place. 12 Q. That deals with a review of prosecution decisions. 13 A. Yes. 14 Q. I think separate points have been made about a review of 15 a decision not to investigate. 16 A. Yes. 17 Q. Is that something that there is a review process for in 18 this country? 19 A. Not in the CPS, but I do understand that individual 20 police forces -- I don't know so much about the NCA -- 21 generally have their own victim's right to review 22 policy. 23 Q. Do you have a view on whether it would be workable to 24 permit children overseas or NGOs representing them to 25 challenge a refusal to investigate an allegation of</p> <p style="text-align: center;">Page 101</p>	<p>1 child sexual abuse? 2 A. I can't question -- I can't comment on that, because 3 that would be a matter for the -- a policy matter for 4 the police. I don't know what logistical problems there 5 would be with that, so I don't think I'm a person who 6 can comment on that. 7 Q. Can you comment in any way on the proposed reforms that 8 have been made to section 72 that are set out at 9 paragraphs 22 and onwards of the concerns and reforms 10 document? It is 22, I think, through to 39, although we 11 have already covered I think the last point there about 12 the right to review. Is there anything else you would 13 like to comment on in these proposed reforms? 14 A. No, I think I -- paragraph 27, I just want to make 15 clear. I am aware of no policy that -- and I'm certain 16 that there is no policy within the CPS that section 72 17 should only be used as a last resort. 18 Q. I see. So if there is documentation, not CPS 19 documentation necessarily, that suggests that by other 20 partners in the field, you would say that that's 21 inaccurate and should be changed? 22 A. Well, it's certainly inaccurate from a CPS point -- 23 I can't comment on the policy that perhaps an individual 24 force gives to its own officers. That's a matter for 25 the individual force.</p> <p style="text-align: center;">Page 102</p>
<p>1 Q. But there is nothing, as far as you're aware, 2 underpinning the policy justification for section 72 3 that would support such an analysis of it? 4 A. There is nothing in the legislation that suggests that, 5 and that's where you'd have to go back to. I have seen 6 no legislation, I have seen no guidance from anyone, 7 that suggests it should ever be used as a last resort. 8 It is a tool there for investigators and prosecutors. 9 Q. Just before we leave this document, I think it is right 10 that you have no evidence to give on Disclosure and 11 Barring systems. Is there anything on the international 12 criminal certificate that you would like to comment on? 13 A. I have no comment. 14 Q. The final section of the document is of wide-ranging 15 nature, beginning at paragraph 67 through to 78. Is 16 there anything there that you would like to comment on? 17 A. No. I don't think these are matters, really, for the 18 CPS. 19 Q. A few questions, then, on some specific cases that have 20 been raised. We heard some evidence about the Matthews 21 case. I will perhaps just bring it up to remind the 22 panel. It's INQ003741. 23 Just taking this relatively briefly, if I may, this 24 was a case involving an individual charged with several 25 counts of sexual assaulting Indian boys. If one goes to</p> <p style="text-align: center;">Page 103</p>	<p>1 the top of internal page 2, please, the defendant was 2 charged with an indictment of 12 counts of sexual 3 assault, it says in the first paragraph, six boys 4 between the ages of 8 and 9 in India in or about 2005, 5 and so predates section 72, I think; is that right? 6 A. Yes. 7 Q. The issue -- 8 A. Well, the new section 72, anyway. 9 Q. The current -- the new version of it. 10 A. Yes. 11 Q. But the previous version, I think, would have been in 12 force at that time. 13 A. Yes, it would have been. 14 Q. But the prosecution here was before the court because of 15 that history, and the issue here -- I won't take the 16 panel to it in detail -- was about whether or not the 17 videolinks to enable the boys in India to give evidence 18 had been set up in a prompt fashion. Is that a fair 19 summary? 20 A. I think that's probably a fair summary, yes. 21 Q. There is quite a lot that the panel can read if they 22 wish of the arguments to and fro. I think I can 23 summarise it by bringing you to internal page 7, where 24 the judge had said, effectively, that he felt -- if you 25 go down to internal paragraph C, please:</p> <p style="text-align: center;">Page 104</p>

<p>1 "I am bound to say that I agree with Mr Clegg. The 2 rate at which the Crown has sought to deal with the 3 evidential problem of presenting these children's 4 evidence to the court is lamentably slow." 5 It goes on to say there had been delay in the way in 6 which the CPS had arranged the case; is that right? 7 A. That's what it appears to say there, yes. 8 Q. I think we know from other documentation that we were 9 provided with that concerns were raised about this 10 prosecution. I think we can pull up, please, 11 a letter -- we have already perhaps looked at this -- 12 INQ003742. I think the then DPP, Mr Starmer QC, wrote 13 to Christine Beddoe, who had raised concerns about this 14 and said there would be a review of the case. 15 The questions that's raised is: what was learnt from 16 that review? But I think, in fairness, we do have 17 a letter at CPS004668 -- perhaps just bring that up, 18 please. Can you scroll in, please, on the bullet points 19 here. 20 Mr McGill, you can see that there had been failings 21 identified in this prosecution -- 22 A. Yes. 23 Q. -- that had led to certain levels of delay or a lack of 24 the need to progress matters with India quickly. There 25 had been further guidance given, I think, by the chief</p> <p style="text-align: center;">Page 105</p>	<p>1 Crown Prosecutor to the lawyers and the managers in the 2 area. 3 Does that reflect what was learnt from the Matthews 4 case? 5 A. Yes, I think it does. This was -- Keir was passionate 6 about this type of offending, and it's clear that, as 7 a result of being informed of the problems in the case, 8 he commissioned a review and a review was carried out. 9 Like any organisation, where we get things wrong, we 10 seek to learn from it and make sure that we don't make 11 the same mistakes again. 12 Q. Do you think generally the sorts of issues that were 13 identified in that case, which was several years ago, 14 are more familiar to prosecutors now? So do you think 15 there is better understanding about how international 16 requests are made, better understanding about how to 17 arrange videolinks internationally, and things like 18 that? 19 A. I think that's right. I think, from memory, this case 20 wasn't handled by a rape and serious sexual offence 21 specialist, it was dealt with by a general CPS unit. 22 I think it was a lack of knowledge on behalf of 23 the individual prosecutor. The prosecutor made 24 a mistake. 25 As I have said, now these prosecutions are handled</p> <p style="text-align: center;">Page 106</p>
<p>1 by specialist prosecutors, who are used to dealing with 2 these cases and are specially trained and are expert and 3 operate within specialist units. So I'm satisfied that 4 there are provisions in place now that will mitigate 5 this happening again. 6 Q. In fact, in fairness, if you look at the middle bullet 7 point, one of the issues had been that there had been in 8 that case a failure to engage with the Complex Casework 9 Unit. 10 A. Indeed. 11 Q. So there is a similar unit in place now that you feel is 12 more likely to have been called upon. 13 A. There is both a Complex Casework Unit in each area and 14 a rape and serious sexual offence unit. So, generally, 15 these cases will be dealt with in what we call a RASSO 16 unit. 17 Q. Forgive me, I was getting these two cases confused. 18 Matthews was a section 72 prosecution, I think; is that 19 right? 20 A. I think it was, yes, because they were giving evidence 21 from -- due to give evidence from abroad in India. 22 Q. That's right. The second case, however, I am asked to 23 ask you questions about, the Varley case, was not. 24 That's an extradition case. 25 A. Indeed.</p> <p style="text-align: center;">Page 107</p>	<p>1 Q. You have been asked to look at some information about 2 that case, in particular as to why the CPS advice that 3 was given did not look at the Civil Orders issue. Can 4 you help with that? 5 A. As it was an extradition case, I think this case 6 actually does show that, rather than it being a problem 7 with section 72 or Civil Orders, it's about the 8 complexities of extradition. 9 But counsel's advice, I think, was being asked about 10 whether to appeal the decision not to extradite. So in 11 those circumstances, it's probably not surprising that 12 counsel dealt with that rather than Civil Orders. 13 Additionally, of course, Civil Orders in that 14 context, there was no conviction, so it wouldn't have 15 been a matter for the CPS, it would have been a matter 16 for the individual police force, and the individual 17 police force would have got its advice on its civil 18 options from its own force solicitors, not the CPS, 19 because we advise generally on criminal matters. 20 Q. In fact, as far as issues of delay were raised in 21 Varley -- I think in fairness, I should bring this up, 22 please, INQ003745_010, and focus in on paragraph 23 of 23 that document, please. 24 This is the context here that this is an advice, as 25 you have indicated, about appeal, and the lawyer that</p> <p style="text-align: center;">Page 108</p>

1 wrote this advice said:
 2 "The District Judge's comments on the delay ...
 3 should not be taken as criticisms of the conduct of
 4 the case on behalf of the CPS or the Indian authorities.
 5 The delay in the case was wholly attributable to efforts
 6 made on behalf of the Respondent [the individual] to
 7 challenge the sufficiency of the evidence in the
 8 request, whether extradition was barred by the passage
 9 of time and whether prison conditions in India breached
 10 the ... rights under the European Convention ..."
 11 **A. Indeed.**
 12 Q. I think you're aware, though, that there have been
 13 criticisms made of the Varley case and how it was
 14 conducted by Ms Beddoe, who gave evidence earlier this
 15 week. Has there been any further review of that case?
 16 **A. I'm not aware that there was a review of that case.**
 17 **I think the issue in the case was the failure to seek**
 18 **a psychiatric assessment because -- to challenge the**
 19 **assertion that the individual was suffering from**
 20 **dementia.**
 21 **Now, look, that was a call made by both the CPS**
 22 **lawyer and counsel in the case. It was a call that was**
 23 **made that subsequently turned out to be the wrong call.**
 24 **So, look, it's unfortunate and, as a result of this,**
 25 **rather than a review, I understand, from speaking to --**

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1 misunderstand, I think.
 2 When you were asked about the possible modifications
 3 to the collection of the statistical evidence in
 4 relation to these orders, you mentioned, among other
 5 things, that because of the reduction in budget,
 6 effectively, since 2010, there were many requests and
 7 they were all resource-intensive, and that you didn't
 8 think that this request, as it were, was more important
 9 or more urgent than any other such request and that they
 10 were a great demand on the CPS budget, in effect,
 11 I think is what I understood you to be saying.
 12 **A. I'm not sure I said that. I said that it has to be**
 13 **understood that if there is a request for us to collect**
 14 **data -- I'm not passing any comment on whether it's**
 15 **right to ask us to collect data, but what I'm asking is**
 16 **an understanding that any request for us to collect data**
 17 **comes with a consequence.**
 18 MR FRANK: Yes.
 19 **A. And that has a resource implication, and that resource**
 20 **implication has to be balanced against the need for us**
 21 **and the decision that we have taken to focus our**
 22 **resources on the front-line.**
 23 **So I'm not passing any comment on whether it's the**
 24 **right decision or not; what I am saying is: such**
 25 **a request would come with a consequence.**

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1 **having asked enquiries to be made by the head -- with**
 2 **the head of the Extradition Unit, that the extradition**
 3 **lawyers have been reminded about the need to obtain**
 4 **expert evidence to contradict such assertions by**
 5 **individuals in future. So rather than a review, the**
 6 **learning was captured and fed out to the extradition**
 7 **lawyers.**
 8 Q. Are there any themes that you can draw from either the
 9 Matthews case or the Varley case about section 72 today?
 10 **A. Not about section 72, because, as I said, I don't think**
 11 **section 72 itself is complex. I think what the Varley**
 12 **and the Matthews case show is that the investigation and**
 13 **prosecution of these cases, irrespective of section 72,**
 14 **remains quite challenging and difficult.**
 15 **The challenges to extradition and the challenges to**
 16 **the admissibility of evidence in these sort of cases can**
 17 **be wide ranging, and we operate in an adversarial system**
 18 **in the criminal courts.**
 19 Q. Is there anything else, Mr McGill, that you think I have
 20 not covered that you would like to comment on?
 21 **A. No.**
 22 MS HILL: Thank you, chair. Those are all my questions.
 23 THE CHAIR: Thank you. Mr Frank has a question.
 24 MR FRANK: Yes, please. I just wonder if you wanted to
 25 contextualise something that you said and is possible to

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1 MR FRANK: Yes, indeed.
 2 Just following on from that, since obviously 2010,
 3 you know that the protection of children from sexual
 4 abuse has become a national policing priority.
 5 **A. Indeed.**
 6 MR FRANK: There is no difference between the police and the
 7 CPS on this: it is a CPS priority as well, is it?
 8 **A. Indeed it is.**
 9 MR FRANK: Thank you very much.
 10 THE CHAIR: Ms Sharpling?
 11 MS SHARPLING: A couple of questions, Mr McGill, if I may.
 12 On the system that you use for collecting
 13 statistical data, what's the basic counting unit --
 14 defendants, offences, what is it?
 15 **A. We can search under two things: a defendant, we are**
 16 **defendant based; but we are also search under the unique**
 17 **reference number. We can drill down a little further**
 18 **into offences, but, of course, section 72 isn't an**
 19 **offence; it is an enabling piece of legislation.**
 20 MS SHARPLING: Thank you.
 21 I think most of the witnesses who have come before
 22 us in this investigation agree that the number of times
 23 section 72 is utilised is relatively rare, for whatever
 24 reason. I was wondering whether it would be possible
 25 if, for example, for a specific period of time, the CPS

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1 could collect data on the use of section 72 by manual
 2 means by asking the areas to notify its headquarters
 3 when section 72 had been utilised, say for a period of
 4 time?
 5 **A. We are, of course, a digital organisation. I have to**
 6 **have in mind what the director of business services**
 7 **would say to the resource implications of carrying out**
 8 **a manual check.**
 9 **There are problems with manual checks: it does take**
 10 **an awful lot of resource and, secondly, a manual check**
 11 **is only, if I can be frank, as good as the person who is**
 12 **carrying out that manual check. So the data would come**
 13 **with a certain amount of caveats, as all CPS data would**
 14 **come with a certain amount of caveats, but this would**
 15 **have even more caveats because it's manually collated.**
 16 **I can say, Ms Sharpling, that if there was such**
 17 **a request from the inquiry, we would of course consider**
 18 **it.**
 19 MS SHARPLING: Thank you.
 20 THE CHAIR: Thank you, Mr McGill. We have no further
 21 questions.
 22 THE WITNESS: Thank you.
 23 (The witness withdrew)
 24 MS HILL: Chair, we do have some reading to do, but I see
 25 the time. I'm in your hands as to whether you wish us

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1 the Ministry of Justice. Since 1 April 2017, I have
 2 been deputy director of the criminal courts and criminal
 3 law policy unit. The unit leads policy development on
 4 criminal court reform and domestic and international
 5 criminal law."
 6 The third witness statement, at your tab D3,
 7 reference MOJ000903, that of Robert Reeve. He says:
 8 "In my role, one of my responsibilities is the head
 9 of criminal justice outcomes and equalities statistics."
 10 So these are three witness statements.
 11 I am going to start by dealing with the evidence
 12 that relates to Civil Orders, so starting with the
 13 statement of Mr Davison, your tab D1, MOJ000898.
 14 This is a statement dated 7 January 2019.
 15 Mr Davison has helpfully set out in bold in the witness
 16 statement the information requested by the inquiry and
 17 then has answered it underneath.
 18 So the bottom of the first page, he refers to the
 19 request for statistics related to the number of times
 20 that the various Civil Orders have been made. The
 21 answer, paragraph 4, is this:
 22 "The Ministry of Justice publishes information
 23 relating to the named orders for those offenders who are
 24 subject to MAPPA in its annual report."
 25 He provides the web address that the MAPPA report

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1 to start a little bit of reading from the
 2 Ministry of Justice.
 3 THE CHAIR: No, I think we will reconvene at 1.55 pm.
 4 (12.55 pm)
 5 (The short adjournment)
 6 (2.00 pm)
 7 MS HILL: Thank you, chair.
 8 My learned friend Ms Faure Walker will now summarise
 9 some evidence from the Ministry of Justice because we
 10 think that fits quite well with the Crown Prosecution
 11 Service evidence, and then we'll hear from the FCO
 12 witness.
 13 THE CHAIR: Thank you.
 14 Statements of MR GORDON DAVISON, MR MATTHEW GOULD and
 15 MR ROBERT REEVE (MINISTRY OF JUSTICE) (read)
 16 MS FAURE WALKER: Chair, the Ministry of Justice evidence is
 17 in your bundle in tab D. There are three witness
 18 statements to adduce.
 19 The first is that of Gordon Davison, at your tab D1,
 20 Relativity reference MOJ000898. Mr Davison is head of
 21 public protection group in Her Majesty's Prison and
 22 Probation Service.
 23 The second statement is that of Matthew Gould, your
 24 tab D2, Relativity reference MOJ000899. He says:
 25 "I am a senior civil servant currently employed by

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1 can be found. Chair, this is a document you have been
 2 taken to already, for example, Mr Jones yesterday of
 3 the NCA. The Relativity reference, if it can be brought
 4 up, please, INQ003128_001. He goes on to say:
 5 "Even though this is the report from 2017-18, it
 6 includes the data from previous years. The information
 7 provided is that collated centrally further to annual
 8 returns received from the 42 MAPPA areas of England and
 9 Wales. Please also note that Sexual Offences Prevention
 10 Orders were replaced by Sexual Harm Prevention Orders
 11 from 2015-16.
 12 "I have provided information from MAPPA data rather
 13 than information held by the Ministry of Justice on
 14 court outcomes. This is because published information
 15 about court outcomes is listed on the principal offence
 16 basis, that is, the most serious offence for which
 17 a defendant is dealt with, and where a defendant
 18 receives immediate custody for multiple offences, the
 19 custodial sentence will be combined. In these cases,
 20 information on any order also imposed will not be
 21 included. Sentence disposals are also recorded on
 22 a principal basis and any order imposed alongside the
 23 principal disposals would not be presented in
 24 statistics.
 25 "Information on the relevant orders is captured

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<p>1 under 'other' category. Disaggregation of this data, 2 given the information provided in the MAPPA annual 3 report, would not add value." 4 Could I ask that we go to INQ003128_016, please. He 5 then answers a question about page 14, our internal 6 page 16, of that report about the data there that we 7 have already seen, but he says this in response to the 8 question about the number of SHPOs and SROs that are 9 imposed which contain foreign travel restrictions each 10 year, what records are the figures based upon: 11 "This data is not held by the MoJ. I understand 12 that this request has also been asked of other 13 government departments. I am advised that the level of 14 data requested by inquiry would be collected locally by 15 police forces, and to extract specific details, such as 16 the foreign travel restrictions for the period 17 requested, would require analysis of all individual case 18 records." 19 He then was asked by the inquiry for information 20 about the circumstances in which orders have been made 21 and the behaviour of the individual subject of orders 22 listed in our requests, and he said again: 23 "This information is not held by the 24 Ministry of Justice." 25 He suggests that the inquiry contact the NPCC, and</p> <p style="text-align: center;">Page 117</p>	<p>1 of course you heard evidence this morning from the NPCC 2 and also have individual police forces about the 3 information the inquiry sought about the circumstances 4 in which orders were made and so forth. 5 Also in this document, just so you know it is there, 6 if we go to internal page 14, so INQ003128_014, just so 7 you note it is there, there is information about the 8 number of people cautioned or convicted for breaching 9 notification requirements -- not Civil Orders breaches, 10 these are breaches of notification requirements. Just 11 so you note it is there. 12 I am going to come on to breaches of Civil Order 13 statistics in a moment, but before I do that, I am just 14 going to carry on with the witness statement from 15 paragraph 9. This is the section on training and 16 information given to personnel at the MoJ in relation to 17 the orders and requests that the inquiry made of it. 18 That can go down, thank you: 19 "The Criminal Justice Act 2003 provides for lead 20 officials across police, probation and prison services 21 to establish MAPPA. MAPPA are set up in each of the 42 22 criminal justice areas in England and Wales. MAPPA are 23 not a body in itself, and each agency retains its full 24 responsibilities and obligations. Under the Criminal 25 Justice Act 2003, the Secretary of State for Justice is</p> <p style="text-align: center;">Page 118</p>
<p>1 permitted to issue statutory guidance to help the 2 relevant agencies in dealing with MAPPA offenders. The 3 relevant agencies are the police, probation and prison 4 services, along with other agencies that have a duty to 5 cooperate with MAPPA (including Home Office immigration 6 enforcement, health, social services, housing, 7 et cetera -- as listed in section 325(6) of the Criminal 8 Justice Act 2003)." 9 The witness then refers to his letter to the inquiry 10 and his provision of statutory MAPPA guidance. He then 11 goes on to explain that, as he had advised, the guidance 12 was revised over the summer of 2018. Just pausing 13 there, could I ask the evidence handler to bring up 14 INQ004048_001 and ask that that document is added. 15 This is, I hope, version 4.3 of the MAPPA guidance 16 of July 2018. 17 It is not coming up. Anyway, the Relativity 18 reference is there. 19 But the witness explains: 20 "Through that process, the chapter on foreign travel 21 has now been removed as it did not provide specific 22 guidance of roles within the MAPPA for the management of 23 these processes. 24 "The National Probation Service (NPS) refer to 25 Home Office guidance on part 2 of the Sexual Offences</p> <p style="text-align: center;">Page 119</p>	<p>1 Act 2003 ..." 2 Chair, that's a document you have seen referred to 3 before. The Relativity reference, if needed, is 4 HOM002997 -- no need to bring it up -- and that is 5 a September 2018 guidance. The National Probation 6 Service refer to that guidance as part of its process 7 for mapping software, Equip: 8 "The information on Equip has already been provided 9 to the inquiry. The NPS will be releasing new training 10 in late 2019 that will reference the many process maps 11 that are linked to sexual offending to ensure staff know 12 where to access information on Civil Orders." 13 Then the enquiry ask for any internal reviews or 14 analysis at the MoJ, including any such documents which 15 comment on the utility and/or efficacy of the 16 Civil Orders regime: 17 "Ministry of Justice does not hold this information 18 and to the best of my knowledge has not carried out any 19 internal reviews or analysis of the utility and/or 20 efficacy of the Civil Orders regime." 21 The MoJ was then asked for its views as to the 22 extent to which the Civil Orders regime is an effective 23 safeguard to protect children overseas from abuse and 24 any ways in which the MoJ considers the Civil Orders 25 regime could be reformed so as to act as an improved</p> <p style="text-align: center;">Page 120</p>

<p>1 safeguard to protect children overseas from abuse, and 2 the answer was this: 3 "It would not be for the Ministry of Justice to make 4 such an assessment as it is not the lead department for 5 this policy. Such information may be held by the 6 Home Office in collaboration with the National Crime 7 Agency or the NPCC." 8 Now the evidence relating to breaches of 9 Civil Orders. The inquiry asked for statistics held by 10 the MoJ of individuals who have been convicted or 11 cautioned for breach of a Civil Order, and you heard 12 something about the statistics that are available and 13 also CPS data about this this morning. The witness at 14 paragraph 14 says: 15 "The Ministry of Justice publishes statistical data 16 on prosecutions, convictions and sentencing. These data 17 are either derived from the LIBRA case management 18 system, which holds the magistrates courts records, or 19 the Crown Court's CREST system which holds the trial and 20 sentencing data. The data includes offences where there 21 has been no police involvement, such as those 22 prosecutions instigated by government departments, 23 private organisations and individuals. The 24 Ministry of Justice provides an analytical tool to 25 interrogate this data further, available at ..."</p> <p style="text-align: center;">Page 121</p>	<p>1 And the website is given. But if it assists, the 2 Excel tool from which to analyse data has been served on 3 Relativity at MOJ000901. He goes on to say: 4 "This is one of many tools published for the 5 quarterly criminal justice statistics and relates to 6 data for the 12 months ending December 2013 to 12 months 7 ending December 2017, and was published in May 2018." 8 In relation to the number of prosecutions for 9 breaches of SHPOs and SROs, can I ask that MOJ000897 is 10 brought up, please. It is at your tab 6, D6 of 11 the bundle, chair. This is something that we looked at 12 this morning as well. The witness explains that the 13 figures presented relate to defendants for whom these 14 offences were the principal offences for which they were 15 dealt with: 16 "When a defendant has been found guilty of two or 17 more offences, it is the offence for which the heaviest 18 penalty is imposed. Where the same disposal is imposed 19 for two or more offences, the offence selected is the 20 offence for which the statutory maximum penalty is the 21 most severe. Similarly, data are given on a principal 22 disposal basis: that is reporting the most severe 23 sentence for the principal offence. For this reason, 24 these data may not capture all failures to comply with 25 the Civil Orders. Additional notes on the data are</p> <p style="text-align: center;">Page 122</p>
<p>1 available through the analytical tool." 2 Chair, you have extra notes about the data at your 3 tab 7, Relativity reference -- no need to bring it up -- 4 MOJ000902. 5 Finally in this witness statement: 6 "The Ministry of Justice does not centrally hold 7 information on the circumstances leading to prosecuting 8 a breach of a Civil Order or on the specific restriction 9 breached by the offender in the courts proceedings 10 database. Such information on individual cases may be 11 held by the Crown Prosecution Service, in police forces 12 via the NPCC or at individual courts." 13 We have already heard evidence from the CPS and 14 police forces, as you know. 15 There is some further evidence about civil orders in 16 the statement of Robert Reeve, your tab 3, MOJ000903. 17 I will read from paragraph 4: 18 "In Mr Davison's response of 7 January ..." 19 So the witness statement I have just been reading 20 from: 21 "... we provided the statistics in relation to 22 breaches of Civil Orders for the years 2015, 2016 and 23 2017." 24 The witness then refers to a further request from 25 the inquiry for similar statistics for earlier years,</p> <p style="text-align: center;">Page 123</p>	<p>1 and that is for the number of convictions and cautions 2 brought for breaches of Foreign Travel Order or 3 prohibition on foreign travel imposed with a SHPO. 4 Paragraph 5 explains the data in similar terms as 5 the witness statement I have already read. Paragraph 6 6 of this witness statement, the witness continues: 7 "This experimental data has not been published 8 between 2007 and 2012. This is because the experimental 9 statistics by offence code only provides the most recent 10 five years of data. Figures for years prior to 2013 11 have therefore not been published as the datasets have 12 not undergone the same level of scrutiny and quality 13 assurance. The experimental data shows no principal 14 offence prosecutions or convictions under section 122 15 for breach of a Foreign Travel Order Civil Orders for 16 2013 and 2014." 17 So 2014 obviously being prior to the March 2015 18 change that introduced SHPOs and SROs. 19 That completes the evidence on Civil Orders. 20 Now turning to the evidence from the 21 Ministry of Justice on section 72, could I ask you to go 22 to tab 2 of your bundle, witness statement of Matthew 23 Gould, MOJ000899. 24 In paragraph 4, Mr Gould explains: 25 "Section 72 of the Sexual Offences Act 2003 provides</p> <p style="text-align: center;">Page 124</p>

<p>1 that the courts of England and Wales have jurisdiction 2 over the offences listed in schedule 2 of the 2003 Act 3 when committed outside the UK by a UK national or a UK 4 resident where the victim is aged under 18 at the time 5 of the offence. Policy responsibility for section 72 of 6 the Sexual Offences Act 2003, and extra-territorial 7 jurisdiction generally, sits with the MoJ." 8 Paragraph 5: 9 "In transforming the response to domestic abuse, 10 a consultation which closed on 31 May 2018, the 11 government set out proposals to take extra-territorial 12 jurisdiction over a range of offences for compliance 13 with article 44 of the Istanbul convention (a Council of 14 Europe Convention on preventing and combating violence 15 against women and domestic violence which the UK signed 16 in 2012). The relevant offences include sections 1 to 4 17 of the 2003 Act where the victim is aged 18 or over at 18 the time of the offence and there is dual criminality. 19 The government response to the consultation will be 20 published along with a draft domestic abuse bill later 21 this session." 22 Chair, I believe it's actually now been published. 23 It was published last month. But given the terms of it, 24 as explained, dealing with victims over 18 at the time, 25 it is perhaps not a key document for this investigation:</p> <p style="text-align: center;">Page 125</p>	<p>1 "The MoJ does not hold the information requested by 2 the inquiry in paragraphs 14 to 16." 3 That refers to a rule 9 request. Just so, chair, 4 you can see the context of this, the request was for 5 statistics the MoJ has relating to the number of times 6 section 72 has been used to charge a British national or 7 UK resident with an offence listed in schedule 2 of 8 the Sexual Offences Act 2003 and to convict a British 9 national/UK resident for such an offence, and also for 10 information about those convicted following 11 a prosecution pursuant to section 72. So information 12 including the country or countries involved; the nature 13 of offences; the organisations involved in the 14 investigation and prosecution; the process by which the 15 offences became known to the relevant authorities and by 16 which the offences were investigated; information in 17 relation to sentencing and any observations the MoJ has 18 on the reasons why the prosecutions were successful. 19 The inquiry also asked, in relation to those charged 20 but not convicted, any information the MoJ has in 21 relation to why convictions are not achieved or pursued, 22 and in the event it is not possible to address this on 23 a case by case basis, certain other information that 24 might be available. That was the request being referred 25 to in paragraph 6 there.</p> <p style="text-align: center;">Page 126</p>
<p>1 As I say, the response was: 2 "The MoJ does not hold the information requested by 3 the inquiry. This is because information held centrally 4 by the MoJ on the court proceedings database does not 5 include the circumstances behind each case beyond the 6 definition of the offence provided in statute. 7 Therefore, although we can provide information on how 8 many of each of the offences covered by section 72 of 9 the Sexual Offences Act 2003 were proceeded against at 10 court overall, we do not have a central record of how 11 many of those offences were alleged to have taken place 12 outside the UK. This information may be obtained from 13 individual court files or through the Crown Prosecution 14 Service case files, which may be available on request to 15 those who hold them." 16 Next, training and information given to personnel at 17 the MoJ in relation to the use of section 72: 18 "The use of section 72 of the 2003 Act is a matter 19 of prosecutorial discretion, and, as such, operational 20 MoJ staff and particularly those working in 21 Her Majesty's Courts and Tribunal Services will not 22 require specific knowledge of the application of this 23 section of the Act as many functions of staff and clerks 24 are administrative. As such, the MoJ holds no such 25 training materials on the use of this section of</p> <p style="text-align: center;">Page 127</p>	<p>1 the 2003 Act." 2 I am going to move down now to paragraph 9. The 3 inquiry asked about internal reviews on the 4 effectiveness and utility of section 72 and the answer 5 was: 6 "The MoJ has not carried out an internal review 7 specifically to consider the utility or efficacy of 8 section 72. Prosecutors would be best placed to provide 9 observations on whether section 72 is an effective 10 provision in securing prosecution of British citizens or 11 UK residents who commit sexual offences against children 12 outside the jurisdiction of the United Kingdom or 13 whether it can be improved. 14 "That said, I am unaware of any problems with the 15 use of section 72 and I am pleased that it has been used 16 successfully to convict UK nationals who have abused 17 children abroad. I am aware of a case in 2018 where 18 a UK national was successfully prosecuted for a number 19 of sexual offences against children that took place in 20 Kenya. I understand that the Crown Prosecution Service 21 used the provisions of section 72 of the 2003 Act to 22 bring the individual to justice. In that case, we sent 23 a registered intermediary to support the vulnerable 24 young witnesses in Kenya during the particularly 25 sensitive investigative process."</p> <p style="text-align: center;">Page 128</p>

1 The witness does thereafter refer to statutory
 2 Disclosure and Barring, but says that he refers to the
 3 Home Office providing separate evidence, and we have
 4 already heard that. Thank you.
 5 THE CHAIR: Thank you, Ms Faure Walker.
 6 MS HILL: Thank you, chair. I call, please, Peter Jones.
 7 MR PETER JONES (sworn)
 8 Examination by MS HILL
 9 MS HILL: Thank you very much.
 10 You are Peter Jones. You are chief operating
 11 officer of the Foreign Commonwealth Office; is that
 12 right?
 13 **A. That is correct.**
 14 Q. Just give the panel a very brief summary of your own
 15 background, please.
 16 **A. My current role is in charge of the corporate**
 17 **operational side of the Foreign Office, so that includes**
 18 **areas like human resources, finance, IT, states and**
 19 **security and so on. I have been doing that for -- well,**
 20 **since May 2017. Before that, I was our director for**
 21 **defence and international security for three years.**
 22 **Before that, I was the British High Commissioner in**
 23 **Ghana. I have been 30 or so years in the**
 24 **Foreign Office.**
 25 **I might just say that, in terms of my current**

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1 **A. Yes, so for us, everybody who is employed by us, whether**
 2 **as an employee or a contractor, has to go through**
 3 **a minimum level of security level clearance, the SC**
 4 **level security check. That involves the levels of**
 5 **checking that are described in that paragraph.**
 6 **I might just add that for quite a proportion of us,**
 7 **actually, there is a higher level of vetting that is**
 8 **required, so quite intrusive, in some cases developed**
 9 **vetting into people's circumstances.**
 10 **So in terms of the checks that we do at this level**
 11 **or at higher levels, we would think in terms of our own**
 12 **employees and contractors there is a degree of**
 13 **protection and assurance in this area.**
 14 Q. I think what you have indicated is that carrying out
 15 that security check clearance does involve a check of
 16 police records which you would hope would reveal whether
 17 a Civil Order was in place for an individual.
 18 **A. That is correct.**
 19 Q. You make clear that if it later became apparent that
 20 somebody had obtained security clearance despite having
 21 such a Civil Order made against them, either because
 22 they informed the FCO themselves or because it came to
 23 the FCO's attention by another means, that would be
 24 grounds to refuse or withdraw their security clearance
 25 automatically.

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1 **responsibilities, it does not include consular, but**
 2 **obviously I will do my best to answer questions on the**
 3 **totality of what we do.**
 4 Q. I understand that. Thank you, Mr Jones. You have
 5 helpfully provided the inquiry with a witness statement
 6 dated 17 December 2018, that's FCO000143, and
 7 5 February, FCO000149, which I formally adduce.
 8 You were asked questions about the different areas
 9 that this phase of the investigation is looking at, and,
 10 as far as Civil Orders is concerned, perhaps turning
 11 that up first, could I ask you to bring up, please, on
 12 screen, FCO000143_002. It is paragraph 5.1 of your
 13 witness statement.
 14 Broadly, when you were asked about the Civil Orders
 15 regime, you indicated quite rightly that the Home Office
 16 have policy responsibility for Civil Orders and your
 17 evidence there was largely about the role of the FCO as
 18 an employer.
 19 So help us, please, with what you add there in terms
 20 of how that touches on the Civil Orders topic?
 21 **A. Sorry, what exactly would you like me to add that is not**
 22 **covered in the statement?**
 23 Q. 5.1. Just draw out perhaps from that very briefly for
 24 the panel what ways you carry out checks on members of
 25 staff and contractors.

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1 **A. That's right.**
 2 Q. Therefore, you say their employment could be denied if
 3 it was an offer of employment or terminated if it was
 4 their employment.
 5 **A. Correct.**
 6 Q. You make it clear here that the rationale for that is
 7 that, because SROs are based on a reasonable suspicion
 8 that an individual is a risk, where a member of staff or
 9 contractor was made subject to one of those orders, the
 10 FCO would review whether the individual could continue
 11 to be employed -- forgive me, the first answer was about
 12 the other types of orders. I think for the SRO you
 13 indicate a more nuanced approach would be taken; is that
 14 right?
 15 **A. That is also correct, yes. We would take a review of**
 16 **the case in those circumstances.**
 17 Q. You have reviewed, I think, some information about
 18 security checks that have been carried out and refusals
 19 or withdrawals of clearance that have been made in the
 20 last few years. Can you just summarise, please, what
 21 you say to the panel in paragraph 5.2 and 5.3 of your
 22 evidence.
 23 **A. Yes. So in 5.2, we talk about the records that we have**
 24 **which for our own staff go back five years. I asked --**
 25 **and I gather these only when we started collecting the**

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1 **data. It's a shorter period, for 12 months, for**
 2 **contractors.**
 3 **In 5.3, you see that, as far as we can establish,**
 4 **there are two cases where individuals have come up in**
 5 **connection with child sexual offences: one dismissed in**
 6 **2014 on the grounds that his clearance had been**
 7 **withdrawn in connection with Operation Yewtree, and then**
 8 **a second case of an allegation of indecent assault on**
 9 **a junior officer in 1998. So those are the two that we**
 10 **have been able to locate.**
 11 Q. In the latter case, the officer was formally warned and
 12 resigned in the same year; is that right?
 13 A. That is correct.
 14 Q. You indicate that because the policy responsibility for
 15 the Civil Orders regime sits with the Home Office, the
 16 FCO isn't able specifically to comment on whether it is
 17 an effective regime or not; is that right?
 18 A. That is correct.
 19 Q. You have been asked some questions about the ways,
 20 though, in which the FCO, with a slightly different
 21 capacity, if I can call it that, becomes aware of
 22 Civil Orders. So moving not so much to the FCO's role
 23 as an employer, but the FCO's role in running consulates
 24 and embassies and so on abroad. You have provided
 25 evidence to indicate that, generally, it's the

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1 **enforcement presence overseas. And when I say**
 2 **platform -- so they would operate out of the embassy or**
 3 **the high commission. We would be providing the IT**
 4 **assistance for them and so on.**
 5 **So, you know, as a general principle, that's where**
 6 **you would expect the contact to happen, to be pursued by**
 7 **the law enforcement people that we have in the country**
 8 **concerned.**
 9 **It is also possible, though, that the Home Office or**
 10 **its agencies may become aware of a case, say, of**
 11 **a British criminal who they believe is going to be**
 12 **travelling out to a particular country, and they may**
 13 **forewarn us on the diplomatic net. So in some**
 14 **circumstances there might be prewarning to the senior**
 15 **management in an embassy or high commission relayed to**
 16 **the consular people that if that person comes across**
 17 **your -- comes through your door, then, you know, be**
 18 **aware and potentially you can report that back to law**
 19 **enforcement.**
 20 Q. I think you have indicated in your most recent witness
 21 statement -- perhaps we can bring this up, please,
 22 FCO000149, paragraph 2.1, please. I think a summary of
 23 what you have indicated: you are not notified as
 24 a matter of course when a Civil Order is made. Is that
 25 right?

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1 responsibility of the Home Office and law enforcement
 2 agencies to inform the FCO if they are aware of
 3 a British national overseas who should be flagged to the
 4 Home Office and others by the FCO if they come to the
 5 consulate for consular support.
 6 Just help us generally, please, if you can, with how
 7 it is that consulates overseas become aware of potential
 8 offenders who are viewed to be a risk?
 9 A. Well, the main way in which information will be
 10 transmitted from the UK to our overseas presence would
 11 be through a law enforcement channel. It might be worth
 12 just a word here on how the Foreign Office serves as
 13 a platform for the whole of government overseas, if it's
 14 helpful to explain that.
 15 So if you take an embassy or high commission, it
 16 will have a number of sections in it, including
 17 a consular run, which will be run by the Foreign Office,
 18 and other sections that we as the Foreign Office run.
 19 Then we provide a platform for the rest of UK Government
 20 to do its work. In total, if you look around the world,
 21 there are about 30 departments and agencies who would be
 22 present, including the law enforcement agencies.
 23 In a circumstance like this, the main channel of
 24 communication you would expect from the UK to the
 25 platform overseas would be law enforcement UK to a law

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1 A. That is correct.
 2 Q. That you might be informed of this through law
 3 enforcement channels, but there is no formal system to
 4 guarantee that you will be; is that a fair summary?
 5 A. It is. Just to be clear who the "we" is. As I said,
 6 you know, there's "we" the Foreign Office and "we" the
 7 consular people, but there may well be a direct law
 8 enforcement to law enforcement overseas contact.
 9 Q. Yes, of course, and you can only talk about the FCO
 10 position.
 11 You refer to the established mechanisms for law
 12 enforcement agencies to share information between
 13 themselves. You go on at paragraph 11.2 to clarify that
 14 part of the background to this is that the Home Office
 15 central department does not have operational
 16 responsibility for the management of sex offenders, and
 17 therefore it wouldn't necessarily fall to them to notify
 18 the FCO of the movements of offenders. Your
 19 understanding, I think, is that it might come from local
 20 forces to a national law enforcement agency; is that
 21 right?
 22 A. Yeah, I believe -- I would imagine it going to the NCA,
 23 for example, who would then communicate to the liaison
 24 officers that they have in our overseas network.
 25 Q. A question to you, I think, is this: whether you think

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1 the FCO should be informed as a matter of course if
 2 a Civil Order restricting travel on an individual is
 3 made?
 4 **A. Well, I suppose there's a question here about, you know,**
 5 **who is most effective -- who is it most important to**
 6 **engage and have on the case? And I guess if it's a law**
 7 **enforcement issue, you know, you might think that should**
 8 **be a law enforcement operative overseas.**
 9 Q. At the moment, you indicate that what happens is that
 10 you are made aware of the movements of sex offenders on
 11 an ad hoc, need-to-know basis. Do you think that
 12 operates effectively?
 13 **A. To be honest, I'm not sure that in my current role**
 14 **I feel in a position to offer a judgment on that.**
 15 Q. Are you able to offer a view on whether law enforcement
 16 should provide the FCO with information about British
 17 nationals travelling on a more standard basis or
 18 a formal basis?
 19 **A. I think that's a matter for discussion, really. I would**
 20 **come back to: who can do the job most effectively? And**
 21 **the answer may well be it is the law enforcement network**
 22 **overseas and not the FCO -- you know, part of the UK**
 23 **presence overseas.**
 24 Q. In relation to the use of section 72, you deal with this
 25 in your first witness statement, please, FCO000143,

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1 **the case, but I must say, the detail of it I'm not**
 2 **personally familiar with.**
 3 Q. But it might be the details of a criminal case being
 4 hold locally, mightn't it?
 5 **A. Yes, I think that would be the case. The guidance for**
 6 **our officers is, if there is a cause for concern,**
 7 **including in this area, that's one reason to flag it**
 8 **onto the system.**
 9 Q. I will come to that. You give, I think, guidance to
 10 your members of staff about extra-territorial offences.
 11 Can I bring up, please, FCO000146.
 12 Perhaps just to be clear about this, when you are
 13 providing consular support to people, it could well be
 14 about prosecutions taking place in the country where the
 15 embassy or consulate is based.
 16 **A. That's right. Quite a significant part of our case load**
 17 **is Brits who are going to a local judicial system,**
 18 **whether it is for this kind of reason or for some other**
 19 **kind of reason.**
 20 Q. Might it also be somebody who is facing extradition
 21 proceedings?
 22 **A. That's possible, yes.**
 23 Q. Or it might be a section 72 prosecution?
 24 **A. I believe that's true, yes.**
 25 Q. The guidance that's given to staff about

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1 paragraph 6. Again, you indicate that you don't have an
 2 institutional responsibility as such for section 72,
 3 that sits with the Ministry of Justice, but you do have
 4 some contact with individuals overseas who seek consular
 5 assistance if they are charged with a criminal offence,
 6 and that might include somebody who is then going to be
 7 prosecuted under section 72. Is that right?
 8 **A. That is correct.**
 9 Q. You were asked whether or not you keep records of
 10 the individuals charged with a section 72 offence
 11 abroad. Can you help with that?
 12 **A. So my understanding of that is that we log the**
 13 **individual cases as they come up onto our consular**
 14 **system, which is called Casebook, and, as I say**
 15 **elsewhere in the evidence we have provided, the bulk**
 16 **data from that is then transferred to ACRO for them to**
 17 **analyse and use and then to disseminate that within the**
 18 **police and law enforcement community here.**
 19 Q. It is perhaps a technical question, forgive me if you
 20 can't help with this, but when you transfer the
 21 information to ACRO -- we will perhaps come to that --
 22 does that deal with the nature of the underlying offence
 23 or does that deal with the fact that it is a prosecution
 24 around section 72?
 25 **A. So my understanding is it would be basic details of**

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1 extra-territorial offences is set out here at FCO000146.
 2 This explains, I think, the ability to prosecute
 3 somebody overseas.
 4 Just help us, please, Mr Jones, with where this
 5 document comes from. Is it a discrete piece of guidance
 6 or does it fit within some wider pool of material for
 7 your staff?
 8 **A. This is an extract from a wider set of consular guidance**
 9 **that our colleagues would have.**
 10 Q. Can you help with how up to date it is or when it was
 11 written, when it was last refreshed?
 12 **A. I can't tell you when it was drafted, but what I can say**
 13 **is, already as a result of some of the information and**
 14 **questions that have come to light in this process, we**
 15 **have been looking at the wording of this, because we**
 16 **think actually it is not necessarily accurate in**
 17 **a couple of places. So, for example, where it talks**
 18 **about two main reasons existing for extra-territorial to**
 19 **be exerted, the two reasons being diplomatically and**
 20 **logistically, diplomatically I think is a misnomer.**
 21 **What it should talk about is jurisdictionally. There is**
 22 **a wider set of diplomatic considerations coming into**
 23 **play, so we will clarify that.**
 24 **I understand that the reference to "double jeopardy"**
 25 **in our guidance is possibly ambiguous, so we are looking**

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1 **to clarify that. So there is a process of refresh and**
 2 **amendment going on right now in light of what's going on**
 3 **in these proceedings.**
 4 Q. I think what you perhaps are alluding to is that the
 5 reasons that are given here -- let's make sure we can
 6 anchor it for the panel because they have not looked at
 7 this document before.
 8 In strict legal terms, you see the seventh line
 9 down, I think, it says:
 10 "Although in strict legal terms they can [ie, have
 11 a prosecution for somebody abroad], it is rare for this
 12 to happen in practice. There are two main reasons for
 13 this."
 14 Then it gives reasons why these prosecutions are
 15 rare, and the tone of it, I think you would agree, is to
 16 indicate to somebody reading this that this is quite an
 17 exceptional or last resort-type course. Is that right?
 18 **A. That is the tone that comes across and that's one of**
 19 **the things we are looking at. So the tone I think we**
 20 **are looking at and some of the precise language we are**
 21 **looking at to improve.**
 22 Q. Where reference is made here to "diplomatic reasons", is
 23 there a basis for saying that where offences have been
 24 reported to the local judicial authorities, in most
 25 cases, they would be reluctant to give up jurisdiction?

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1 Q. Can I just ask you to look, please -- we will come back
 2 to this document -- at FCO000149_005. I think you
 3 confirm at paragraph 7.2, your second witness statement,
 4 that notwithstanding what's said in the guidance, your
 5 evidence is that the FCO is not aware of any examples
 6 where countries have been reluctant to give up
 7 jurisdiction.
 8 **A. That's right.**
 9 Q. Albeit that you are not the lead policy on it. So would
 10 you accept that that part of the guidance would merit
 11 reconsideration?
 12 **A. I would.**
 13 Q. Where it says in the guidance as well -- perhaps just go
 14 back to the guidance briefly, if we can, it's
 15 FCO000146 -- that there are local judicial authorities
 16 who would probably have objections to UK police officers
 17 conducting enquiries in their country, it would appear
 18 insensitive to exercise jurisdiction if matters are
 19 already being investigated overseas. Again, do you have
 20 any basis for those concerns or do you think that part
 21 of the guidance might merit reconsideration?
 22 **A. Well, as I said, I think we will look at the whole**
 23 **wording of all of this.**
 24 Q. I think you have been made aware through these
 25 proceedings that there have been -- there has been

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1 **A. I think that's right. As I said, I think the word**
 2 **"diplomatically" is misplaced. What we are talking**
 3 **about here is a jurisdictional issue. If there was some**
 4 **sense there were other diplomatic factors in play,**
 5 **I don't think that's actually what is -- you know, that**
 6 **is actually the case.**
 7 Q. So in terms of where you think there might be merit in
 8 amending this, the word "diplomatically" you think is
 9 inaccurate. But I think my question remains: is there
 10 a basis for having a concern that local judicial
 11 authorities would be reluctant to give up jurisdiction?
 12 Does the FCO have experience of that?
 13 **A. I think it is more a question, I think, for our law**
 14 **enforcement colleagues who have experienced this, you**
 15 **know, case by case. I think it's -- I believe it is the**
 16 **case that we are not aware of any instances where people**
 17 **have given up jurisdiction, but I confess to not being**
 18 **an expert.**
 19 Q. I think the way in which section 72 operates is that
 20 jurisdiction is then assumed effectively by the courts
 21 here. But have you got any basis for thinking that the
 22 attitude of local law enforcement is a barrier to the
 23 operation of section 72?
 24 **A. I really think that's a matter for law enforcement**
 25 **colleagues.**

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1 evidence given of several successful joint
 2 investigations between local partners and police for
 3 England and Wales that have been operated successfully
 4 without, it seems, the barriers that this suggests. Do
 5 you agree?
 6 **A. Well, I would imagine that's true, yes.**
 7 Q. I think the double jeopardy part you've agreed might be
 8 looked at. I think it's been highlighted perhaps even
 9 through the questions that were put to you on this that
 10 this is perhaps a bit out of date; is that right?
 11 **A. Yes, I mean, we have accepted there is certainly some**
 12 **ambiguity in how we express that and we will be**
 13 **refreshing it.**
 14 Q. The logistical issues, where it says in the guidance
 15 towards the bottom:
 16 "The offence would have been committed abroad so the
 17 scene, forensic evidence and witnesses would be there.
 18 It would be very difficult to transfer all this to the
 19 UK. UK courts also have no power to compel witnesses
 20 from abroad to give evidence in the UK (although in
 21 practice ... [it could be done] voluntarily)."
 22 Will you look again at those logistical issues to
 23 see if that's a fair representation of the reality?
 24 **A. I think we will be looking at this whole section, but**
 25 **that I think we would need to get advice from our law**

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<p>1 enforcement colleagues, because the logistical details,</p> <p>2 how things happen in practice, are more for them than</p> <p>3 us.</p> <p>4 Q. It has certainly been the position of the National Crime</p> <p>5 Agency and the CPS that there is no in extremis or last</p> <p>6 resort approach that they adopt. Insofar as there was</p> <p>7 an NCA document that gave guidance to ILOs that might</p> <p>8 have suggested something along those lines, I think the</p> <p>9 evidence yesterday was that's being refreshed.</p> <p>10 A. Okay.</p> <p>11 Q. I take it you're indicating to the inquiry that this</p> <p>12 guidance from the FCO will also be looked at; is that</p> <p>13 right?</p> <p>14 A. If they are looking at it, we are very happy to look at</p> <p>15 it, yes.</p> <p>16 Q. I think they have in fact already amended the ILO</p> <p>17 guidance. I think that's what we heard yesterday.</p> <p>18 Can I ask you to turn up FCO000149, paragraph 9.3,</p> <p>19 please. You were asked, I think, or you provided some</p> <p>20 evidence about the ways in which the FCO could assist in</p> <p>21 supporting the use of extra-territorial jurisdiction</p> <p>22 effectively. You say that you don't specifically fund</p> <p>23 projects, but there are some examples of FCO projects</p> <p>24 that might effectively have that outcome. So tell us</p> <p>25 what you say at 9.3, please?</p> <p style="text-align: center;">Page 145</p>	<p>1 A. Sorry, I have lost the reference. This is 9.3 --</p> <p>2 Q. It is on the screen in front of you. If I have</p> <p>3 understood it correctly, these are FCO projects that</p> <p>4 support overseas law enforcement; is that right?</p> <p>5 A. That's one example. In fact, there are probably many</p> <p>6 more examples, you know, we could give around the world.</p> <p>7 So the reference to a CSSF project, that's an example of</p> <p>8 a cross-government fund that on the whole we administer.</p> <p>9 But there is also a whole load of other activity that</p> <p>10 embassies would do around the world to try to build up</p> <p>11 capacity in partner countries. I mean, to look at, in</p> <p>12 some cases, their police capability.</p> <p>13 So there is a lot we do around the world, whether</p> <p>14 that's we, FCO, through some of the funding we have</p> <p>15 available to us or whether it is in conjunction with our</p> <p>16 law enforcement completion. You know, we try and do</p> <p>17 what we can in a range of countries of concern.</p> <p>18 Q. Can I go back, please, to your first witness statement,</p> <p>19 FCO000143. I would like to move on to the</p> <p>20 practicalities of what happens when somebody requests</p> <p>21 consular assistance now, Mr Jones.</p> <p>22 Can I pull up, please, paragraph 8.1, FCO000143_005.</p> <p>23 Scroll down, please, on paragraph 8.1. You make the</p> <p>24 point here that although there is, as we have</p> <p>25 established, extra-territorial jurisdiction under</p> <p style="text-align: center;">Page 146</p>
<p>1 section 72, you say:</p> <p>2 "Consular staff are more commonly receiving</p> <p>3 notifications based on the legislation of the country</p> <p>4 where the person is arrested."</p> <p>5 You provide an indication that there is a monthly</p> <p>6 publication of the data of those requests for assistance</p> <p>7 but, putting it simply, that is categorised rather</p> <p>8 broadly because often it relates to the various</p> <p>9 countries' categorisation of those criminal offences; is</p> <p>10 that right?</p> <p>11 A. That's right, yes.</p> <p>12 Q. You have provided I think in your most recent witness</p> <p>13 statement a further exhibit, exhibit PEJ2. I think it</p> <p>14 is FCO000150. If we can try and look at this chart</p> <p>15 sideways on. I think if we scroll in at the headings,</p> <p>16 these include across the top the different years -- 2013</p> <p>17 up to 2017; we can just about see that -- and they</p> <p>18 include some quite broad categories around child</p> <p>19 pornography and child sex, because these reflect</p> <p>20 differing natures of local offences that are broadly</p> <p>21 categorised by the FCO's recording as "pornography" or</p> <p>22 "sex" offences; is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. If the panel wish to, they can look down and see the</p> <p>25 numbers of requests for assistance in these categories.</p> <p style="text-align: center;">Page 147</p>	<p>1 I think, generally, certainly the numbers on the first</p> <p>2 page, are all under 10; is that right?</p> <p>3 A. Not all of them, I don't think. Most are, but</p> <p>4 Australia, for example.</p> <p>5 Q. Forgive me, there is an 11 there. But otherwise, these</p> <p>6 are generally relatively low numbers; is that right?</p> <p>7 A. That's correct.</p> <p>8 Q. One can see, in fact, if we go over the page, I think</p> <p>9 the largest numbers that we see are in relation to the</p> <p>10 US, where we see figures of 25, 19, 35 and 20, 23. Is</p> <p>11 that right?</p> <p>12 A. That's correct.</p> <p>13 Q. There are plenty of countries where there are none at</p> <p>14 all in certain years, at least.</p> <p>15 A. Yes. For countries to appear on here at all, it must</p> <p>16 have a positive number somewhere, but not for every year</p> <p>17 necessarily.</p> <p>18 Q. I see.</p> <p>19 Then dealing with what, in reality, happens when an</p> <p>20 individual contacts the consulate for assistance, it's</p> <p>21 right, I think, that obviously part of the reason for</p> <p>22 the person contacting the consulate for assistance is to</p> <p>23 get that assistance, but trying to summarise your</p> <p>24 evidence, I hope fairly, is this right, that there are</p> <p>25 nevertheless two things that a member of consular staff</p> <p style="text-align: center;">Page 148</p>

1 might do.
 2 One is that, if, in light of all the information
 3 presented to the consular member of staff, they have
 4 what are called cause for concern indicators about the
 5 behaviour of the individual, then there might, at that
 6 point, be a referral to law enforcement. That's one
 7 thing.
 8 The second thing is that, separately, the FCO does
 9 collate data on British nationals who are arrested for
 10 serious offences and transfers that data to ACRO on
 11 a monthly basis. But I think it's hard, from that data,
 12 to distil which offences are relating to child sexual
 13 offences.
 14 Is that right?
 15 **A. So the two basic strands are as you describe them. The**
 16 **detail of the data, as I say, personally I am not**
 17 **familiar with, but I believe that's correct.**
 18 Q. Is it possible to say how many times members of consular
 19 staff have reported concerns in relation to child sexual
 20 exploitation?
 21 **A. Well, I mean, that would come through that data**
 22 **transfer. That's the way we would get the information.**
 23 Q. That's acting on the cause for concern indicators,
 24 reporting to law enforcement. Is it possible to
 25 indicate -- that's not necessarily somebody who's been

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1 **this emergency document, which is very specifically for**
 2 **their return to their country of residence, normally the**
 3 **UK.**
 4 **If someone comes through consular with that sort of**
 5 **need, then we would do a check on the passport office**
 6 **database and, you know, as we say there, that will**
 7 **reveal whether there's any concern on that dataset.**
 8 Q. So what you indicate I think there is that that data
 9 held by the passport office could include whether the
 10 individual is subject to a Civil Order. But does that
 11 depend on what data the passport office have?
 12 **A. I believe that would be the case, yes.**
 13 Q. Are there any sort of police checks that are done when
 14 someone asks for an emergency travel document?
 15 **A. I don't know.**
 16 Q. Is it possible to find that out for us, Mr Jones?
 17 **A. If that's helpful, I'm sure we can find out and let you**
 18 **know.**
 19 Q. Because if the passport office is not aware of a Civil
 20 Order or, indeed, reasons for concern about an
 21 individual travelling, an emergency travel document
 22 might be issued when there is a risk that that person is
 23 leaving the country to flee prosecution, for example?
 24 **A. I can see that. We should certainly provide the**
 25 **information. But maybe just to say again, remember that**

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1 necessarily arrested but where there are nevertheless
 2 concerns about that person. Is it possible to indicate
 3 how many times consular staff have alerted law
 4 enforcement to concerns about an individual?
 5 **A. I'm not sure how that would be different from what we**
 6 **register on the system and then report into ACRO.**
 7 Q. So these two are effectively two sides of the same coin,
 8 are they?
 9 **A. That would be my understanding.**
 10 Q. Is, therefore, there also material that you would like
 11 to place before the panel here about what might happen
 12 if someone was trying to obtain an emergency travel
 13 document and there were particular concerns about that
 14 person.
 15 Let's look, please, at FCO000149, paragraph 2.2 and
 16 3.2. I think your consular staff are requested, are
 17 they not, to give that very particular assistance in
 18 providing urgent travel documentation for somebody.
 19 Tell us a little bit about what happens in that
 20 circumstance.
 21 **A. Perhaps just to explain what an emergency travel**
 22 **document is. This is in the circumstance usually where**
 23 **a British national has lost their passport and they need**
 24 **to return to their country of residence, which would**
 25 **nearly always be the UK. So they would be issued with**

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1 **the point of the emergency travel document, you know,**
 2 **invariably would be for the purpose to come back to the**
 3 **UK, so I would have -- I would have thought that would**
 4 **be beneficial in terms of getting hold of them.**
 5 Q. So those documents don't apply to any other country, as
 6 far as you're aware? An emergency travel document would
 7 simply bring somebody back to the UK?
 8 **A. It's to their country of residence, which would**
 9 **invariably be the UK.**
 10 Q. I see.
 11 **A. Just to clarify, I suspect there may be an impression**
 12 **this is a kind of, you know, travel anywhere kind of**
 13 **document. It is not.**
 14 Q. No, that's very clear. Thank you.
 15 Is it possible to say -- because I think you do also
 16 indicate here that the cause for concern indicators
 17 about which we have heard could be a reason to refuse
 18 somebody one of those documents, notwithstanding these
 19 formal checks. Is that right?
 20 **A. I'm not sure about that.**
 21 Q. Well, look at paragraph 2.2 here. It is on the screen.
 22 You say that if someone does seek an emergency travel
 23 document, staff would always consider whether they
 24 presented any cause for concern indicators and carry out
 25 these formal checks.

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<p>1 A. But I'm not sure whether that -- I personally am not 2 sure whether that would lead to denial. We would need 3 to check and give you a more expert answer. 4 Q. I see. Would you be able to verify, then, in carrying 5 out those checks, whether a "cause for concern" 6 indicator can lead to a refusal of a travel document 7 and, if so, how many times it is possible to say that's 8 happened in the last few years? 9 A. We will provide the information you need, yes. 10 Q. If you can, thank you. 11 If FCO staff do report questions or concerns or 12 incidents to the UK law enforcement agencies, is there 13 any follow-up by the FCO of those referrals to ensure an 14 investigation is being actively progressed? 15 A. Not as far as I'm aware. 16 Q. Just finally on this area, the ACRO data transfer that 17 you carry out on a regular basis. Can I pull up, 18 please, paragraph 10.3 of your second statement. So 19 it's FCO000149_007. Scroll in, please, on 10.2 and 20 10.3. You're indicating, I think, already that on 21 a monthly basis the FCO collates data I think across all 22 countries, then -- is that right? 23 A. That's right. 24 Q. And transfers to ACRO the information about serious 25 offences, and this includes an ability to break down</p> <p style="text-align: center;">Page 153</p>	<p>1 child sex related cases. You indicate that from 2 1 January 2018 to 1 January 2019, 134 overseas child sex 3 offender cases were transferred to a UK place force for 4 management under a notification order. The FCO was the 5 source for 43 of those cases, which represents just over 6 a third of the total. Is that right? 7 A. That's correct. 8 Q. So if we were to marry up that 43 with those datasets 9 that we got from different countries, does that reflect 10 the number of requests for consular assistance from 11 overseas child sex cases, or is that a slightly 12 different figure? 13 A. I would not be sure about that. Again, we would need to 14 check that. 15 Q. Either way, the FCO has transferred 43 overseas child 16 sex cases to ACRO in that year. 17 A. So -- yes, that's correct. 18 Q. Turning now to the issue of Disclosure and Barring, can 19 I bring up, please, your first witness statement, 20 FCO000143, paragraph 7, where you have been asked for 21 some clarification over how it is that the FCO conducts 22 Disclosure and Barring for its staff. You set out 23 here -- just perhaps give the panel an overview of what 24 you say here. 25 Can we scroll right down, please, to 7.1 and take</p> <p style="text-align: center;">Page 154</p>
<p>1 off the beginning of that page: 2 "When considering an application by an individual to 3 work for the FCO ..." 4 There are three elements of the baseline security 5 standard check. Tell us a little bit about that, 6 please. 7 A. So these are the three checks that we do as part of 8 pre-employment: so on identity, employment history and 9 nationality and immigration. We also ask applicants to 10 declare any unspent criminal convictions. 11 I have spoken earlier about the vetting process that 12 goes alongside all of that, once somebody has been 13 appointed, and all of this accesses the same kind of 14 information that's available under the statutory 15 Disclosure and Barring Scheme. 16 Q. You indicate that beyond the checks that you carry out 17 for your own employees, you have no particular 18 involvement in how Disclosure and Barring is applied 19 more widely to those working overseas. Any UK staff 20 working on the FCO platform overseas would have to have 21 at least the minimum security check vetting clearance. 22 Is that right? 23 A. That's correct. 24 Q. You therefore also indicate that because policy 25 responsibility for this scheme is with the Home Office,</p> <p style="text-align: center;">Page 155</p>	<p>1 you don't have any particular view on its efficacy? 2 A. Correct. 3 Q. You have been made aware, I think, of some evidence that 4 suggests that, generally, across this area of policy 5 work, the FCO historically had a more central role, and 6 certainly a witness has given the view that the FCO as 7 an active lead on this area was a positive thing and 8 that the transfer to the Home Office was a turning point 9 and created, in her words, a loss of focus. 10 Do you have a response to that, Mr Jones? 11 A. I'm aware of those comments. I'm not precisely sure to 12 what it refers, but my guess would be to a period when 13 we had a department in the Foreign Office in London, 14 which was called the drugs and international crime 15 department, which took in a range of those issues. 16 You know, different choices are made over the years 17 about departmental boundaries, ministerial priorities, 18 resources available to do the job. That department no 19 longer exists with us. 20 I don't think it was ever the case, though, to 21 describe us as a lead agency. With such a department, 22 we have the ability to, you know, develop policy, you 23 know, convene events, engage ministers, that kind of 24 thing, but we remain very active. I mean, through the 25 overseas network, you know, the -- as I said, the</p> <p style="text-align: center;">Page 156</p>

1 provision of the platform, the capacity building sort of
 2 work that we do that I talked about. So we continue to
 3 have a role.
 4 I guess it is always an open question for
 5 government: through which departments do you wish to
 6 exercise leadership? You know, we do the best we can.
 7 Q. Can I ask you some questions more generally about what
 8 training the FCO staff receive on child sexual
 9 exploitation and abuse and on section 72. So what
 10 training do the FCO staff receive about these general
 11 topics?
 12 A. So, as I understand it, there is no specific section 72
 13 training, but for anyone in consular who is working on
 14 those issues, they do have training on child protection
 15 issues. The main provisions of section 72 are reflected
 16 in the consular guidance that we give to all of our
 17 staff.
 18 Q. That's the jurisdiction document we have looked at, is
 19 it?
 20 A. Yes. And then for others who are not working in the
 21 consular area but may be going to countries where there
 22 is a particular concern in this area, that may be part
 23 of their familiarisation before they go. So if you are,
 24 you know, a head of mission, so ambassador or high
 25 commissioner or a deputy head of mission and you are

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1 A. So in light of this question, we did some quick
 2 checking, and I can give you one example relevant to
 3 this, which is to do with Thailand.
 4 I might just say, there is a question about, you
 5 know, who we mean in terms of diplomatic meetings with
 6 our counterparts. I am assuming that not necessarily to
 7 mean meetings with other ambassadors; I'm assuming that
 8 to mean contacts with ministers in the country.
 9 Q. I'm assuming so, yes.
 10 A. If it is helpful, I might just read for you, if that is
 11 okay, an example we have been presented with in
 12 Thailand.
 13 So, in Thailand, the National Crime Agency team
 14 works closely with Thai law enforcement to enhance their
 15 capacity to protect children and prevent child sexual
 16 exploitation. To support this, the ambassador
 17 personally has hosted numerous meetings over the last
 18 two years with senior law enforcement partners at post
 19 and at a ministerial level to raise not only aware of
 20 foreign national travelling sex offenders, but, at
 21 a more strategic level, to assess and improve Thailand's
 22 national response to travelling sex offenders and the
 23 safeguarding of vulnerable children.
 24 He and the team support the NCA at post -- so here
 25 is an example of where we have law enforcement at

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1 going to one of the countries of concern, you would
 2 probably spend time with the NCA or the relevant
 3 agencies as well to be made aware and to be told about
 4 whatever operationally may be going on.
 5 Q. So if, for example, there are members of FCO staff going
 6 to South-East Asia, which we have heard is one area of
 7 concern, do they receive any specific training on child
 8 sexual abuse by foreign nationals, or do you think that
 9 comes from this more informal process you have
 10 described?
 11 A. Well, I mean, it's unlikely that senior officials would
 12 have something specific on that. The consular people
 13 most concerned probably would have. But, yeah, for,
 14 say, the ambassador going out to one of those countries,
 15 they would be talking to the agencies concerned.
 16 Q. You would expect a new ambassador or somebody going out
 17 to an area where there is a concern to have some
 18 briefing from senior police around the likely issues on
 19 this topic, would you?
 20 A. Absolutely, yes.
 21 Q. Do FCO staff abroad, or certainly those at ambassador
 22 level, convene diplomatic meetings with their
 23 counterparts in South-East Asia on those sort of issues
 24 to raise awareness of the difficulties and discuss
 25 solutions?

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1 post -- in their role advising the Ministry of Justice
 2 in Thailand and refreshing and refocusing Thailand's
 3 model national response to child sexual abuse and
 4 exploitation and in capacity building for Thai
 5 officials.
 6 So an interesting case study. It is one. You know,
 7 there would be others around the network as well.
 8 Q. Do you think that reflects a practice that you would
 9 expect to see in other countries where there is
 10 a particular risk of this sort of child sexual abuse and
 11 exploitation?
 12 A. Yes, absolutely. It is part of what, you know, the
 13 ambassador and others are there to do, in support of
 14 their law enforcement team in particular.
 15 Q. Mr Jones, I think you have been asked to look at
 16 a document of key concerns and proposed reforms, and
 17 I hope that the origins of this document have been
 18 explained to you, but it is drawn from witness evidence
 19 or witness statement evidence that was provided to the
 20 inquiry. It sets out under each of these three areas
 21 some concerns and some proposed reforms that have been
 22 made by the witnesses.
 23 Is there anything in the sections on Civil Orders or
 24 section 72 or, indeed, anything else in here that you
 25 would like to comment on?

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1 **A. In the whole document?**
 2 Q. Yes. I mean, there are some that perhaps particularly
 3 bear on issues --
 4 **A. There is a section towards the end, I think paragraph 71**
 5 **onwards, which talks about how government is organised.**
 6 Q. Yes.
 7 **A. In there is the question about, you know, Foreign Office**
 8 **lead as opposed to Home Office lead and other things.**
 9 **I don't have anything particularly to say other**
 10 **than, you know, who leads on this is a matter for**
 11 **ministerial decision and resourcing that needs to come**
 12 **from the Treasury. So I think that's the only thing**
 13 **I would want to pick up on.**
 14 Q. It makes points, I think, particularly, in addition to
 15 the point at 71, at 73 and 74, about perhaps whether
 16 there is a greater role for embassies and the FCO,
 17 firstly in making child protection a priority in this
 18 area at a local level in the countries where embassies
 19 are and consulates are, and, secondly, on a more
 20 practical level, in monitoring the movements of
 21 individuals who are thought to be a risk abroad.
 22 Is there anything you would like to say about 73 or
 23 75?
 24 **A. Well, 73, you know, we do in the countries of greatest**
 25 **need, and I'm sure it's true for DFID, where they are**

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1 right?
 2 **A. I believe that's right, yes.**
 3 Q. So if, for example, to be clear, there was a British
 4 expat who lived in Thailand, the ETD granted by the
 5 consular staff here would return him or her to Thailand;
 6 is that right?
 7 **A. I believe so. I would need to check with my experts.**
 8 **But I presume in most cases the person would be coming**
 9 **back to the UK.**
 10 Q. But I think you have agreed to look into this issue
 11 a bit further for us and perhaps provide some clarity
 12 around those issues.
 13 **A. We certainly will.**
 14 MS HILL: Chair, those are all the questions I have.
 15 THE CHAIR: Thank you. We have one question from
 16 Sir Malcolm.
 17 PROF SIR MALCOLM EVANS: Thank you, Mr Jones. Just one
 18 short question.
 19 The FCO obviously supports many organisations and
 20 projects based and operating overseas financially. I'm
 21 just wondering whether there is any requirement that, in
 22 order to be in receipt of FCO funding, international
 23 child protection certificates need to be sought in
 24 relation to UK staff employed locally?
 25 **A. On the specific issue of certificates, I'm afraid**

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1 **more prominent. Thailand, I just gave you an example,**
 2 **I think, which is relevant to that.**
 3 **75, I'm not sure it is our job to be monitoring.**
 4 **I think that's law enforcement.**
 5 Q. Could the FCO generally, do you think, play a bigger
 6 role in championing the human rights of children and
 7 addressing the problem of transnational child sexual
 8 abuse? Do you think the FCO has a bigger role to play
 9 here?
 10 **A. I think we do quite a lot, whether it is in individual**
 11 **countries or in international fora. So, for example,**
 12 **our representations to the UN and UN agencies, we would**
 13 **have these issues absolutely at the forefront of what we**
 14 **are trying to do.**
 15 Q. Is there anything else on this concerns and reforms
 16 document you would like to say, Mr Jones? Just take
 17 a minute to have a look at it and see if there is
 18 anything else you want to say.
 19 **A. I don't think so.**
 20 Q. Just a point of clarification, please. Can I perhaps
 21 just go back to the emergency travel documents issue,
 22 Mr Jones. I thought your evidence was that the general
 23 position is that the English or Wales representatives
 24 abroad would issue a travel document to return an
 25 individual to their country of residence. Is that

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1 **I don't know. But what I can say is that when we are**
 2 **talking about programme funding being spent, there are**
 3 **a number of checks and criteria that we would apply**
 4 **always, and I think the area of safeguarding is one of**
 5 **them. So, as a general proposition, you know, we would**
 6 **be trying to make sure the relevant assurances were in**
 7 **place, but on the specific issue of certificates, I'm**
 8 **afraid I don't know. We can find out and get back to**
 9 **you, if that is helpful.**
 10 PROF SIR MALCOLM EVANS: Thank you.
 11 THE CHAIR: Thank you, Mr Jones. We have no further
 12 questions.
 13 MS HILL: Thank you, Mr Jones.
 14 (The witness withdrew)
 15 MS HILL: Chair, I propose to invite my learned friend
 16 Ms Faure Walker to read some evidence from the
 17 Department for International Development, which I think
 18 perhaps will touch a little bit on the sort of questions
 19 that have just been asked and the DFID evidence.
 20 Statement of MR PETER TAYLOR (DFID) (read)
 21 MS FAURE WALKER: Chair, the witness statement of Peter
 22 Taylor is in your bundle at F1, Relativity reference
 23 DFI000002. I will read the statement:
 24 "I, Peter Taylor, head of the Safeguarding Unit at
 25 the Department for International Development (DFID) will

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<p>1 say as follows: 2 "... 3 "Earlier this year, the Secretary of State for 4 international development wrote to all DFID's major 5 partners requesting that they provide her a statement of 6 assurance on the following four points which are 7 essential to effective safeguarding: 8 "That they provide a safe and trusted environment 9 which safeguards anyone who their organisation has 10 contact with, including beneficiaries, staff and 11 volunteers; 12 "That they set an organisational culture that 13 priorities safeguarding so that it is safe for those 14 affected to come forward and to report incidents and 15 concerns with the assurance that they will be handled 16 sensitively and properly; 17 "That they have adequate safeguarding policies, 18 procedures and measures to protect people and these are 19 shared and understood; 20 "That they have absolute clarity as to how incidents 21 and allegations will be handled should they arise, 22 including reporting to the relevant authorities, such as 23 the commission, and to funding partners, such as the 24 department for International Development. 25 "The Secretary of State also asked them to confirm:</p> <p style="text-align: center;">Page 165</p>	<p>1 "That they have referred any and all concerns their 2 organisation may have on specific cases and individuals 3 to the relevant authorities. 4 "Summaries of the assurances provided have been 5 published ... and are presented at exhibits PT1 and 6 PT2." 7 Those are in your bundle, chair, at tabs 3 and 4 of 8 the same section, Relativity reference DFI000001 and 9 DFI000003. 10 I return to the witness statement, paragraph 1.3: 11 "The purpose of this exercise was to gain our 12 partners' statements of assurance on safeguarding. We 13 did not ask partners to provide information on how they 14 apply the English and Welsh statutory disclosure and 15 barring regime or the international child protection 16 certificate to their employees, volunteers or partner 17 agencies working abroad. Some partners voluntarily 18 provided information on their vetting procedures, but 19 this wasn't sufficient to draw conclusions about how 20 DFID partners apply these tools in general. 21 "DFID has launched in 2018 new enhanced due 22 diligence standards for funding it provides. I have 23 summarised the requirements below and presented guidance 24 available for partners on the process at exhibit PT3." 25 Chair, that's in your tab 5. It is DIF000004:</p> <p style="text-align: center;">Page 166</p>
<p>1 "The new safeguarding due diligence standards help 2 teams to gauge a potential partner's ability to apply 3 safeguard in their work, and in particular to safeguard 4 children and adults at risk from sexual exploitation and 5 abuse. It covers partners' policies and processes in 6 six areas: safeguarding, whistleblowing, human 7 resources, risk management, codes of conduct and 8 governance. 9 "The third area, human resources, includes a focus 10 on a partner's vetting and recruitment processes. The 11 guidance includes standard questions that may be asked, 12 including, 'do you have different levels of recruitment 13 and security checks commensurate with safeguarding 14 requirements of the role?' and 'does your policy require 15 that background checks should be carried out for all 16 prospective employees?' We do not specifically require 17 partners to apply the English and Welsh statutory 18 disclosure and barring regime for the ICPC process to 19 their employees, volunteers or partner agencies working 20 abroad. Our due diligence assessments use a risk-based 21 approach. This means that the assessment helps the team 22 within DFID to judge the adequacy of the policies, 23 processes and practices evidenced by a potential 24 partner, factoring in the severity of the programme 25 risks identified and assessed in the context of</p> <p style="text-align: center;">Page 167</p>	<p>1 the specific programme. 2 "The English and Welsh statutory disclosure and 3 barring regime and the ICPC scheme are tools that can be 4 used by aid agencies when recruiting staff living in the 5 UK to work in the UK or overseas, as part of their 6 safeguarding process to protect children from sexual 7 abuse. The English and Welsh statutory disclosure and 8 barring regime only relates to England and Wales 9 (Scotland and Northern Ireland have their own systems) 10 whereas the ICPC scheme is UK-wide. It provides 11 information on convictions in the UK by individuals 12 living in the UK (or where informed by overseas 13 authorities of criminal convictions on UK nationals 14 overseas) together with police intelligence where 15 relevant. Many UK aid agencies recruit staff from 16 outside of the UK to work on projects abroad who will 17 not be eligible for these checks. To be eligible to 18 request a criminal record certificate from the 19 Disclosure and Barring Service, the employer must also 20 be based in England or Wales; the legislation does not 21 extend to situations where the prospective employer is 22 based abroad and no employment decision is being made in 23 England or Wales. In these situations, the employer 24 will have to obtain appropriate checks, when required, 25 from alternative sources.</p> <p style="text-align: center;">Page 168</p>

<p>1 "International processes exist to inform the UK of 2 UK nationals' convictions overseas to support 3 safeguarding and offender management across the UK, this 4 includes those who have committed sexual offences 5 overseas. The process is administered as a core 6 function of ACRO's international services. It works 7 through the European criminal record information systems 8 for EU member states. For the rest of the world, ACRO 9 relies on the use of the 1959 European Convention On 10 Mutual Assistance in Criminal Matters and Interpol 11 protocols that encourage countries to inform the UK of 12 any UK nationals' convictions overseas. In both cases, 13 if a criminal matter is referred to ACRO, they will 14 review and update the police national computer with the 15 convictions. It will then be accessible for vetting 16 purposes via the English and Welsh statutory disclosure 17 and barring regime or the ICPC scheme. The UK is also 18 encouraged to inform other countries of UK convictions 19 of foreign nationals via the same protocols. There are 20 significant differences in operating models and 21 efficiencies of justice and law enforcement agencies 22 across the world, which means that this process is not 23 equally as effective across all global countries. 24 "Since February 2018, DFID has intensified its work 25 to tackle sexual exploitation and abuse and sexual</p> <p style="text-align: center;">Page 169</p>	<p>1 harassment in the aid sector. At our 18 October 2 safeguarding summaries, hosted by the international 3 development secretary, DFID made a number of 4 announcements aimed specifically at improving vetting 5 across the international aid sector to prevent sexual 6 exploitation and abuse and sexual harassment of children 7 and adults. 8 "Interpol, with financial support from DFID, will 9 pilot a new system to improve background checks on staff 10 who work in the aid sector and provide advice to 11 employers on international vetting and identify 12 high-risk individuals. This should lead to better 13 information sharing across borders. 14 "UK NGOs with support from DFID will test 15 a 'passport' for aid workers to prove an individual's 16 identity, provide background information on previous 17 employment and vetting status. 18 "A new disclosure of misconduct scheme across the 19 NGO sector will prevent known perpetrators moving around 20 undetected -- by 18 October 2018, 15 organisations had 21 signed up to it, amounting to 50,000 staff working in 22 many countries. 23 "I don't feel qualified to answer the question on 24 the effectiveness of the English and Welsh statutory 25 disclosure and barring regime or the ICPC scheme as</p> <p style="text-align: center;">Page 170</p>
<p>1 safeguards from child sexual abuse for children in 2 England and Wales from those who have committed offences 3 overseas. But the measures described above are designed 4 to work alongside these existing tools to protect 5 vulnerable children and adults from the risk of being 6 victims of sexual offences related to the delivery of 7 international aid projects, whether committed by those 8 who have committed sexual offences -- either overseas or 9 in the UK -- before, or those who have not previously 10 committed offences." 11 There's the end of that statement. There is 12 a further, shorter statement from Mr Taylor, your tab 2 13 of section F, Relativity reference DFIO00005. This is 14 Civil Orders and section 72 of the Sexual Offences Act: 15 "The following Civil Orders [he names the orders you 16 are familiar with] are intended to protect the public in 17 the UK, or children or vulnerable adults abroad from 18 individuals who pose a risk of sexual harm. Section 72 19 of the Sexual Offences Act allows UK nationals who 20 commit an act overseas that would be considered a sexual 21 offence in the UK to be prosecuted when in the UK as if 22 that act had been carried out in the UK. DFID has no 23 institutional involvement in the making or operation of 24 these orders or of section 72 of the Sexual Offences 25 Act. We do not capture information at a portfolio level</p> <p style="text-align: center;">Page 171</p>	<p>1 of cases where a subject of one of these orders has 2 travelled or secured employment abroad in a capacity 3 where they have contact with children or been prosecuted 4 for breach of a Civil Order. Nor do we capture 5 information on cases where an individual involved with 6 the work of the organisation would have been prosecuted 7 under section 72 of the Sexual Offences Act. 8 "DFID has not conducted any reviews of these 9 Civil Orders or section 72 of the Sexual Offences Act in 10 our recent work on safeguarding and neither featured in 11 our own review. Therefore, I do not feel qualified to 12 make a judgment on the extent to which they act as an 13 effective safeguard to protect children overseas from 14 abuse. The problem of perpetrators of abuse moving 15 around the aid sector undetected is one that we are very 16 focused on and are supporting measures to address 17 (further detail in my previous witness statement from 18 13 November)." 19 Which I have read. Lastly: 20 "As DFID has not direct involvement in Civil Orders 21 or section 72 of the Sexual Offences Act, our training 22 for staff on safeguarding does not specifically cover 23 either topic." 24 THE CHAIR: Thank you, Ms Faure Walker. 25 MS HILL: Chair, the only item remaining for today is to</p> <p style="text-align: center;">Page 172</p>

<p>1 read the statement of OU-X1. I think it will take about 2 20 minutes. I would like to ask Ms Benfield to read 3 that statement and then that will conclude the evidence 4 for today, if you are content with that, chair. 5 THE CHAIR: Yes. 6 Statement of OU-X1 (read) 7 MS BENFIELD: Chair, the statement of OU-X1 is at the final 8 tab, tab G, of the read evidence bundle. 9 Chair, I am going to read and, where appropriate, 10 summarise the statement of OU-X1. Its Relativity 11 reference is INQ003949. 12 "There are serious risks associated with doing the 13 type of work that I do. That is why I have requested 14 anonymity in these proceedings. I am a firm believer in 15 open justice, but I cannot reveal my identity in case it 16 jeopardises my safety and/or that of my informants or 17 undermines my undercover work. Due to my undercover 18 work, dangerous criminals have been apprehended and 19 arrested. It is therefore important for my identity to 20 remain outside of the public domain. 21 "The safety of my informants is also very important 22 to me and the work that I do. A key feature of my 23 undercover work is the safety of the people I work with. 24 I never work alone. I am always accompanied by people 25 I trust. My targets sometimes see my associates with me</p> <p style="text-align: center;">Page 173</p>	<p>1 and they have contact with them. Due to incompetence of 2 the local law enforcement systems they are sometimes 3 even asked to testify in place of me. Whilst I can fly 4 home, these people remain in the dangerous areas and it 5 is therefore very important that their safety is never 6 jeopardised. 7 "Undercover work exposing child sexual exploitation. 8 "I have been working in South-East Asia for several 9 years in undercover investigations which expose online 10 sexual exploitation of children. This phenomenon, which 11 is the major international crime of our age, happens 12 around the world as online sex offenders in my 13 experience are mostly but not exclusively based in 14 western (developed) countries. It is a large and 15 invisible industry, especially in the Philippines, where 16 online sexual exploitation of children has exploded. In 17 online sexual exploitation, according to estimates, at 18 least 750,000 people at any given moment are looking 19 online for online sexual exploitation. But it takes 20 place in South America where child abuse is rampant and 21 the industry is sometimes run by drug cartels where 22 demand is created by US nationals and by Europeans who 23 go to South America and the Caribbean. Cyber sex dens 24 are also appearing on the African continent, for 25 example, Kenya, with the increase in better internet</p> <p style="text-align: center;">Page 174</p>
<p>1 connection. 2 "While abuse starts with cyber sex, this abuse 3 escalates and often leads to foreign men contacting 4 local fixers or those arranging child sexual abuse 5 online to carry out hands-on abuse. Child sexual 6 tourism has increased dramatically. Some of the abuse 7 requested is extremely sick and sadistic. I know of 8 a case of a customer who wanted to pay a mother to cut 9 up her daughter in front of him. The case of 10 the Australian Peter Scully is also extreme and slows 11 the horrific nature of this form of abuse. In another 12 case, a man trafficked a minor to his home country where 13 she was gruesomely abused. 14 "I work to uncover criminal networks feeding on 15 online sexual exploitation and to find the people behind 16 the operations including those who are supplying 17 children but also those who are creating the demand. 18 I am trying to understand the phenomenon and follow its 19 fast-changing profile, tracking the hotspots and the 20 child trafficking routes. I collect the data (online, 21 in criminal environments, as well as in shelters and in 22 certain so-called 'entertainment' areas), make reports 23 and then I share this with law enforcement. This work 24 is necessary since foreign police often do not have any 25 jurisdiction and they may not be able to carry out the</p> <p style="text-align: center;">Page 175</p>	<p>1 investigations or they may not have the budget to carry 2 out investigations. Local and foreign police are 3 understaffed, have limited resources and are burdened by 4 bureaucracy and a huge volume of child sex abuse 5 material ... More and more adults hide behind minors who 6 are functioning as recruiters and pimps. As online 7 sexual exploitation goes viral an increasing amount of 8 material is offered by minors without the involvement of 9 adults. I therefore have to make sure that my 10 investigations and reports are thorough. Otherwise, the 11 police will not take any action. 12 "Another aspect that I would highlight is that 13 informants, especially in the world of trafficking and 14 sex work, can be unpredictable. This makes recruiting 15 and managing a network of informants a long-term and 16 delicate process. 17 "It is essential I can trust my most close 18 informants and assistants fully. I can never operate or 19 meet minors without an assistant. They are my 20 safeguard, cover, guide and 'canary in a coalmine'. 21 "Some police forces such as the US Federal Bureau of 22 Investigation and Homeland Security investigations have 23 agents on the ground and have better links with local 24 police which assist with investigations and training. 25 This is helpful since the local police forces have</p> <p style="text-align: center;">Page 176</p>

<p>1 little resources and manpower and are often focused on 2 other crimes set by presidential policy -- for example, 3 combating drugs. Ironically, online sexual exploitation 4 thrives in environments where lots of drugs are 5 trafficked. Many online sexual exploitation suppliers, 6 facilitators and minors are using crystal meth, which 7 makes undercover work even more dangerous. Local police 8 forces also regularly change and the lack of resources 9 affects the quality of local police investigations. 10 "Another issue is that if foreign nationals get 11 arrested they can usually pay a small amount to get bail 12 and then the foreign national flees. This presents 13 a challenge on the ground for dealing with these types 14 of offences. 15 "Lastly, the weakness of the legal system in the 16 Philippines increases the chance of offenders escaping 17 the country before they are brought to justice. 18 "The sad reality is that the online sexual 19 exploitation of children often takes place in 20 a dangerous context on the ground. It happens in 21 environments of extreme poverty. Suppliers depend on 22 a network of adults who provide them with children. 23 Sometimes they are helped by police or people in an 24 official capacity. For child trafficking, as online 25 sexual exploitation of children is known in the</p> <p style="text-align: center;">Page 177</p>	<p>1 Philippines, the sentence is a lifetime prison sentence 2 which makes contact with suppliers dangerous. 3 Furthermore, setups are not uncommon, often in 4 collaboration with corrupt police officers. For 5 example, in Mindanao in the Southern Philippines there 6 is an autonomous region with the presence of 7 the Abu Sayyaf terrorist group. Women, girls and 8 children are trafficked to Arab countries. There is 9 a lot of trafficking of children in and around the 10 region. There are also groups which target and traffic 11 children to be sexually exploited by foreign men." 12 OU-X1 gives an example of an indigenous girl 13 trafficked by a notorious sex trafficker called 14 Jerrie Arraz. 15 "A journalist called Patricia Evangelista has 16 written about her story ... As the story reports, the 17 young women who were exploited lived through years of 18 horrendous abuse and trauma at the hands of Arraz and 19 foreign, western men. While the girls were initially 20 sexually exploited on camera for foreign men this then 21 turned into hands-on abuse. They were forced to have 22 sex with foreign men. In effect, they were held in 23 sexual slavery. 24 "I am also aware of another case of on organised 25 cyber sex operation which led to an arrest of a US</p> <p style="text-align: center;">Page 178</p>
<p>1 national, Jessie York, who specialised in sexual 2 exploitation involving a transgender dimension. 3 However, the individual arrested then alleged by bribed 4 the police. I understand that the individual is wealthy 5 and is well connected politically. He is therefore 6 a protected and dangerous individual. 7 "[Online sexual exploitation] is not only operated 8 by sophisticated criminal networks or by traffickers. 9 The conditions of poverty mean that the suppliers are 10 mostly family members living in extreme poverty who show 11 pictures of their own children and organise 'sex shows'. 12 There is a whole spectrum of abuse in the Philippines. 13 It is not only a problem of organised gangs. Suppliers 14 can be found, for example, on live streaming sites, 15 dating sites, Facebook groups such as 'Filipino boys for 16 gay travellers' and others, in chat groups and other 17 platforms like WeChat, LiveChat and so on. 18 "I was involved in a high-profile investigation 19 a number of years ago which led to the arrest of 20 traffickers, pimps and operators of cyber sex dens in 21 the Philippines. This investigation led to the arrest 22 and conviction of five Filipino nationals operating the 23 cyber sex dens which live streamed child sexual abuse. 24 The operation has also focused on investigating the many 25 foreign offenders who pay for the live streaming of</p> <p style="text-align: center;">Page 179</p>	<p>1 child sexual abuse. The case provided the opportunity 2 for law enforcement on the ground to move beyond 3 rescuing victims and apprehending operators to tackle 4 the root of the criminal networks which are the 5 perpetrators, predominantly foreign offenders who create 6 the demand for child sexual exploitation. 7 "In my investigation of the cyber sex den, I found 8 that there were several British men asking for sex shows 9 with children. There were payments made. A UK man was 10 in fact one of the worst. He wanted to view the sexual 11 exploitation of very young children and he made explicit 12 requests in relation to a particular young child who 13 I know has since been rescued. This individual provided 14 the family who operated the cyber sex den with their 15 DropBox facility and someone capable of doing this is 16 likely to have had a lot of experience in this domain. 17 It fits a common pattern which I have seen in which 18 suppliers are educated by the viewing offenders on how 19 to store and access materials. 20 "I am extremely concerned about whether any 21 effective action has been taken by the UK authorities in 22 relation to these individuals and whether any of them 23 have yet been apprehended. 24 "In my experience, with this type of offending 25 British offenders, along with Americans, Australians and</p> <p style="text-align: center;">Page 180</p>

<p>1 other Europeans, are all too common. 2 "As a consequence of this investigation, many 3 foreign nationals have been arrested in their home 4 countries. Due to my undercover involvement, many 5 foreign law enforcement agencies interviewed me and 6 requested information. For example, the Norwegian 7 police (Kripos) flew me to Oslo and interviewed me at 8 length. They had arrested a man in Norway based on my 9 data. This individual who was arrested abuse the same 10 child as a British national, OU-F4, who was arrested in 11 2018. Both OU-F4 and the Norwegian were involved in the 12 same incident. However, the reactions of the British 13 and Norwegian authorities were very different as I will 14 explain further below. 15 "A Belgian national was also arrested as a result of 16 my work and information I provided to the Belgian 17 police. The German police also asked me for information 18 and the Dutch police met with me a number of times and 19 subsequently made a number of arrests. 20 "In 2016, after the raid in the Philippines, 21 I informed the National Crime Agency liaison officer 22 about a British national, OU-F4, who I had identified 23 through the investigation. It took the NCA two years to 24 effectively react to my data about the British national. 25 Perhaps they were working behind the scenes on this case</p> <p style="text-align: center;">Page 181</p>	<p>1 (I do not have any information on this) but the ways in 2 which Norway and Britain reacted to information about 3 the same incident leads me to think that the NCA were 4 slow to apprehend OU-F4. Kripos, the Norwegian law 5 enforcement agency, went to the Philippines, interviewed 6 the victim and arrested the man involved much quicker 7 than the NCA. The fact is that Kripos launched an 8 immense effort after the arrest to unearth data in 9 Norway as well as in the Philippines. They travelled 10 several times to the Philippines. Also, they will soon 11 have a permanent presence in Manila to specifically deal 12 with the online sexual exploitation of children. 13 "I am also aware that a particular girl who was 14 abused both by OU-F4 and the Norwegian now has 15 a Norwegian lawyer. My understanding is that the 16 coverage of the matter in Norway, combined with her 17 having her own lawyer, has resulted in pressure being 18 brought to bear on the government in relation to 19 reparation for victims and survivors of child sexual 20 abuse by their own nationals abroad. 21 "Following the arrest of OU-F4 in 2018, I had 22 contact with an individual and the NCA international 23 liaison officer. I also emailed the NCA but I have no 24 further information. They were far less responsive than 25 Kripos, who asked me by email for other information</p> <p style="text-align: center;">Page 182</p>
<p>1 about Norwegian offenders and more details about the 2 case OU-F4 is involved in. 3 "The UK authorities in my experience seem to be far 4 behind the other law enforcement agencies in tackling 5 online sexual exploitation. They seem to lack 6 a presence on the ground and do not have a presence at 7 other important international agenda setting forums. 8 For example, I went to the Interpol conference in Lyon 9 and Singapore in November 2016, 2017 and 2018. This 10 conference is attended by highly regarded experts in law 11 enforcement from around the world working to combat this 12 crime. From my recollection, NCA personnel were in 13 attendance but over the past few years they have been 14 attendees rather than taking an active role. In 15 contrast, the Dutch, Australians, Canadians, Norwegians 16 and Americans present their best practices and give 17 a lot of helpful advice on the methods that they use to 18 scare and combat online predators. The UK rarely shares 19 its best practices and it is unclear as to what they are 20 doing. In fact, compared to some of the other forces, 21 the UK regime is almost non-existent on the ground in 22 the Philippines. Thus, while I cannot comment on the 23 specifics of the UK civil regime, in my experience, the 24 UK lags behind other countries. 25 "For example, Homeland Security investigations have</p> <p style="text-align: center;">Page 183</p>	<p>1 officers on the ground who make arrests in the 2 Philippines. There is a Dutch liaison officer based in 3 Manila and a Norwegian officer who will soon be based in 4 Manila. The reality is that you need law enforcement to 5 be in Manila or on the ground because you need to know 6 where the centres of exploitation are. You need to see 7 where online sexual exploitation suppliers and customers 8 are meeting, understand the phenomenon and to visit the 9 victims in the shelters to obtain information. You need 10 to build a rapport with the local people, the NGOs and 11 certainly the PNP, the Women and Children Protection 12 Centre and National Bureau of Investigation. The most 13 effective way of engaging with the police is through 14 face-to-face meetings with personal contacts. Emails 15 and telephone messages mostly stay unanswered. 16 "The OU-F4 case provides a stark example of 17 the difference in approach of the British to the 18 Norwegian police when investigating online sexual 19 exploitation. The Norwegian police came to the 20 Philippines, they went to the shelter and interviewed 21 the victim. To my knowledge, the British did not do 22 this, perhaps because there is no British liaison 23 officer in Manila. The liaison officer is based 24 elsewhere, in Bangkok or in another country. How can 25 you deal with the many British predators going from your</p> <p style="text-align: center;">Page 184</p>

<p>1 country to other destinations if you are in fact 2 somewhere else? You need to be on the ground and you 3 need to collaborate with local NGOs who have the 4 knowledge. 5 "This on the ground presence is important because 6 individuals who commit these types of crimes often 7 travel to countries and places such as Hong Kong, 8 Bangkok and Dubai first and then fly to the Philippines. 9 They travel to countries where there is little 10 intelligence sharing or co-operation, meaning that these 11 predators can enter and leave countries easily, even if 12 they are barred from entry. For example, I know of 13 a Swiss national who is barred from entering the 14 Philippines but once out of gaol he can fly via a route 15 where he knows he will not be checked. 16 "I have been asked specific questions on the 17 effectiveness of the UK Civil Orders regime. I am not 18 specifically aware of the specificities of the UK legal 19 framework but I would question how effective the system 20 is if the internet allows for offenders to be anonymous 21 online and if offenders can offend so easily once they 22 are abroad? Further, many offenders (both those who 23 commit online and those who commit hands-on abuse) do 24 not have criminal records. Specifically, in relation to 25 the UK, I can only comment that I do not have experience</p> <p style="text-align: center;">Page 185</p>	<p>1 of this regime and I am unaware as to whether any 2 British perpetrators I have come across have had 3 Civil Orders. 4 "I have also been asked to comment on section 72, or 5 the extra-territorial powers of the UK. Whilst I am 6 aware that countries such as Australia and the US arrest 7 individuals for crimes in the Philippines and elsewhere, 8 I was not aware that the UK had those powers. I have 9 recently been told about the case of the UK national, 10 Douglas Slade, because five of his Filipino victims 11 successfully testified through a videolink to 12 a High Court judge in London, but I have no personal 13 experience of dealing with an extra-territorial 14 investigation by British law enforcement. 15 Extra-territorial prosecutions are very important, and 16 they are effective. This is especially important in 17 countries where rich people predominantly from western 18 countries pay for their bail and their flee the country. 19 They can bribe officials, as has happened in the Slade 20 and many other cases, which allows them to leave or 21 exploit the fact that a victim may not want to cooperate 22 with the authorities due to very difficult 23 circumstances. There is a lucrative dark business in 24 Filipino courtrooms to allow foreign child sex offender 25 or wealthy Filipinos to go free.</p> <p style="text-align: center;">Page 186</p>
<p>1 "Another reason that a local prosecution might not 2 be preferable is that children are cross-examined and 3 undergo traumatising questioning and proceedings in 4 countries such as the Philippines. Tiny inconsistencies 5 are used by defence lawyers to argue that the witnesses, 6 who have suffered years of abuse, are not credible. 7 This happened to the witness in a case involving a US 8 national who was accused of having abused an 11- and 9 9-year-old child. The 11-year-old, who was 12 at the 10 time of trial, was subject to terrible interrogation and 11 her evidence was discredited on the basis that she got 12 one date wrong. I provide these examples to show why 13 extra-territorial powers are important and must be used 14 in relation to a country's own nationals. 15 "Based on my experience of investigating online 16 sexual exploitation of children in South-East Asia, 17 I think it is simple: anyone involved in child sexual 18 abuse in the UK should not be allowed to travel to 19 South-East Asia. Douglas Slade had been accused of 20 child sexual abuse in the UK years previously. How is 21 it that he could go and live in Angeles City, the worst 22 and most notorious prostitution area of the Philippines, 23 where paedophiles can blend in with regular sex 24 tourists? In my view, prevention is better than cure. 25 "I have also been asked questions about the UK's</p> <p style="text-align: center;">Page 187</p>	<p>1 statutory vetting and barring regime. Again, I do not 2 know the specifics of the UK system, but I would like to 3 say two general things. First, after the typhoon Hayan 4 devastated part of the Philippines in 2013, many foreign 5 NGOs came to assist with disaster relief. Around this 6 time, I was told by a high-level Philippines government 7 official that children were disappearing. The 8 suggestion was that there was a direct correlation 9 between disaster relief and child trafficking which has 10 also happened in other contexts. Secondly, a lot of 11 foreign nationals set up orphanages, work sometimes as 12 volunteers and some of these people are offenders and 13 predators. These people are not vetted. It is 14 necessary to protect vulnerable children if these 15 individuals were automatically vetted." 16 Chair, that concludes the evidence of OU-X1. 17 THE CHAIR: Thank you, Ms Benfield. 18 MS HILL: That concludes the evidence for today, chair. 19 Thank you. 20 THE CHAIR: Thank you. 21 (3.39 pm) 22 (The hearing was adjourned to 23 Friday, 15 February 2019 at 10.00 am) 24 25</p> <p style="text-align: center;">Page 188</p>

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