

Coroner's Inquests into the London Bombings of 7 July 2005
Hearing transcripts - 10 January 2011 - Whole day session

1 Monday, 10th January 2011

2 (12.15 pm)

3 (In open session)

4 LADY JUSTICE HALLET: Mr Keith?

5 MR KEITH: Good morning, my Lady. My Lady knows that there
6 are two main areas on the agenda for today: certain
7 closed matters arising out of continuing applications
8 for public interest immunity, both from West Yorkshire
9 Police and from the Secretary of State, and also three
10 outstanding applications for anonymity in relation to
11 witnesses A, B and C.

12 My Lady, it is likely that because the applications
13 for public interest immunity are continuing applications
14 and because the interested persons have already been
15 afforded an opportunity by you to address you in open in
16 relation to the relevant principles, that there may be
17 little to add in open in relation to those continuing
18 applications.

19 Therefore, if my Lady approves, it may be sensible
20 to deal with that aspect in open first of PII
21 applications so the Secretary of State's representatives
22 who are here, of course, and have been here all morning,
23 may then depart once that open part of the PII
24 application is concluded.

25 The open part of the anonymity applications, by

1 contrast, is likely to take a considerably longer period
2 of time, and therefore if we deal with that issue
3 second, it will allow the Security Service, as I say, to
4 absent themselves, but then to return for the final
5 closed part of today's hearing later this afternoon,
6 when my Lady can deal with the closed part of those PII
7 applications and the anonymity applications.

8 LADY JUSTICE HALLET: Very well. Does anybody have any
9 submissions they wish to make which have not been made
10 already in relation to the PII matters? Ms Gallagher?

11 MR KEITH: My Lady, would it assist if my learned friends
12 who make the applications for public interest immunity
13 introduce them very briefly, in case there have been any
14 developments or relevant issues that the interested
15 persons may wish to hear before they reply?

16 LADY JUSTICE HALLET: Mr Hall, is there anything you wish to
17 add to the application that was been made in open?

18 MR HALL: I will just indicate what the applications are for
19 the record and then I will sit down.

20 There are three applications for PI on behalf of the
21 Secretary of State. The first is a spreadsheet of
22 technical operations which was left over from last
23 December. The second is a number of Executive Liaison
24 Group minutes prepared during the course of
25 Operation Crevice. The third category are quarterly

1 summaries of operations which were undertaken by the
2 Security Service in the period 2004 to 2005.
3 Since Mr Garnham introduced the principles, I don't
4 think there was any controversy about their application
5 on the last occasion. I don't propose to say any more,
6 but obviously the PII certificates have been considered
7 and signed by the Secretaries personally, and the
8 approach taken by the Secretary of State is that set out
9 by the House of Lords in R v H in the Divisional Court
10 in Binyam Mohammed, balancing the interests in
11 disclosure in the sense of conducting an effective and
12 open inquest against possible damage to national
13 security if disclosure were to be made.
14 Unless I can assist any further, that's all
15 I propose to say.

16 LADY JUSTICE HALLET: Thank you. Mr Skelt?

17 MR SKELT: In relation to the application that
18 West Yorkshire make, a gist has been prepared which
19 summarises, amongst other things, contact between
20 Mohammed Siddique Khan and a known extremist in 2001 and
21 2003. That was prepared and circulated, as I understand
22 it, on Friday to the other properly interested persons.
23 I have sought to ensure this morning that my Lady's
24 papers are up-to-date, because there may have been
25 an administrative difficulty in the wrong copy being

1 circulated. The document that should have been
2 circulated has 16 paragraphs to it, the open version of
3 which has paragraphs 11, 15 and 16 removed and simply
4 expressed as closed brackets.

5 LADY JUSTICE HALLET: Right. Are you asking me to look at
6 the document now to check I have it?

7 MR SKELT: Not at this moment. I sought this morning with
8 Mr Smith's assistance to ensure my Lady had the correct
9 documents before you. It has not been condensed to
10 a bundle, because the application, as it were, does not
11 justify being put into its own set of folders.

12 The point perhaps I should clarify for the
13 assistance of those others present is that efforts have
14 been made to seek, if possible, to gist the sensitive
15 material that would allow for its disclosure. That has
16 not proved possible, despite the efforts of all
17 concerned.

18 Secondly, efforts have been made to see if some form
19 of limited disclosure other than through gisting could
20 address the issue and again, that has not proved
21 possible.

22 Thus it is that the sections that have been included
23 in the closed gist, those three paragraphs, appear. The
24 application is for the open version to have those three
25 sensitive, we would say, paragraphs subject to immunity

1 protected from disclosure.

2 We have, for the avoidance of any doubt, followed

3 those principles my learned friend Mr Hall has just

4 referred to, and also that were discussed earlier on

5 before Christmas: namely, first of all, is the material

6 relevant; secondly, does it attract public interest

7 immunity; and then, thirdly, the balancing exercise.

8 There is perhaps little I can say in open court over

9 and above what's contained in our closed application,

10 but if it is thought of assistance at this time, I can

11 give such details as are necessary or required.

12 LADY JUSTICE HALLET: Thank you. Ms Gallagher.

13 MS GALLAGHER: My Lady, we made representations in December

14 at the 21st December hearing which I don't intend to

15 repeat. As you will recall, there was broad agreement

16 as to the applicable principles in respect of PII, and

17 both myself and Mr Patterson indicated on behalf of the

18 bereaved families a rather large caveat, which was we

19 are in difficulty making submissions on

20 a content-specific decision self-evidently without sight

21 of the content. We would reiterate the reasons that we

22 gave in December as to why the issue of preventability

23 is so important, both to the families and to the wider

24 public, given that this was the biggest ever loss of

25 life in a terrorist attack on mainland Britain and

1 attracted intense media and public interest.

2 In respect of the West Yorkshire Police application,
3 we have nothing to add beyond those general principles.

4 In respect of the MI5 Home Secretary application,
5 could we just make some brief points?

6 The first point is that the reasoning which is
7 provided in the certificate we received on Friday from
8 the Home Secretary as to why the relevant materials in
9 bundle B attract PII, it is set out at paragraph 15,
10 subparagraphs A to F. This will just give an indication
11 of the difficulty we face in making submissions.

12 At paragraph 15, A to F, is an identikit replication
13 of paragraph 15, A to F, in the submissions we saw
14 previously. So while the contents of bundle A and the
15 contents of bundle B may in practice be very different
16 and raise very different issues, to us on behalf of the
17 families in the open material it is not evident that
18 there is there is any distinction, because, in fact, it
19 is a cut and paste of precisely the same reasoning. So
20 that causes us some difficulty.

21 The second point, which we just make briefly in
22 respect of the ELG minutes, is that a large number of
23 the ELG minutes have already been received. We have
24 received gists of those documents. We know from ISC2
25 that in respect of at least two of the meetings,

1 the minutes consisted of approximately four pages of
2 material. We have received one-page gist summaries of
3 the minutes. I understand originally we received gists
4 of 48 -- there was a duplication between some of
5 the minutes.

6 We are not aware of any PII application in respect
7 of the minutes for which we have only received gists.
8 So it may be that this is contained within bundle B, but
9 our reading of the material we have seen about bundle B
10 would suggest that there has not actually been a PII
11 application made in respect of the less
12 controversial minutes in respect of which we have
13 received gist summaries only.

14 We may be incorrect about that, but our reading of
15 the document suggests that bundle B relates only to
16 specific ELG minutes, rather than the ELG minutes
17 generally; and if there were 50 meetings or 49 meetings
18 and we are to receive gists only of those meetings, or
19 of some of those meetings, there must, of course, be PII
20 applications in respect of the fuller minutes, if they
21 have been seen and if they are relevant, and if they are
22 not being provided to us. That may be contained within
23 this application, but we are not clear as to whether it
24 is.

25 There is one further brief matter which I am not

1 going to deal with, because I think Mr Keith is raising
2 it, but just before the representatives for the Home
3 Secretary and MI5 leave, there is one overlapping issue
4 between PII and anonymity which relates to an e-mail of
5 a letter which was sent to us on Friday. I believe
6 Mr Keith is going to deal with it, but we do want
7 an opportunity to make a reference to that prior to
8 Mr Hall leaving.

9 LADY JUSTICE HALLET: Right. Anybody else wish to say
10 anything on the first parts of Ms Gallagher's
11 submissions? No. Right. Mr O'Connor.

12 MR ANDREW O'CONNOR: May I make a few short points about the
13 PII claims. My Lady, as far as our approach to these
14 claims is concerned, I made some submissions to you at
15 the previous hearing on 21st December and those
16 submissions can be found on the transcript. I will not
17 repeat those submissions, my Lady, but may I simply
18 underline that we see it as one of our key roles to
19 press and assist you in pressing the relevant agencies
20 to ensure that as full an open disclosure as possible of
21 all the material that you consider to be significant is
22 made to interested persons, and that's very much one of
23 the roles that we are fulfilling in this process.
24 There is a second important role which is keeping
25 the whole issue of disclosure under review. Any

1 decisions that are made by you are clearly only
2 provisional, and it is necessary to keep that matter in
3 mind as the process goes on. That, again, is one of the
4 roles we see that we can play.

5 As far as the particular claims are concerned, my
6 Lady, as far as, firstly, the claim made by the
7 West Yorkshire Police, Mr Skelt has taken you to what he
8 describes as the gist document, a document of some three
9 or four pages.

10 Perhaps I can just agree with him. That is
11 a document which we have worked on, which brings
12 together in open form the relevant content of a number
13 of underlying documents which contain some relevant,
14 some irrelevant, some sensitive, some non-sensitive
15 information. For that reason they are very difficult to
16 disclose themselves, but we are satisfied that that
17 document conveys the relevant content of all of those
18 underlying documents. As he has said, there are three
19 paragraphs and only three paragraphs of the gist that
20 are the subject of the claim for PII by the West
21 Yorkshire Police.

22 May I simply endorse what was discussed. It is
23 a very narrowly based PII claim. I think I can say for
24 the purpose of transparency that we will not be
25 submitting, when we come to the closed proceedings, that

1 it is, in fact, possible to come up with any open gist
2 to convey what is the subject of that very narrow PII
3 claim.

4 As far as the Security Service claims are concerned,
5 may I address you briefly first of all about as far as
6 the ELG minutes are concerned, can I say there has been
7 a little confusion about the number of ELG meetings, and
8 it may be, I gather, that that was partly my fault.

9 The position is that there has been a process,
10 a very intensive process, very largely conducted by
11 Metropolitan Police, with some assistance from the
12 Security Service and, in the latter stages, myself,
13 during the course of the last few months of last year,
14 of generating the gists that have now been disclosed and
15 are on Lextranet. There were certainly about 50
16 meetings of ELG. The matter is slightly complicated by
17 the fact that one of the minutes was reissued. On one
18 day they met more than once.

19 Can I put Ms Gallagher's mind at rest? There may
20 have been a slip so that the gist of one of the minutes
21 may not have been disclosed, or there may have been
22 slips where we inaccurately described how many minutes
23 there are. We will look into that. We will sort it
24 out. But what certainly is not the position, for
25 example, is that there are 50 meetings and only 49 of

1 them are being gisted. That simply isn't the position.
2 The position is that all the minutes of all the meetings
3 of the ELG are being gisted. If there has been a slip
4 so far either in what has been disclosed or in how it
5 has been described, that will be corrected.
6 On the substance of it, as I say, the process has
7 been of gisting the contents of those minutes without --
8 certainly the disclosure that took place before
9 Christmas was not the result of any PII process. It is
10 our view that those gists contain the vast majority of
11 the significant material that is contained in those ELG
12 gists.
13 There is a small amount of further information in
14 the ELG gists which is the subject of a PII claim which
15 you will have to determine, and it may be that some
16 small, possibly further gists emerge, but certainly the
17 vast bulk of the process of disclosing openly the
18 relevant significant content of those ELG gists has
19 already been conducted and is represented, in our
20 submission at least, in the gists that were put on
21 Lextranet just before Christmas.
22 As far as the Quarterly Reports are concerned that
23 Mr Hall has referred to, again, they provide some
24 contextual significance to your enquiries, and there are
25 matters we can discuss in closed about possible gists of

1 those documents.

2 My Lady, that's all I wish to say about the PII
3 claims, unless I can assist you further.

4 LADY JUSTICE HALLET: Thank you very much. Anybody else?

5 MR KEITH: My Lady, may I just simply respond to my learned
6 friend Ms Gallagher's observations about the application
7 as recently made? I was intending to address you in
8 relation to that conclusion in my submissions on
9 anonymity, but perhaps it is convenient to deal with it
10 now, so that Mr Hall can depart. It may be that he will
11 stay anyway.

12 The Security Service has indicated that it wishes to
13 apply for anonymisation in respect of the witness whom
14 it proposes to call before you and for that witness to
15 be screened from the public, the press and the
16 interested persons, but not, I emphasise, the lawyers
17 representing the interested persons.

18 They have very properly indicated whether or not
19 a formal application to that effect is required. On the
20 basis that such an application is required formally, and
21 we would respectfully suggest that it is, given the
22 principles at stake and the high degree of publicity
23 attendant upon these proceedings, might I invite you to
24 make some directions for the resolution of that formal
25 application, once it has been lodged.

1 LADY JUSTICE HALLET: I have already sent a message that
2 a formal application is required, Mr Keith, during the
3 holidays.

4 MR KEITH: My Lady did. It is not something that has been
5 known openly.

6 LADY JUSTICE HALLET: Indeed.

7 MR KEITH: The only realistic date for the hearing of that
8 application is 21st January, a week on Friday. So may
9 I invite you to direct that the Secretary of State's
10 formal application be served by next Thursday, the 13th,
11 at 4.00 pm, and any written submissions in response by
12 4.00 pm by Tuesday the 18th with the argument then set
13 for that following Friday.

14 LADY JUSTICE HALLET: Does anybody have any comments about
15 the timetable?

16 MR HALL: I was going to try to get an extra day. Could we
17 have 4.00 pm on the Friday? That would give everybody
18 the week-end. I would be very grateful for the next day
19 because I know how hard everybody is working at my end.

20 LADY JUSTICE HALLET: So now the proposal is, Ms Gallagher,
21 13th or 14th for the Secretary of State. Do you have
22 any comments on that proposed date?

23 MS GALLAGHER: We are content with the timetable.

24 LADY JUSTICE HALLET: Mr Hall has tried to add a day.

25 MS GALLAGHER: Excuse me. I missed that.

1 LADY JUSTICE HALLET: You were taking instructions. Mr Hall
2 stood up and asked me to make it 14th January rather
3 than the 13th. In other words, Friday rather than
4 Thursday.

5 MS GALLAGHER: I can't see any difficulty with that from our
6 point of view. We were going to make some preliminary
7 observations, but given that there is now a formal
8 timetable in place, that doesn't seem necessary.

9 LADY JUSTICE HALLET: Are you content with responding by the
10 18th?

11 MS GALLAGHER: Yes, we are content with responding by the
12 18th.

13 My instructing solicitor has just raised, there are
14 a number of other potential matters, housekeeping
15 matters relating to preventability. We were intending
16 to canvass in writing with Mr Smith -- we have not done
17 this yet -- the possibility of there being a very short
18 directions hearing, possibly prior to a day on which we
19 are sitting. It doesn't require much time, but there
20 certainly are some miscellaneous housekeeping matters
21 which need to be addressed. It may perhaps be sensible
22 that the date suggested by Mr Keith for the hearing of
23 this application would be a sensible time for other
24 miscellaneous housekeeping issues relating to
25 preventability be dealt with, given that the parties

1 will be there.

2 LADY JUSTICE HALLET: So on 21st January?

3 MS GALLAGHER: Yes, and we are quite happy to comply with
4 any timetable if you want an indication from us by the
5 14th mirroring the timing for Mr Hall of any issues we
6 think should be dealt with at the hearing; we would be
7 quite happy to provide that.

8 LADY JUSTICE HALLET: Very well. That would be very
9 helpful. Any submissions on further directions required
10 to be served by the 14th?

11 MS GALLAGHER: I am so sorry. I am reminded that Mr Patrick
12 O'Connor QC is only returning this Wednesday afternoon.
13 So in fact the 14th may cause some difficulties. He is
14 only back in the country the evening of the 12th. Could
15 I suggest that we instead provide those details by start
16 of business on the Monday rather than close of business
17 on the Friday.

18 LADY JUSTICE HALLET: With the proviso that if you and your
19 instructing solicitor could kindly alert Mr Smith to the
20 general nature of the submissions you are likely to be
21 making, the formality of the final submissions can be
22 left until the Monday morning, but I would like, please,
23 by the close of play on the 14th, for you or Mr Gold(?)
24 to have told Mr Smith roughly what you have in mind.

25 MS GALLAGHER: It may be that Mr O'Connor can comply and we

1 can do everything by Friday. Certainly we will do what
2 we can by Friday, and we will do everything by start of
3 business on Monday.

4 LADY JUSTICE HALLET: Very well. Do I need to set
5 a timetable for response to any of those submissions?

6 MR KEITH: My Lady, no. We will have to consider the merits
7 of those points as and when they are raised. They may
8 or may not require a response from the Security Service.
9 They will almost undoubtedly provoke a response from us.

10 LADY JUSTICE HALLET: Very well. Anybody else, any comments
11 on the timetable?

12 MR KEITH: Would my Lady give me a moment? (Pause)
13 Thank you, my Lady.

14 LADY JUSTICE HALLET: Very well. The Secretary of State to
15 serve submissions and formal application in relation to
16 anonymity by close of play on 14th January. Any
17 responses to be served by close of play on 18th January
18 and I have already directed, as Ms Gallagher knows, in
19 relation to further submissions. All right.

20 MR KEITH: Thank you, my Lady.

21 LADY JUSTICE HALLET: Anything else we need as far as
22 Security Services are concerned?

23 MR KEITH: My Lady, that concludes the open part of the
24 public interest immunity applications.

25 LADY JUSTICE HALLET: Very well. Thank you.

1 MR KEITH: May I therefore turn to the open part of the
2 anonymity applications? Before Mr Hill outlines those
3 applications, because they are applications which are
4 sponsored by the Metropolitan Police Service, I think it
5 would be wise if I simply set out some of the background
6 and some of the evidential aspects of these witnesses so
7 that my Lady can see the context in which these
8 applications were made.

9 In the directions hearing on 23rd June last year,
10 I referred, in fact, to the fact that there were five
11 witnesses, A, B, C, D and E, whose names had been
12 redacted out of the background report.

13 Witness A is, in our submission, the only
14 application that requires consideration in detail by
15 my Lady today, and in relation to that application, we
16 have the benefit of Mr Vassel-Adams' reattendance.

17 In relation to witness B, witness B has prepared
18 nine statements. All have been disclosed except for the
19 personal identifying details contained in those
20 statements and that witness's name.

21 In brief outline -- and my Lady has a copy, I know,
22 of all the statements emanating from witness B --
23 witness B records how that witness received a bag from
24 Hasina Patel, MSK's wife, on 8th July, which contained
25 tapes, books and a box, but at the same time

1 Hasina Patel appeared to show very little concern as to
2 his whereabouts. Then on 11th July, they spoke again,
3 and she gave the clear impression that MSK had been
4 shaken about her miscarriage, which had occurred after
5 11th July.

6 Subsequently, witness B records how in October of
7 that year, Hasina Patel tried to persuade that witness
8 that she, Hasina Patel, had not, in fact, handed over
9 the video and the contents of the bag on 8th July, but
10 had, in fact, done so before the events on 7th July.

11 She asked the witness to change the statement that the
12 witness had given to the police to that effect and to
13 contact her, Hasina Patel's solicitor.

14 The witness also records elsewhere in those nine
15 statements how a bag -- another bag had, in fact, been
16 received by that witness just before or after Khan went
17 to Pakistan in late 2004 and it contained a home video,
18 which the witness understood to be of Khan and his
19 daughter, in case anything had happened to him whilst he
20 was away in Pakistan, but the witness gained the
21 impression that Khan had been involved with the
22 Taliban when he was away and had gone to Afghanistan to
23 train and to fight.

24 There are other potentially -- and I emphasise
25 potentially -- relevant aspects to witness B's

1 statements. There are references to Khan believing that
2 he may have been under surveillance, because he was
3 surveillance conscious. Certainly claims were made by
4 Patel that they believed that they were being watched by
5 the Security Services, although the nature of that
6 impression is very broad and only generically given.
7 There are further references to a change in the
8 personality of Patel in the two years up to and after
9 7/7, and to the views which apparently received the
10 blessing of Khan as well to the effect that certain
11 radical preachers met with their approval and they
12 stated very broad views as to the way in which they
13 believed that Muslims were being persecuted in the West.
14 There is also a specific reference to the fact that
15 witness B was told by Hasina Patel that after he had
16 gone to Pakistan in the late autumn of 2004, that he had
17 been told that he could "do his work in the United
18 Kingdom and wouldn't have to go back there". Combined
19 with the earlier impression the witness had received,
20 "back there" meant back to Afghanistan to train.
21 Witness B has provided two further statements, in
22 which the witness sets out concerns as to consequences
23 if that witness were to give evidence. The witness is
24 worried about the risk of retribution to members of that
25 witness's family on account of the residual sympathy

1 which the witness believes is felt in the community for
2 Hasina Patel, and also because of proximity in the
3 addresses to relatives and friends of those bombers
4 involved in 7/7. But the witness did give consent for
5 the statements that the witness had made to be
6 disclosed, but asked simply that if the witness were to
7 be called to give evidence, that that evidence should be
8 given from behind a screen.

9 May I simply say that the application for anonymity,
10 or rather an application for a screen anonymity, falls
11 away, because currently we have proposed, and my Lady
12 has directed, that B should not be giving evidence
13 either orally or by way of the reading of those
14 statements.

15 Mr Patterson and Hogan Lovells on behalf of the
16 families whom they represent, and they were the lead
17 team in relation to background, did submit
18 representations to you on 15th September last year,
19 suggesting that B should be read or called in relation
20 to two specific aspects of that witness's evidence:
21 firstly, to the effect that B knew or suspected or had
22 the impression that Khan had travelled to Afghanistan
23 and had been involved with the Taliban late in 2004, and
24 also in relation to the handing over of the bag
25 containing the video and the box and the last will and

1 testament on 8th July.

2 The inference, I imagine, from that evidence which

3 is sought to be drawn is that witness B learned that

4 information about Khan's whereabouts and activities from

5 Hasina Patel. The fact of his travel is not, of course,

6 in dispute, and therefore it may be presumed that Patel

7 knew more about what Khan was up to.

8 My Lady, we have adhered to the provisional view --

9 and my Lady has directed -- that neither Hasina Patel

10 nor the allegations that have been made against her at

11 various times are within the scope of this inquest, and

12 that was a point made by my Lady to the Divisional Court

13 and accepted by it last summer in the judicial review

14 commenced by Hasina Patel of the decision to refuse her

15 funding.

16 It follows that even taking witness B's evidence at

17 its highest, our submission is that there is nothing in

18 those statements which is directly relevant to an issue

19 in these proceedings, certainly insofar as Hasina Patel

20 is concerned.

21 Insofar as the events concerning the handing over of

22 the two bags are concerned, all that is relevant -- and

23 it is only indirectly relevant so far as Khan and the

24 other bombers and the attacks are concerned -- is not

25 how they came to be handed over, because, of course,

1 they weren't handed over by Khan -- Khan was dead -- but
2 what the videos consisted of. My Lady has directed that
3 in due course, as part of the background evidence,
4 parts, and only the relevant parts, of the videos will
5 be played. May I emphasise they will be played with due
6 regard to any attendant distress that may be caused to
7 the interested persons, and those parts which will be
8 played will be carefully edited with any residual
9 concerns well in mind.

10 So taking a view broadly of the evidence of witness
11 B, the only material which is currently withheld is the
12 name of the witness and any particular personal
13 identifying details. The rest of the statements have
14 been disclosed, but in our submission they have no
15 evidential relevancy.

16 If that is right, and we respectfully suggest that
17 it is, then the application for screens falls away,
18 because there is no point making any application for
19 special measures if, in fact, the witness will not be
20 giving evidence.

21 LADY JUSTICE HALLET: Are you satisfied, Mr Keith, that we
22 can establish provenance of the tapes?

23 MR KEITH: The provenance of the tapes is not, I understand,
24 in dispute. Therefore the coronial officer whom my Lady
25 has directed give evidence through hearsay evidence as

1 to some of the background aspects to these proceedings
2 can cover that point in itself. Given that none of the
3 interested persons dispute that that is where the origin
4 of the video was, I think that will be sufficient for
5 my Lady's purposes.

6 LADY JUSTICE HALLET: Thank you.

7 MR KEITH: I should say that even had the application been
8 necessary, it is right to observe that the witness
9 provided statements for the trial of Waheed Ali and the
10 others and the name of the witness was in the public
11 domain at that time. No application for anonymity was
12 made either. In those circumstances it is not a point
13 I need address my Lady on further, because as I say,
14 my Lady has directed provisionally that witness B need
15 not give evidence and the statements need not be
16 adduced.

17 I know that my Lady has another judicial
18 appointment. Is that a convenient point?

19 LADY JUSTICE HALLET: Thank you very much. I am sorry that
20 we have to break off a little early. 2.05, please.

21 (12.50 pm)

22 (The luncheon adjournment)

23 (2.05 pm)

24 LADY JUSTICE HALLET: Yes, Mr Keith.

25 MR KEITH: My Lady, I was addressing you before the short

1 adjournment in relation to witness B.
2 Witness C is the mother of B, who deals with the
3 appearance of a lady at her door on 12th July who tried
4 to take the bag back, the bag in which the books and
5 video were contained. For precisely the same reasons
6 for which we suggest that witness B is not relevant, nor
7 is witness C.
8 Witness D is a witness whose statement is to the
9 effect that in late June 2005 she met Jermaine Lindsay,
10 who called himself Tyrone -- or Jamal and was known as
11 Jamal by his friends and with whom she began
12 a relationship. She didn't in fact know he was married.
13 On 21st June he asked her if she could get a gun for him
14 as he was going to London to teach some people a lesson,
15 although he said he had a gun already. He made
16 a further reference to a gun and shooting people in
17 London during a conversation on 25th June.
18 On 5th July he texted her, asking if she wanted to
19 spend the night of 6th July in London with him, but she
20 declined. In July of last year, my Lady, the
21 Metropolitan Police informed your secretariat that the
22 witness had been spoken to again by the police and had
23 expressed no more fears for her safety and had no
24 objections to her statement being disclosed or giving
25 evidence at the hearing. There are no objective grounds

1 known to the police to indicate that she is at risk.
2 Accordingly her statement has been disclosed in full.
3 She will be invited to give evidence during the course
4 of the week of 14th February.

5 LADY JUSTICE HALLET: Thank you.

6 MR KEITH: Witness E is a girl who had a relationship of a
7 fairly modest kind with Hasib Hussain in 2001. They
8 were friends, but nominally dating. The relationship
9 was kept secret by them. The only significance of her
10 statement is that she notes how he changed following
11 a trip to Pakistan, and had become more religious, and
12 how after 9/11 he sent a note to youths in his class
13 saying "you are next".

14 Because of the relative lack of materiality of her
15 evidence, we have proposed that instead of calling her
16 or reading her statement that these points be referred
17 to by the Coroner's officer whom you have directed
18 should give hearsay summary evidence about the family,
19 school and the other aspects of the bombers'
20 backgrounds.

21 My Lady will know from a note circulated on 29th
22 December that there are a fairly substantial list of
23 areas that your coronial officer, a yet to be identified
24 member of the Metropolitan Police, will give evidence
25 about.

1 She also has been spoken to again by the police and
2 has expressed no fears for her safety and no objections
3 to her statement being disclosed. There are no
4 objective grounds to indicate that she is at risk.
5 Therefore the application for anonymity for her has been
6 deemed to be withdrawn.
7 I think Lextranet shows her statement is still
8 anonymised, but that will be changed.
9 My Lady, finally on 4th October I mentioned a sixth
10 application by fireman F for anonymity. I invited to
11 you adjourn that application as well. The applicant F's
12 location has now however changed and he no longer has
13 any concerns about the possibility of retribution
14 following the giving of his evidence. His evidence is
15 scheduled for 24th January and his application has
16 therefore been withdrawn.
17 But I should observe it would have been near
18 impossible to maintain, given the publicity over his
19 identity and circumstances. The headline in the
20 Evening Standard last Wednesday was of his conviction
21 and sentence following the trial of a number of
22 co-accused for 14 years' imprisonment for conspiracy to
23 evade the prohibition on the importation of cocaine.
24 So, my Lady, may I now return very briefly --
25 LADY JUSTICE HALLET: Just as a matter of practicalities, he

1 is due to give evidence on the 24th?

2 MR KEITH: He is due to give evidence on the 24th.

3 LADY JUSTICE HALLET: By videolink?

4 MR KEITH: Yes, videolink.

5 Witness A. May I just briefly outline the
6 background and the circumstances before inviting Mr Hill
7 to develop the application? The application is for
8 anonymisation of the witness's name, for prohibition on
9 any reference to the name, for a screen or videolink and
10 for a prohibition order under the Contempt of Court Act.
11 I should say that Mr Smith caused the judicial
12 communications office to issue an advisory notice on 6th
13 January to media organisations concerning the
14 application, and as a result, Mr Vassel-Adams is here.
15 May I summarise the basis of the application, which
16 is set out in Mr McKenna's statement, which I know
17 my Lady has read, supported by the open and closed risk
18 assessments by the West Yorkshire Police?
19 In essence there are a number of strands to the
20 concerns as to the revelation of that witness's
21 identity.

22 1. The witness provided statements in confidence
23 and on the basis they would not be disclosed.

24 2. The relationship that the witness conducted with
25 Tanweer was conducted in secret and the witness's family

1 do not know of it.

2 3. The revelation of the identity would have
3 a devastating effect on the witness, the witness's
4 family and that family's reputation, and there are
5 subjective fears that the family would be disowned by
6 the community and the witness by her family.

7 4. There are subjective fears that persons outside
8 the witness's family may be violent. The witness lives
9 in close proximity to the family and friends of the
10 bombers. The general risk to the witness and her family
11 has been assessed by the West Yorkshire Police as high.

12 5. It is said that the disclosure of her identity
13 would have a damaging effect on the trust and confidence
14 that the wider community, in particular witnesses, have
15 in the police and could deter others from providing
16 vital information in the future.

17 I should say for the record that the witness has
18 made a number of statements, two on the facts and two
19 concerning her concerns as to the consequences if her
20 identity were to be revealed, and on Friday the
21 Metropolitan Police submitted a further statement from
22 her and two further statements from the
23 Metropolitan Police, again addressing her state and her
24 fears.

25 None of the statements nor the closed risk

1 assessment have been disclosed to the interested
2 persons, but at our request the Metropolitan Police did
3 prepare a summarised statement, which my Lady has. It
4 is the first document in the bundle of statements that
5 you have which are relating to witness A. Only that
6 first page has been put into the public domain.
7 The gist makes clear that she had a relationship
8 with Tanweer. In 2005 she received a text message from
9 him telling her that he was moving to Dubai. She
10 received another text message subsequently telling her
11 he had been in Pakistan for a few months. On or around
12 2nd June, she had a meeting with him when she noticed
13 changes in his physical characteristics.
14 Then on or about 1st July, she met with him in
15 a hotel in West Yorkshire. He told her he was about to
16 go away for a week to Scotland and he would call her on
17 his return. She didn't notice anything unusual about
18 him. On 4th July he called her, telling her he was off
19 to Scotland and would return on the 9th.
20 I have marked up for you with yellow sticky tabs the
21 relevant parts of the undisclosed witness statements
22 from which those particular passages are drawn.
23 It is currently proposed that she gives evidence.
24 My Lady, I say currently, because there is some
25 suggestion in the statement from Mr McKenna and in the

1 risk assessment that she cannot, in fact, provide any
2 useful on Tanweer's extremism or motivation, and it may
3 be Mr Hill will wish to argue there is no point calling
4 her at all, but, as my Lady knows, it is entirely
5 a matter for your discretion.

6 I should, therefore, say something about what
7 relevancy her statement has and it is this. She can say
8 something about the days immediately leading up to 7/7
9 and she sheds some light on the manner in which Tanweer
10 was able to conceal his intentions and his plans from
11 her, and on the level of deception that was necessarily
12 engaged.

13 It is on any view somewhat surprising that he felt
14 able to carry on a relationship in this way in the last
15 days before 7th July, when he had such murderous acts on
16 his mind, and it is perhaps an indication of the level
17 of determination and the unlikelihood that the bombers
18 would have desisted from their terrible plan. But I do
19 acknowledge that her evidence is unlikely to add greatly
20 to the sum of the facts in these proceedings, and they
21 are at best only tangential to the main issues of the
22 events of 7/7 in the days leading up to it, namely the
23 actual events on the 7th itself, the response of the
24 emergency services and that of preventability.

25 There is, I should say, nothing in her statement

1 which indicates that she was in any way aware of
2 anything unusual that might have provided an opportunity
3 for her to warn others, and these are not, as my Lady
4 has observed before, of course, inquests into the deaths
5 of the bombers.

6 So against that background, may I invite you to call
7 on Mr Hill to set out the nature and extent of the
8 application, as it is the MPS who advance it. I simply
9 say that I do not suggest her evidence is vital or
10 central to the issues. Therefore my Lady will wish to
11 have well in mind the disproportionality, arguably, of
12 disclosing her identity with all the consequent effects
13 when her evidence is not of central effect in these
14 proceedings, although it is of some interest and worthy
15 enough to be called.

16 LADY JUSTICE HALLET: Mr Hill.

17 MR HILL: My Lady, can I say I don't propose, subject to
18 your requirements, to spend a great deal of time going
19 through the authorities or going through the materials
20 which we have provided in writing. That's on the basis,
21 firstly, that you have had an opportunity to look at our
22 open bundle and, secondly, on the basis that I have not
23 received anything in writing in opposition to the
24 applications that I make.

25 As to the fact of the applications, can I just start

1 there? It is not, of course, the case that witness A,
2 upon whom I am going to concentrate is a Metropolitan
3 Police witness in the sense that all of the witnesses
4 for which I am primarily responsible on behalf of the
5 Metropolitan Police hitherto have been called. The
6 reason that we make these applications for A, B, and C,
7 and as I say, I repeat, I concentrate on A, is because A
8 was one of those witnesses, private civilians, who when
9 approached by Metropolitan Police officers in the
10 context of the Operation Theseus post 7/7 criminal
11 investigation, over a period of time provided assistance
12 to the police. Statements taken under section 9 of the
13 Magistrates' Court Act were in due course introduced
14 into the Theseus proceedings in one form or another, at
15 least in the sense that they entered the HOLMES
16 computer-generated database for material that had come
17 from criminal investigation.
18 So there is a very real sense of responsibility or,
19 I should say, duty that Metropolitan Police feels
20 towards witnesses of this type, although, as I repeat,
21 this is not our witness in the inquisitorial proceedings
22 sense.
23 Nonetheless we did provide by letter dated 10th
24 September an open bundle, and I do pray in aid all of
25 the material within that bundle, which has three tabs.

1 My copy is a blue file. I don't know whether my Lady's
2 is. There should be a discrete bundle marked "open"; I
3 have another copy if it will help.

4 LADY JUSTICE HALLET: I think it has probably been put
5 somewhere safe. I can't see it at the moment.

6 MR HILL: Can I hand a copy. It is unmarked and therefore
7 any annotations my Lady may have made are going to be
8 lost by this route, but the material should be familiar.

9 LADY JUSTICE HALLET: I am very familiar with all of this
10 material, including the case law.

11 MR HILL: Just to set out the materials, behind tab 1 we
12 placed some outline open submissions on anonymity and
13 screening, and that forms the legal bases on which we
14 advance the application. Behind tab 2 Mr McKenna, SIO
15 for Operation Ramus, made his statement, and as part of
16 the material behind tab 2 you see a six-page statement
17 and then an exhibit marked DN/1, which is the open
18 version of an objective risk assessment conducted for
19 these purposes by West Yorkshire Police, to whom we are
20 grateful, given the geographical jurisdictional point
21 about where this witness lives.

22 This is an assessment completed in August last year
23 by the West Yorkshire Police, which on the third
24 page opines, to use their word, that the risk to this
25 individual and their family is high, and West Yorkshire

1 Police do not recommend that this individual is called
2 as a witness and their statement is not used.
3 So that's the way objectively the West Yorkshire
4 Police put it.
5 Behind tab 3, and I am not going to go to it now, is
6 a further statement which encompasses the claims made on
7 behalf of B and C, but for the reasons that Mr Keith has
8 kindly set out, I am going to return to that briefly
9 later and not go straight to it.
10 So that's the open bundle. The gist or summarised
11 statement of witness A contains three paragraphs. It
12 has an INQ reference, 10986, and Mr Keith referred you
13 to it this afternoon.
14 If I can start with this. Our concern and really
15 our starting point is not to go to the legal
16 principles enunciated in Officer L, which we are
17 familiar with from argument on other aspects of these
18 proceedings, but is, in fact, to question whether there
19 is a genuine relevance and need for this witness to play
20 part of these proceedings by the calling of the witness
21 as opposed, for example, to the reading of the
22 statement. If the latter course you were persuaded was
23 actually appropriate, that, in my submission would place
24 witness A in the same category as witnesses B and C, for
25 whom these applications are technically advanced, but

1 for reasons of lack of relevance are effectively no
2 longer necessary to be pursued on all points.
3 The reason that I do question whether witness A has
4 such a relevance that she must be called and therefore
5 this application must be pursued is because Mr Keith
6 himself accedes to the fact that there is a tangential
7 relevance at best to the background that is going to be
8 called at your order into Shehzad Tanweer.
9 The document provided by your team last week, headed
10 "Background Revised List of Areas and Witnesses",
11 probably has an inquiry reference number which I am
12 afraid I don't have, but does have at page 2 of that
13 list, under the heading "Shehzad Tanweer", a number of
14 bullet pointed areas for evidence, starting with family
15 history and then moving on through the years 2000 to
16 2005.
17 It indicates just at a glance the breadth of
18 evidence that you have available to you through
19 a mixture of calling and reading statements, and, for
20 example, without going to witness A and just looking at
21 the first week of July 2005 alone, you are able to
22 evidence the hiring of the Nissan Micra from 4th to 8th
23 July inclusive, the meeting with the witness Sharma on
24 4th July, the fact that members of Tanweer's family were
25 informed of an intention to go to Manchester and

1 references to a lost mobile phone, and there are
2 a number of Tanweer family statements, all on Lextranet,
3 from which you can derive that evidence; and the fact
4 again from a family member that there was an appointment
5 for Tanweer to see a solicitor on 8th July, one easy
6 method of demonstrating, for example, that to his very
7 closest relatives, an alternative story was being
8 provided; or to put it another way, secrecy was being
9 maintained by this bomber from those closest to him.
10 So just pausing there and looking at the breadth of
11 the evidence you are able to call, we do ask the
12 question, as it were, on behalf of witness A, given that
13 you have that from his closest relatives, do you really
14 need to put this female witness, who, it is plain from
15 the gist, is young and in our submission vulnerable by
16 virtue of her short-lived relationship with Tanweer --
17 do you really need to put her through it, or would
18 simply introducing into evidence her summarised
19 statement, in other words, the gist, suffice?
20 So that is our attempt at making good what Detective
21 Chief Superintendent McKenna set out in his statement,
22 to give you the reference, at paragraph 11, behind tab 2
23 in our open bundle:
24 "Whilst witness A does provide information regarding
25 personal relationships, she cannot provide any

1 assistance with Tanweer's extremism or motivation."
2 We simply underline that, and we would ask you, all
3 matters considered, to decided to whether it is actually
4 ultimately necessary to proceed to the calling of this
5 witness. If it is not, then in our submission, in
6 common with the position for witness B and witness C,
7 I needn't go any further, but because plainly you are
8 addressing this matter on all bases today, I go on to
9 our application in the event that witness A remains, as
10 it were, a live witness in these proceedings.
11 Without knowing, as it were, and not having seen
12 anything in writing from anyone in opposition, without
13 knowing what was going to be said about the legal bases
14 on which we have advanced the application, can I go to
15 tab 1 of our open file? I repeat, I am not going to
16 simply do the discourtesy of reading out our outline
17 submissions, but can I indicate where we are coming from
18 in the context of this application? We do say that
19 there are four themes to the application and we have
20 attempted to set out the four themes in the body of
21 these submissions. Article 2 is, as it were, the first
22 theme, what we have called the article 2 basis from
23 paragraph 8 on page 3 behind tab 1.
24 Separate and distinct from that is the common law
25 basis, as we have called it, from paragraph 10 and

1 onwards, and then we have added to that the article 8
2 basis from paragraph 6 and onwards, and finally and
3 fourthly the public interest basis from paragraph 27.
4 Just taking those in reverse and briefly, public
5 interest basis. This really is, as it were, a
6 read-across into the submission I have just made about
7 relevance, because, aligned to what I said about that,
8 we are concerned and we invite you, my Lady, to be
9 concerned that those private civilian witnesses, who are
10 by their very nature vulnerable because of the nature of
11 the relationship they had with someone who transpired to
12 be a bomber, are in a special category in terms of
13 policing in this country and in terms of their
14 willingness to give evidence to criminal investigations,
15 without which in many cases those investigations would
16 not advance as they ultimately did.
17 Really that encapsulates what we say about public
18 interest. Is it in the public interest that a witness
19 such as this female witness A must be made to give
20 evidence and what would that say -- I am sorry to put it
21 in such bold terms -- about the prospect for witnesses
22 of that type to assist with the most criminal
23 investigations, of which this is a pre-eminent example?
24 That's all I say about public interest.
25 Article 8 -- I said I was going in reverse -- behind

1 our paragraph 16 is interesting in this sense. We know,
2 of course, that article 8 enshrines the right to respect
3 for private and family life, home and correspondence.
4 It is apparent we submit from the nature of the
5 summarised statement, the nature of the gist, that this
6 court could take a view as to the degree of interference
7 with that article 8 right that would be represented by
8 a witness such this having to come forward. I am afraid
9 that's all I am going to say about it in open. It is
10 apparent from Chief Superintendent McKenna's statement
11 where, for example, he refers to an open and redacted
12 risk assessment by West Yorkshire Police, it is apparent
13 that there is material in closed which I shall turn to
14 when I have the opportunity, perhaps later this
15 afternoon, but for those who hear what I say in open, we
16 do invite submissions as to whether, in fact, there may
17 be an article 8 basis in respect of this witness, and
18 although I can't give further information about it, we
19 say that can be extrapolated from the bare circumstances
20 of this witness set out in the gist.
21 Let me come to really the principal basis on which
22 we advance this application and it is the common law
23 basis set out in paragraph 10 and onwards. I do not
24 concede that article 2 does not apply, which is the
25 headline and first basis on which we advanced this

1 application back in September, but I do recognise that
2 the article 2 basis, so called, is one in which the
3 threshold that is set for the engagement of article 2 in
4 an application such as this is high, and the fact that
5 the threshold is high comes directly from Lord
6 Carswell's speech in the Officer L case, part of which
7 we have read into our submission at the bottom of our
8 page 3, our paragraph 8, paragraph 29 of his Lordship's
9 speech in Officer L.

10 What is clearly also apparent from his Lordship's
11 speech in that case and from all of the principles is
12 that even where this may be a case to which article 2 is
13 not attracted and, in other words, to put it shortly,
14 where the objective assessment of risk is not sufficient
15 to satisfy the high threshold under article 2,
16 nonetheless there are subjective considerations that can
17 be given to an application such as this under the common
18 law principle of fairness.

19 It is our submission, even were you not, as it were,
20 to go further under article 2, that the common law test,
21 implying, as it does, a subjective addition to
22 the objective risk assessment, is one which is valuable
23 in this context.

24 Let me encapsulate that in just a sentence or two.

25 We know from the risk assessment that the West Yorkshire

1 Police have provided that it is an assessment that the
2 risk is high. Put that another way: the West Yorkshire
3 Police, not having been asked to conduct any subjective
4 exercise, nonetheless were able to express the opinion
5 which has not evaporated insofar as we know that there
6 is a risk to this individual and her family which is
7 high.

8 So looking at it on the objective test, the
9 West Yorkshire Police say this is, as it were, the
10 topmost category.

11 That said, on the objective risk assessment that
12 West Yorkshire Police have provided, they have not
13 pointed to any discrete personal, identifiable,
14 individual risk. It is placed on a more generic basis.

15 The rhetorical question that we therefore ask and
16 you will want to consider, my Lady, is whether that's
17 sufficient to get across the high threshold that article
18 2 requires. If it is, we advance this application upon
19 the article 2 basis, using the dictum of his Lordship at
20 paragraph 29 of Officer L.

21 If it is not, though, we say that going beyond what
22 West Yorkshire Police have assisted us with, there are
23 the very strongest subjective reasons for concluding
24 that it would not accord with the common law principle
25 of fairness to this witness to require that she give

1 evidence, or to do so in circumstances where her
2 identity is known.

3 I am sorry to say that I am not going to go much
4 further on that either, because it is plain from what I
5 have said already, and from what Mr Keith said in
6 introduction, that there are statements from
7 Operation Ramus coroner's officers last week which are
8 in closed. We have only provided them in closed. Of
9 course, we would have been open to any suggestion, were
10 it made, that any of those statements -- and for clarity
11 can I say there are four of them, two from witness A and
12 two from police officers who met with her last
13 Thursday -- if there were any suggestion that any of
14 that should have been produced in open for the
15 assistance of the parties, we would have looked at that
16 anxiously.

17 It has not been suggested. It is plain in our
18 submission to you that the content of those statements
19 deals subjectively with particular individual
20 characteristics of the witness and other personal
21 concerns which means I can't say more about it in open,
22 but I do say for Mr Vassel-Adams and others to hear that
23 we do pursue the common law basis for this application,
24 and we do that on the basis of written submissions in
25 open as augmented by the further statements taken last

1 week.

2 So putting all of that together, we say either under
3 article 2 alone or under the common law basis, or
4 possibly under the article 8 basis, there are a number
5 of powerful reasons why if this witness has sufficient
6 relevance, not just tangential relevance, to the live
7 issues before you, she should not give her evidence,
8 otherwise than in an anonymised form.

9 Our principal submission is that you might, however,
10 be able to take a view which we would agree was
11 a difficult view to take months ago before the evidence
12 had commenced, before there had been detailed planning
13 for the imminent phases of the proceedings, but you
14 might be able to take a view now that the relevance is
15 not only tangential as Mr Keith concedes, but is so low
16 that the summarised statement is sufficient.

17 I can't strive to impression upon you enough the
18 very anxious concerns that the Metropolitan Police have
19 on the part of this witness. I can't improve on the way
20 that Mr McKenna has put it in his statement, but we do
21 say in open, and as you know, I will augment it in
22 closed, that this is a powerful application for saying
23 in her case, if relevant at all, she should be
24 anonymised.

25 That's all I seek to say in open. I have not gone

1 on in any detail to B or C. They are, as it were, to
2 use my word, not one that Mr Keith ever would, parked,
3 pending anybody submitting that you should give further
4 detailed consideration to B and C. Mr Patterson may
5 have something to say about B. Can I just put on record
6 that there were some discussions in the short
7 adjournment about the mechanism by which, for example,
8 part of the hearsay account, for it is hearsay, within
9 witness B's statements, might nonetheless form part of
10 these proceedings in open court, and Mr Patterson,
11 I know, was considering and will have his own conclusion
12 about it, whether it might be appropriate for
13 a coroner's officer, to be a senior police officer, to
14 elicit the hearsay aspects of witness B's account.
15 For our part we can't see any impediment to that,
16 though I do place it on record, as I have said before,
17 that it is the Metropolitan Police Service's assessment
18 and remains such that any attack planning in this
19 country did not pre-date November 2004 in respect of any
20 of the ultimate bombers on 7th July, and was not
21 physical planning until after their arrival back in this
22 country of Khan and Tanweer on 8th February 2005.
23 Why do I add that? Because were there a hearsay
24 route that were to be taken for certain aspects of
25 witness B's account, I would not want it to be said that

1 there were particular expressions of what was known
2 about Khan and foreign training in 2001 and in some way
3 that being submitted to you as evidence of attack
4 planning in this country much earlier than 2004. Our
5 thesis as to that has always been, and this is driven by
6 the Operation Theseus criminal investigation, that any
7 attack planning was the end of 2004 at the earliest.
8 With that caveat, we think there is a mechanism for
9 dealing with hearsay aspects of witness B. If that is
10 attractive to all parties, that simply consolidates the
11 point, in our submission, that there's no remaining
12 relevance to the identity of B, and if that is right,
13 then surely there can be no remaining relevance to the
14 identity of C, who is a relative of B.
15 I hope that sufficiently sets out our position for
16 now, subject to what comes hereafter.

17 LADY JUSTICE HALLET: Thank you. Who wishes to go next?
18 Ms Gallagher?

19 MS GALLAGHER: My Lady, as you know from the preliminary
20 submissions which were submitted in September by the
21 firm that I represent, we had indicated an intention to
22 oppose these applications. I do have a copy of a small
23 bundle which just contains some documents. I just pass
24 it toward: I do have one for Mr Hill, Mr Keith,
25 Mr Patterson and also for Mr Vassel-Adams.

1 My Lady, our September submissions are at tab 1 and
2 I have also provided a very brief document at tab 2. If
3 I could just turn to that now. That just summarises the
4 history, namely that the interested persons were
5 informed on 15th September about these three
6 applications, and asked to give an indication as to
7 whether or not they thought an oral hearing was
8 required, and if so, whether we were likely to oppose
9 the applications. We made written submissions within
10 the time-frame, 24th September, indicating that our
11 position on those two questions was yes to both. So
12 yes, an oral hearing was required. Yes, we were likely
13 to oppose. We also indicated we considered it
14 appropriate for the media to be put on notice of these
15 or any other anonymity applications. As Mr Keith has
16 said, that has now happened.

17 My Lady, there are two broad aspects of the question
18 which have been canvassed by both Mr Keith and Mr Hill.
19 Just before I go on to some specifics, could I just deal
20 with those? In (a) they have looked at the importance
21 of witness A to this inquest and in (b) they have looked
22 at the risk to her. Obviously Mr Hill has done that in
23 more detail than Mr Keith has opened it.

24 Just in terms of headline facts before I commence,
25 could I say that on (a), the importance of witness A to

1 the inquest, we agree with Mr Keith on the relevance of
2 her evidence. We agree with him that there is some
3 relevance to her having met Tanweer in the days before
4 the bombing, his manner, demeanour in those crucial days
5 and the level of deception which was involved. We do
6 also agree with what both Mr Keith and Mr Hill say about
7 the relatively limited importance of her in the context
8 of the inquest as a whole.

9 So any comments which we make are subject to us
10 noting at the outset she is not a key and central
11 witness. We think her evidence is relevant and our
12 submissions which we put in in September and our
13 submissions which we make today are against a backdrop
14 of us having been informed in early September that the
15 inquest team and yourself, my Lady, were minded to call
16 her as an oral witness.

17 On the second issue regarding the risk to her, on
18 the material we have seen, my Lady, we disagree with the
19 outline that has been provided by Mr Hill, and you can
20 see that from our September submissions and I am going
21 to take you through it. The headline point is that from
22 the materials we have seen, it appears that this
23 witness's concerns are primarily reputation-based and
24 the risk which is referred to in the risk assessment of
25 potential risk of violence came about as something of

1 an after-thought. It is not even referred to in her
2 first risk-based witness statement from the summary we
3 have seen. It is only referred to in the last witness
4 statement regarding risk.

5 My Lady, as regards witnesses B and C, it is now
6 apparent, as we thought in September, that witness C is
7 academic, given that there is no intention of witness C
8 being called or read. So I don't intend to address you
9 on witness C at all.

10 As regards witness B, Mr Hill has already touched on
11 this, it does seem on the current position that witness
12 B's application is also likely to be academic, given
13 that it is not currently intended to call or read
14 witness B. That's subject to any submissions which may
15 be made by Mr Patterson. Mr Patterson's team have taken
16 the lead amongst the bereaved families in respect of the
17 background of the bombers. So I will allow him to make
18 any submissions he wishes to on that.

19 Could I just say one thing on witness B? In the
20 unlikely event that witness B is to be examined, either
21 called or read, could I just direct you to
22 paragraph 2.11 of our September submissions in tab 1?
23 So in the unlikely event that witness B is not to be
24 dwelt with via a police officer as coroner's officer,
25 and if the statement is to be called or read, we would

1 not accept, my Lady, for the reasons set out in
2 paragraph 2.11, that the very high threshold for
3 anonymity is met. So while we have doubts about
4 relevance and we accept it is possible that there is
5 a compromise method of having her evidence in, if it is
6 to go in through reading, or through oral evidence, we
7 don't consider that the test is met.

8 Reference is made in Mr McKenna's statement and the
9 open version of the West Yorkshire Police risk
10 assessment to attention being drawn to her family,
11 possible risk to her family. Reference is made to
12 potential high media interest and the re-igniting
13 interest in those members of the community who have
14 assisted the police, and the clue is really in the word
15 "re-igniting". This witness, my Lady, is someone who
16 was well known previously, and those fears did not turn
17 out to be well-founded when, in fact, this witness gave
18 evidence publicly.

19 So we would say that the concerns which she raises
20 are speculative concerns with a thin evidential base,
21 and in any event if you look at the history, she is
22 someone who appears to have given evidence, from what we
23 can work out, at a previous trial without anonymity, and
24 at that time widespread media coverage followed. It
25 included her name and other identifying details. No

1 retaliatory attacks appear to have followed. That's all
2 we wish to say on witness B.

3 LADY JUSTICE HALLET: Sorry to interrupt you. Am I being
4 asked to proceed on the basis of assuming that if this
5 is the right person, the evidence was to the same
6 effect?

7 MS GALLAGHER: Yes. We haven't actually seen that
8 particular part of the transcript.

9 LADY JUSTICE HALLET: I appreciate this is all assumptions.

10 MS GALLAGHER: We have not seen that particular part of the
11 transcript but we have seen quite widespread media
12 reports at the time, and it appears that that tallies
13 with the summaries that we have seen and the statements
14 that we have seen. While we accept it is unlikely you
15 are going to be considering the application in relation
16 to witness B at all -- that seems to be accepted,
17 subject to anything Mr Patterson may say -- if it is to
18 be considered, my Lady, paragraph 2.11 sets out our
19 position in respect of that.

20 MR HILL: I am sorry for interrupting. Can I try to help,
21 not that I am the best person, because I was not
22 instructed in Theseus, but Ms Humberstone, who is my
23 junior today, was. Our information is that witness B
24 did not give evidence at the Theseus trials nor, so far
25 as we can say, were her statements read in their

1 entirety. There was in effect the reduction into a set
2 of admissions of part of the account that witness B gave
3 in the statements which we know were multiple
4 statements, but our recollection is that, for example,
5 the hearsay accounts which formed part of the
6 22 page statement, which may be actually what we are
7 arguing about today, did not form part of that
8 admission/limited reading. So if there is an igniting
9 of interest, it would be upon the basis of witness B's
10 hearsay account being introduced for the first time,
11 rather than a repetition of evidence given at the
12 Theseus trials.

13 LADY JUSTICE HALLET: So witness B's identity has not
14 previously been revealed or reported?

15 MR HILL: No. The identity of witness B was known. The
16 fact that there was a witness of that name who provided
17 some information was public at the time of the Theseus
18 trial.

19 LADY JUSTICE HALLET: Do you want to have a quick word with
20 Mr Vassel-Adams. I think there is conflicting ...

21 MR VASSEL-ADAMS: I was not intending -- I was nodding in
22 agreement.

23 LADY JUSTICE HALLET: Sorry.

24 MR HILL: Agreement, not contest. Name public but content
25 very substantially less than the full witness

1 statements, and in particular there are aspects which,
2 for example, Mr Patterson may be interested in or indeed
3 Ms Gallagher. That is evidence that has not been given
4 before.

5 LADY JUSTICE HALLET: Right. I think by the sounds of it we
6 might be chasing hares. We don't know until I hear from
7 Mr Patterson whether these are running hares or not.

8 MS GALLAGHER: Yes, certainly. I just thought it was
9 sensible to direct you to paragraph 2.11 at this stage
10 rather than having to make further submissions at
11 a later stage.

12 My Lady, in respect of the legal framework, overall,
13 as we indicated in our September document, we were
14 concerned that there was a failure to make clear the
15 strong presumption at common law under the Human Rights
16 Act and rule 17 in favour of open justice. Plainly the
17 language of presumption doesn't apply when you are
18 considering a dispute between articles 8 and 10, but
19 overall that was a concern which we raised in our
20 September document, and in particular, my Lady, we were
21 concerned that in the outline provided by the
22 Metropolitan Police of the relevant case law, no mention
23 was made of what is now in our submission one of the
24 leading and most recent statements from the Supreme
25 Court, namely The Guardian case.

1 I have provided that to you, my Lady, in the
2 bundle which I have given you. It is at tab 4. I won't
3 take you to it just now, but that's a very recent
4 statement from last year where the Supreme Court noted
5 and criticised what was described by Lord Rodger as the
6 widespread phenomenon of granting anonymity applications
7 which he said was deeply engrained, and anecdotally he
8 believed it had increased greatly in recent years.
9 While that case relates to a very particular context,
10 you can see particularly from the judgment of Lord
11 Rodger, he intended to deal with the phenomenon in
12 general. You can see that in particular from paragraphs
13 1 to 3 before he goes on to deal with the specific
14 applications in that case.
15 Can I just give you some references, my Lady, for
16 that judgment? Anonymity and article 8 are in dealt
17 with in some detail at paragraphs 26 to 32, article 10
18 at paragraphs 33 to 36 and paragraphs 43 to 57 deal in
19 detail with how courts should weigh competing claims
20 under articles 8 and 10, and I should say that in that
21 section, there's an echo of what the Metropolitan Police
22 Service say in their submissions at paragraph 23 about
23 the Re S case, 2005 1 Appeal Cases.
24 My Lady, I have also given up the reference -- it is
25 in tab 2 of the small bundle I have just given you on

1 the final page, paragraph 2.4 -- to a number of recent
2 case interests the Court of Appeal, of which you are
3 probably aware, different context, but very recent
4 references in the last number of months, from the Court
5 of Appeal in respect of anonymity.

6 Firstly, the Master of the Rolls handed down
7 guidance regarding anonymity in the Pink Floyd case, and
8 he said that it must be necessary in the interests of
9 justice, echoing Lord Woolf in the Kaim Todner case in
10 1999. Also there was the case of Donald v Natulli(?),
11 which was a privacy case with a super-injunction
12 element, so a very different context, but the relevant
13 paragraphs there are Lord Justice Maurice Kay,
14 paragraphs 50 to 56 in particular, and I have given you
15 that, my Lady, at tab 5 of the bundle.

16 I should also say, perhaps echoing what
17 Mr Vassel-Adams is likely to deal with in detail --
18 I understand he is going to deal in some detail with the
19 common law position -- there is a very brief summary of
20 the common law position at paragraphs 47 onwards by Lord
21 Justice Maurice Kay in the Donald case, which may be of
22 some assistance. It just runs through Scott v Scott and
23 so on about the standard principle of open justice.

24 Ultimately, my Lady, where there is a conflict
25 between articles 8 and 10, it's a case-sensitive

1 question. So I think it is probably appropriate, rather
2 than dealing in any detail with the law beyond the
3 references I have given you, to turn to witness A and
4 the specific issues arising in respect of witness A now.
5 As regards the common law, my Lady, I understand
6 that Mr Vassel-Adams has detailed submissions on this.
7 I understand that there is a bundle -- we have not seen
8 it but I understand it has been provided to you. We are
9 quite content to wait and see what he has to say on the
10 common law position, and, if necessary, my Lady, we will
11 make supplementary submissions later, but hopefully that
12 shouldn't be necessary.

13 As regards witness A, my Lady, could I take you to
14 tab 1 of the small bundle at page 3? It is
15 paragraph 2.1. I just refer there to the four
16 statements from witness A, two of which are substantive
17 and two of which are risk based. Since then, as
18 Mr Keith indicated, we on behalf of the bereaved
19 families haven't seen any of those four statements. We
20 have received a summarised statement of witness A, INQ
21 10986, which is a one-page document, which summarises
22 the substantive evidence, but in respect of the
23 risk-based statements -- they are the statements of June
24 and August 2010 -- we still remain, as we were in
25 September, entirely reliant on the summary provided by

1 DCS McKenna in his statement at paragraphs 4, 6 and 7.
2 You can see, my Lady, at paragraph 2.1 that we
3 raised a concern about the duty of confidentiality
4 issue, as this was put as being a duty to ensure --
5 a duty on the part of MPS to ensure that she is not put
6 at risk by disclosure of the statements. It was
7 entirely unclear to us how disclosure of the statements
8 to the interested persons, in an anonymised form and
9 subject to the confidentiality undertaking already
10 signed, would potentially identify and therefore place
11 at risk that witness. That's something -- just
12 a comment we can make generally. You have seen the
13 material and we have not, but our concern remains.
14 If you could look, my Lady, at paragraph 2.3, which
15 is over the page, from DCS McKenna's statement and the
16 summary given in those short paragraphs 4, 6 and 7, it
17 appears to us that witness A's concern as summarised on
18 25th June 2010 in a witness statement was primarily
19 reputation based. There is no mention whatsoever in the
20 summary that we have got in paragraph 4 of a risk of
21 violence or other threats. It is a reputation-based
22 concern. It is both her reputation and the reputation
23 of her family.
24 Although it is difficult to say without the full
25 picture, in our submission, my Lady, it is unlikely that

1 such a reputation-based concern would justify the
2 exceptional measure of the grant of anonymity, and
3 indeed that such an argument was made by M in The
4 Guardian case and it was comprehensively rejected by the
5 Supreme Court. The relevant paragraphs there -- I have
6 given you the references, my Lady. I think it is useful
7 to look at paragraph 21, where the Supreme Court
8 summarised the basis of M's application and his concern
9 about the impact on his reputation, because it is
10 apparent that it has clear overlaps with the position of
11 witness A as summarised in the open documents we have
12 seen.

13 So M's position in that Supreme Court case was that
14 he lived in the same property as his ex-wife and five
15 children. He was involved with his children in the
16 community. He fears that if his designation as
17 a suspected terrorist is revealed, this may lead to
18 a loss of contact for himself and his children with the
19 local Muslim community who may fear to be associated
20 with him. Furthermore, the argument was the publication
21 of his name could cause serious damage to his reputation
22 in circumstances in which he hasn't been charged with or
23 convicted of any criminal offence, and so has no
24 opportunity to challenge the substance of the
25 allegations against him.

1 That was the argument which was made. My Lady, as
2 you can see, paragraphs 58 to 60 and 72 to 74, the
3 Supreme Court rejects that as the basis for an anonymity
4 application.

5 The other issue which is raised in the 25th June
6 2010 statement we think from the open material we have
7 seen is a concern regarding likely media interest and
8 press speculation, and again that echoes a concern which
9 was raised by M in the Supreme Court case.

10 Could I take you, my Lady, to paragraph 72 of the
11 Supreme Court judgment? So it is tab 4 of the small
12 bundle which you have, where the Supreme Court said:
13 "Of course allowing the press to identify M and the
14 other appellants would not be risk-free. It is
15 conceivable that some of the press coverage might be
16 outrageously hostile to M and the other appellants, even
17 though nothing particularly significant appears to have
18 been published when Mr Al Ghabra's identity was
19 revealed. The possibility of some sectors of the press
20 abusing their freedom to report cannot of itself be a
21 sufficient reason for curtailing that freedom for all
22 members of the press."

23 Then in the final sentence:

24 "Possibility of abuse is therefore simply one factor
25 to be taken into account when considering whether

1 an anonymity order is a proportionate restriction on
2 press freedom in this situation."
3 From what we have seen, my Lady, that paragraph may
4 be of some relevance here. We accept, and this is dealt
5 with in paragraph 2.5 of the September submissions on
6 page 5, that reference is made in the later statement,
7 the 19th August 2010 statement, which is summarised by
8 DCS McKenna in his paragraphs 6 and 7, not only to
9 reputational damage but also to a fear of violence. We
10 think it is notable it was raised only at that stage and
11 not in the earlier statement, which focused on
12 reputation, my Lady.

13 Also, we note that that statement appears to have
14 raised the fear of possibly being disowned by her family
15 and so on, and the possibility of having to move home
16 and change jobs. We do note this appears to be not on
17 the basis of fear from the bomber's family but from
18 extremist members of the community.

19 My Lady, in the risk assessment document which we
20 have received, the open risk assessment document which
21 Mr Hill took you to earlier, the headline point which
22 has been made by both Mr Hill and Mr Keith is that on
23 page 3 of that document, the risk is assessed to witness
24 A as being high. There are a number of issues which put
25 that comment in context, my Lady.

1 Firstly, the reference to the high finding is in the
2 context of the risk assessment saying that they have
3 very limited information about the particular community
4 and also you will see that the reference to the risk
5 being high, the sentence starts with the word
6 "consequently", just following a discussion about
7 proportionality and how relevant this witness's evidence
8 is to the inquest as a whole.

9 Also on page 2, my Lady, you can see that the only
10 specific incident which is reported is that one of the
11 individuals who may be a potential threat has a history
12 of making nuisance phone calls, but beyond that, my
13 Lady, the evidence is quite general and speculative.

14 LADY JUSTICE HALLET: What about beyond that you have here
15 a woman admitting a relationship with somebody who is
16 prepared to be a suicide bomber, that there might be
17 sadly out there people who would support what he did on
18 this occasion, and therefore to discover the identity of
19 a woman who was prepared to cooperate with the police in
20 describing the movements and relationship with a suicide
21 bomber might take against her somewhat in a rather
22 unpleasant fashion?

23 MS GALLAGHER: That's described at the bottom of page 2 of
24 the risk assessment, my Lady.

25 LADY JUSTICE HALLET: Do I need much more than what I know,

1 sadly, of the instincts and activities of people who
2 might sympathise with Tanweer?

3 MS GALLAGHER: The indication in the risk assessment is
4 there is no specific evidence of a risk of that nature,
5 but it is accepted that some may sympathise with the
6 extreme ideology that Tanweer espoused. So it is
7 speculative. I certainly agree, plainly the risk, if it
8 were to be realised, is very grave, but the likelihood
9 of the risk is --

10 LADY JUSTICE HALLET: Forgive me for interrupting. It is
11 not speculative to say that sadly there are people out
12 there who sympathise with Tanweer's ideology, is it?

13 MS GALLAGHER: No.

14 LADY JUSTICE HALLET: That's a fact, sadly. So that's not
15 speculative. Is it speculative to say therefore there
16 may be people out there who would decide that this
17 witness, if her identity was revealed, should be
18 punished for what she had done?

19 MS GALLAGHER: In going to the police and engaging with the
20 police? Of course members of Tanweer's family and the
21 other bombers' families also engaged with the police.
22 Their identities are well-known. You could say
23 a similar logic would apply to them. There has not been
24 an attack of the kind that's anticipated here. Plainly,
25 my Lady, we are at a disadvantage, given we have limited

1 material. It may be there is something in the closed
2 material which takes us beyond what we have seen. On
3 what we have seen, my Lady, there is nothing to indicate
4 that witness A is in any different position to uncles,
5 parents, other associates of the bombers who have
6 cooperated with the police, who were involved in the
7 previous trials, and whose identities are well known,
8 and about whom there has been some hysterical press
9 reporting, but it hasn't actually led to any kind of
10 retaliatory attacks.

11 LADY JUSTICE HALLET: The question depends on where the risk
12 is coming from, doesn't it? For example, in The
13 Guardian case, there it was alleged that M was the
14 person who presented a risk to people. It all depends
15 on where the risk is likely to come from, and the risk
16 to this witness is likely to come from those who
17 sympathise with Tanweer's ideology and what he did that
18 day, whereas members of Tanweer's family may be
19 considered by those who sympathise with Tanweer to be in
20 a slightly different category, might they not?

21 MS GALLAGHER: Possibly, but, my Lady, in relation -- I can
22 certainly see the distinction between M, where the risk
23 is from members of the non-terrorist community reacting
24 to someone who may be considered to be a terrorist.

25 LADY JUSTICE HALLET: Just, as it were, shunning him really

1 rather than creating a risk to his life.

2 MS GALLAGHER: Certainly, my Lady, quite apart from the
3 family members, there were other associates whose
4 involvement was known and even, for example, in respect
5 of witness B -- not a family member -- in respect of
6 witness B, the risk assessment, which is now not being
7 examined in any detail, the statement from DCS McKenna
8 and the associated risk assessment which we received in
9 September indicated that if her statement were to be
10 read, the risk would also be high and the same general
11 concern was raised about potential involvement from
12 members of the community who sympathised with Tanweer
13 and with the other bombers, but her identity was
14 previously known and her involvement with the police was
15 previously known, even if the precise content wasn't
16 previously known, and despite high press interest at
17 that time, there were not retaliatory attacks.
18 It is very difficult to say anything further than
19 this. I am conscious that the inquest team, Mr Hill and
20 yourself, will have far more material in closed which
21 may allow you to look at this in more detail. But from
22 what we've seen, my Lady, we simply say it is
23 speculative --

24 LADY JUSTICE HALLET: Can you pause there again, otherwise
25 I might forget to say it: if you think I know more about

1 any publicity about witness B than you do, I don't have
2 anything. I don't know what publicity there has been
3 about witness B, if any. I don't know if
4 Mr Vassel-Adams is going to be able to help me. I am
5 not better informed on that question than anybody else
6 in court. I may be worse informed for all I know.

7 MR KEITH: Can I assist on that? My Lady, I have taken
8 a moment or two to research this. Witness B's name was
9 definitely known in the press in April 2008 and her name
10 appeared in the written opening prepared by the
11 prosecution in the Theseus trial dated 7th April 2008.

12 LADY JUSTICE HALLET: Are we doing anything that might
13 threaten the witness's identity by going down this path?

14 MR KEITH: The difficulty is it is already a matter in the
15 public domain, because her name was then disclosed in
16 the public domain, and there was no application for
17 anonymity on her behalf. When the video was played,
18 there was again reference to how it had come to be in
19 the possession of the police, and the name of the
20 witness who handed it over was again mentioned, and
21 there are two or three pages of Google-related entries
22 dated 28th April, all referring to her name, but I think
23 that my learned friend was concerned with A in relation
24 to which my Lady, of course, does have the close
25 assessments which are denied to my learned friend.

1 In relation to B, I think we are all now singing
2 from the same him sheet. My learned friend Mr Hill was
3 correct in saying that B did not give evidence. That is
4 quite right. Not quite correct in saying it was limited
5 to admissions. The name was spoken of in the written
6 opening and may also have been referred to in the
7 opening in court.

8 MS GALLAGHER: It was a reference to witness A and to the
9 fact you have additional material in relation to witness
10 A.

11 LADY JUSTICE HALLET: I follow. Thank you.

12 MS GALLAGHER: Can I take you to paragraph 2.8 which
13 summarises our position. The first point is regarding
14 the importance of the witness and we indicated in
15 September that this had been recognised already by the
16 inquest team, and you, my Lady, given the intention to
17 call her. That's now subject to the caveat which
18 I outlined at the outset, which is we recognise the
19 concerns raised by both Mr Keith and Mr Hill as regards
20 her centrality. So while we still think she is
21 relevant, we accept that when you are conducting the
22 balancing exercise, my Lady, she is not a key witness,
23 even though she is relevant.

24 The second point was as regards her anonymity
25 application, we cannot sensibly comment without sight of

1 the underpinning material and the opening statement
2 which we have received does not give us anything further
3 in respect of risk, which is why, my Lady, we have
4 simply been reduced to making general submissions based
5 on those three paragraphs of DCS McKenna's statement.
6 The third point we make is that from the DCS McKenna
7 statement, it appears to us, but it may be known
8 differently to the inquest team, that her concerns
9 primarily relate to her reputation and that of her
10 family, and with the other which is only being raised in
11 the second risk-based statement, they were not raised,
12 as far as we can see, in the June statement. They were
13 only raised later as an after thought. So when you are
14 looking at them, my Lady, when you are considering what
15 weight to give to that evidence, if they were not even
16 mentioned by the witness in the June statement, but only
17 mentioned in the second statement, that, of course, is
18 a relevant factor.
19 Finally, given the high threshold for obtaining
20 anonymity, we indicated that on what we have seen, we
21 consider it unlikely that her application will meet the
22 threshold. We can see it is a finely balanced case,
23 given that you have to weigh up both her importance as
24 a witness and the impact upon her if her identity is to
25 be known, and ultimately that's a fact-specific issue

1 which is going to rely quite heavily on material you
2 have seen in closed which we have not seen, but in
3 conducting that exercise, we suggest that The Guardian
4 case and also the Donald case are very relevant and they
5 must be taken into account.

6 LADY JUSTICE HALLET: So apart from the general principles
7 of openness about which -- I am not suggesting you have
8 wrongly reminded me but I don't need any reminding,
9 because I have kept mention of them myself -- what is it
10 about witness A's identity that you say on behalf of the
11 bereaved families whom you represent you would wish to
12 pursue? What aspects do you say there would be any
13 enlightenment for me from the public knowing witness A's
14 identity.

15 MS GALLAGHER: My Lady, I have canvassed this matter. We
16 did provide these submissions to the other bereaved
17 family teams in advance of this hearing. I am conscious
18 Mr Patterson is obviously representing himself. Two of
19 the other teams out of the three indicated that they
20 were in broad agreement with the general approach which
21 we had adopted, which was in principle to raise
22 concerns, and to say we can't sensibly comment without
23 the underpinning material.

24 If you examine the summarised statement of witness
25 A, it is clear that her identity does not add much from

1 our point of view, and really what we are relying on is
2 the importance of the principles and just the importance
3 of ensuring that when applying the legal framework, the
4 most relevant and recent cases are taken into account.

5 LADY JUSTICE HALLET: For example, in a completely different
6 jurisdiction in a criminal trial, the identity of the
7 witness may well be highly relevant, because the defence
8 will wish to pursue whether that witness has any motive
9 to lie or any axe to grind against the accused.

10 Here at the moment if I am satisfied that the
11 summarised statement of witness A is an accurate
12 reflection of the various statements, there is nothing
13 in it that you can see that you would need to pursue by
14 way of knowing witness A's identity, is there?

15 MS GALLAGHER: That's a correct summary, my Lady. There is
16 one sentence in the statement which refers to witness A,
17 the meeting very shortly before 7th July, not noticing
18 anything unusual about him. It may be -- again, we are
19 in highly speculative realms of extreme speculation --
20 it may be that if her identity were known and any
21 further information became available, that we could cast
22 some doubt on that conclusion, but again, it is just
23 very difficult to say. I am in slightly Kafka-esque
24 territory, given how limited the information that we
25 have about witness A is.

1 LADY JUSTICE HALLET: I should say that there are a couple
2 of areas which I may wish to explore with counsel in
3 closed session that I think possibly I would like added
4 to this summarised statement. I don't think they affect
5 your submissions. It is just one or two minor details
6 that I think could usefully go in to be as open as
7 possible.

8 MS GALLAGHER: It may be that if more information was
9 provided -- there is reference on a number of occasions
10 to the specific nature of her community, and knowing
11 nothing about her community or her background makes it
12 very difficult for us to assess how reliable it is when
13 she expresses conclusions on her views on how Tanweer
14 appeared. It may be there is some background
15 information which is relevant to that and could be
16 provided, continuing to be in an anonymised form, but
17 just expanding on the material we actually have in this
18 very short, three paragraph summarised statement.

19 LADY JUSTICE HALLET: What I had in mind when I made the
20 observation I just made was more that you should have as
21 much possible detail in relation particularly to the
22 meetings shortly before the bombings. I think there are
23 one or two items that could be added to that summary.
24 As I say, I don't think it affects your submissions,
25 because they are not hugely important, but I think they

1 are sufficiently important they could be added, but
2 other than -- even if you knew of those two matters that
3 I am at the moment thinking of, I am still not conscious
4 of any avenue I can think that you would need to explore
5 by knowing the witness's identity.

6 MS GALLAGHER: My Lady, there is just one final point to
7 make, which is reference was made to fireman F earlier,
8 whose identity is very thinly veiled by that name, but,
9 of course, when that application was first brought to
10 our attention in late September, it was actually thought
11 by the inquest team that application might be more
12 straightforward than these three applications. That's
13 quoting directly from the material we received. In
14 fact, it was accompanied by a statement as supporting
15 the application and also indicating that the risk to
16 that individual was high.

17 So -- we now know, in fact, that that individual's
18 identity is well known, has been very widely reported
19 and, in fact, despite the short risk assessment which
20 concluded that the risk was high, it has not necessarily
21 led, my Lady, to difficulties and also it certainly
22 didn't persuade the Crown Court in respect of anonymity
23 for that person. We would also just note that as a more
24 general caveat as well as our concerns on the open
25 material we have seen regarding the basis for the high

1 risk assessment.

2 LADY JUSTICE HALLET: Right. Thank you. Mr Patterson,
3 I think before I hear anybody else, it might help if we
4 can just work out exactly what your position is, please.

5 MR PATTERSON: My Lady, I can be fairly brief, I hope, on
6 witness A. We lodged written submissions back in
7 September and the position now in relation to witness A
8 is we respectfully agree with Mr Keith's suggestion that
9 although the evidence is not central, that nevertheless
10 this is a witness that should be called, and we would
11 make the generalised observation that sometimes to read
12 what appears a rather skeletal summary doesn't convey
13 the full force of the evidence and sometimes the import
14 can be lost.

15 LADY JUSTICE HALLET: Did Mr Keith say that --

16 MR PATTERSON: I think he said it was of some relevance.

17 LADY JUSTICE HALLET: I think he sort of put a question
18 mark.

19 MR PATTERSON: I am sure he can speak for himself. My
20 understanding was that he submitted that it was
21 relevant, but not of central relevance.

22 LADY JUSTICE HALLET: Not vital. Not central.

23 MR PATTERSON: I didn't seek to argue otherwise.

24 Ms Gallagher didn't seek to argue it was central. I
25 respectfully agree with Mr Keith that it goes to his

1 determination. This is a woman who appears to have
2 spent the night with this bomber a few nights before
3 7th July. We would respectfully agree with the initial
4 decision to call the witness, and I note in last week's
5 revised witness list that still that witness is listed
6 as a witness to be called, and we would support that.
7 As to the application for anonymity, we don't oppose
8 the application. We clearly haven't seen all the
9 relevant material and therefore I leave it to
10 your Ladyship to consider the legal test in light of the
11 expressions of fears and so forth.

12 LADY JUSTICE HALLET: So you don't propose either the
13 application for anonymity or any application for special
14 measures?

15 MR PATTERSON: I don't, no.

16 LADY JUSTICE HALLET: Thank you.

17 MR PATTERSON: Obviously your Ladyship clearly has to be
18 satisfied that the appropriate test is made out, but I
19 have some sympathy with the submissions of Mr Hill about
20 a witness who assists the police in the aftermath of
21 this terrorist episode by coming forward and giving the
22 information that she did.

23 So, my Lady, that's what we say about witness A. We
24 would welcome any further expansion of this summary, if
25 that is possible. I am assuming it is not possible to

1 have redacted copies of the statements.

2 LADY JUSTICE HALLET: I will look at that, Mr Patterson, to
3 see whether it is possible. I think most of it has not
4 been -- because most of it, I think would lead to the
5 witness's identification, but I will look at that to see
6 if it is possible, to, as it were, give you a fuller but
7 heavily redacted -- it would have to be heavily
8 redacted, because if I do decide she remains anonymous,
9 I am afraid a great deal of it is likely to identify
10 her.

11 MR PATTERSON: Of course. For example, we note
12 an inconsistency. One of the dates in the summary is
13 different from the date in the Metropolitan Police scene
14 report. It may it be needs to be looked at again, but
15 in principle, you have our submissions that we say she
16 should be called and we don't oppose anonymity.
17 My Lady, as to witness B, I have had an opportunity
18 this morning to discuss her evidence with Mr Keith.
19 When we invited your Ladyship some months ago to adduce
20 the evidence of witness B, we did so because of the
21 light that we thought it might throw on the beliefs of
22 MSK and his activities, relevant to the issue of his
23 radicalisation. I emphasise the word, his
24 radicalisation. This is not an exploration of the
25 radicalisation, if it be radicalisation, of his wife

1 Hasina Patel. We don't invite you to explore her
2 actions or her beliefs. No issue is taken to as to the
3 video's provenance. Your Ladyship raised that issue
4 this morning. We don't say it is necessary for witness
5 B to be called to deal with that.

6 We have recently seen her further statements, a
7 total of nine statements now, and in particular,
8 your Ladyship may have had an opportunity to read the
9 22 page statement, and in summary, this is a woman who
10 spent some time with MSK and was able to witness his
11 radicalisation and the development of his opinions and
12 saw something of his actions and what he was saying
13 about his actions.

14 We have now seen the revised witness list and the
15 suggestion that a coroner's officer, a senior
16 Metropolitan Police officer can be called to deal with
17 background issues. In principle, my Lady, we think
18 that's a sensible way to proceed. The discussion with
19 Mr Keith was that it may be possible in those
20 circumstances not for witness B to be called, but for
21 the relevant parts of that witness's evidence to be
22 adduced from the police officer, the Coroner's officer
23 who would give evidence as to those matters of relevance
24 that the police learnt from their investigation from
25 various sources, including witness B.

1 Rather like the proposal for witness E that Mr Keith
2 touched upon earlier, the suggestion would be that the
3 relevant parts could be adduced in that way, so there
4 will be no need for her to be called or for her evidence
5 to be read either in whole or in part, and therefore the
6 anonymity application would not need to be pursued,
7 because certainly for my part, I wouldn't seek to adduce
8 her identity. We could simply adduce through the
9 officer relevant parts of what they unearthed in their
10 enquiries.

11 LADY JUSTICE HALLET: I am sorry to interrupt you, as
12 I interrupted Ms Gallagher: why do you say there is
13 a distinction to be drawn in the procedure I should
14 adopt for eliciting the evidence of witness A and
15 witness B.

16 MR PATTERSON: Witness A, I would submit that there is
17 relevant evidence to be given. Your Ladyship can have
18 evidence expanding over and above what's in the written
19 statements or the summary.

20 As for witness B, there are difficulties, and one
21 does not want to stray into exploring other issues that
22 are not within the scope of your inquest, and I have
23 very much in the forefront of my mind your list of
24 questions and also other areas which we do not want to
25 explore and issues as to possible actions or activities

1 of others, which are clearly not relevant in this
2 inquest.
3 So our essential submission originally was that
4 witness B can assist you with radicalisation of
5 Mohammed Siddique Khan. I note that back in September
6 and indeed more recently, your conclusion has been that
7 witness B shouldn't be called. If you are minded to
8 call the witness, then I wouldn't oppose that, but if
9 you are not minded to call the witness, the relevant
10 parts could be dealt with in the way I have suggested.

11 My Lady, I don't want to take you through the
12 various paragraphs in the statement where the relevant
13 evidence is to be found. I am sure you have it well in
14 mind. Mr Keith touched upon some of the matters earlier
15 today, but there is relevant material touching upon the
16 radicalisation of MSK.

17 LADY JUSTICE HALLET: Sorry to press you. Could I go back
18 to witness A? Witness A, you say relevant evidence,
19 although not central. Therefore, the witness's evidence
20 should be elicited. Are there any lines of enquiry you
21 would wish to pursue with witness A if the summarised
22 statement of witness A properly reflects what she has
23 said in her statement.

24 MR PATTERSON: It may be ultimately it could be presented by
25 the evidence being read.

1 LADY JUSTICE HALLET: That's what I was wondering.

2 MR PATTERSON: Sometimes, as your Ladyship knows, when a
3 statement is read, it can be rather bland and devoid of
4 importance. That's one of the observations in the
5 Supreme Court decision about the public interest and the
6 media's importance in reporting accurately matters. The
7 reason I don't suggest that it should be read is that at
8 the moment, it may lose a little of its import if it is
9 simply read in the short summary form that it presently
10 stands in.

11 LADY JUSTICE HALLET: Although having seen some of the
12 reporting of some of the statements that have been read
13 in the course of this inquest, they don't seem to have
14 lost their impact. In fact, the press have been very
15 alert to points of interest within statements that have
16 been read and have publicised them properly.

17 MR PATTERSON: I can't put my finger on any particular
18 lines of questioning that leap out at me from the face
19 of the summary. They would have been, I would have
20 thought, rather obvious lines of questioning focusing on
21 the two issues Mr Keith mentioned, namely his
22 determination and the extent to which he is successfully
23 manipulating or deceiving this young woman at a very
24 crucial stage in his planning.

25 LADY JUSTICE HALLET: I am sorry, I am asking you, I could

1 easily have asked Ms Gallagher or Mr Hill. Actually
2 I can't ask you. You can't answer it without seeing the
3 full statements. I was going to ask whether we have any
4 reason to believe that this witness or either witness
5 has not given us a full and fair account.

6 Mr Hill, I take it from my reading -- I am sorry to
7 interrupt you, Mr Patterson -- from my reading of the
8 statements, there is no reason to suppose that certainly
9 witness A or B have either not given a full account or
10 have given a less than accurate account.

11 MR HILL: No reason.

12 LADY JUSTICE HALLET: On the contrary, they seem to be very
13 open accounts.

14 MR HILL: Yes.

15 LADY JUSTICE HALLET: Thank you. Right, Mr Patterson.

16 MR PATTERSON: My Lady, that was something that I raised in
17 case I was overlooking some other material that I may
18 not have seen, but on the assumption that both witnesses
19 appear to be telling the truth, we submit that the
20 evidence is relevant. We have made submissions as to
21 how we would suggest it should be adduced.

22 Unless I can assist further, those are my
23 submissions.

24 LADY JUSTICE HALLET: Thank you very much. Who wants to go
25 next? Yes, Mr Vassel-Adams? Just before you do,

1 Mr Skelt, I don't know if you want to add anything
2 before Mr Vassel-Adams. Arguably, you should have come
3 after Mr Hill, I suspect.

4 MR SKELT: I have informed my learned friend Mr Hill that
5 the position of West Yorkshire is that we support his
6 application in full, but cannot materially add anything
7 to it.

8 LADY JUSTICE HALLET: There we are. Have I seen these
9 before, Mr Vassel-Adams?

10 MR VASSEL-ADAMS: You may have seen some of them before, my
11 Lady. I would like to express the gratitude on behalf
12 of my clients for being given the opportunity to make
13 submissions today. I am representing the BBC,
14 Associated Newspapers, Guardian News and Media, Times
15 Newspapers Limited, BSKyB, Telegraph Media Group and
16 ITN.

17 LADY JUSTICE HALLET: Is it quicker to tell me who you are
18 not representing.

19 MR VASSEL-ADAMS: A fairly broad section of the British
20 press. I think that that represents their high degree
21 of interest in these proceedings, and their wish to
22 report them as fully and freely as possible. I hope
23 my Lady will forgive me if some of the authorities to
24 which I am about to refer your Ladyship are familiar,
25 but in our respectful submission, it is terribly

1 important to approach these questions on the right legal
2 principles, and without wishing to have a side swipe at
3 Mr Hill's written legal submissions, they don't fully
4 reflect the law as it currently stands.

5 My Lady, the starting point is really section 11 of
6 the Contempt of Court Act, which is at tab 1 of
7 your Ladyship's bundle. That provides essentially that:
8 "In any case where a court, having a power to do so,
9 allows a name or other matter to be withheld from the
10 public in proceedings before the court, the court may
11 give directions prohibiting the publication of that name
12 or matter."

13 So effectively the power there is a power to make
14 an order affecting reporting by the media, but it
15 proceeds on the basis that the court has a pre-existing
16 power that it is properly exercising allowing that name
17 or other matter to be withheld. That power can be
18 a common law power or it can be a statutory power.

19 I would like to start, if I may, with the common law
20 power and the scope of that power. Your Ladyship will
21 be familiar with the case of Scott v Scott, but if I may
22 take your Ladyship to it briefly, it is at tab 2 of the
23 bundle. The observations on page 463 of Lord Atkinson
24 are quite apposite in our submission in this case. He
25 says:

1 "The hearing of a case in public may be, and often
2 is, no doubt, painful, humiliating or deterrent both to
3 parties and witnesses and in many cases, especially
4 those of a criminal nature, the details may be so
5 indecent as to tend to injure public morals, but all
6 this is tolerated and endured, because it is felt that
7 a public trial is to be found on the whole the best
8 security for the pure, impartial and efficient
9 administration of justice, and the best means for
10 winning for it public confidence and support."

11 The test at common law as to whether your Ladyship
12 has a power to allow a name or other matter to be
13 withheld is a test of necessity. Your Ladyship can see
14 that on page 437 of the judgment. Your Ladyship will
15 see that's the speech of Viscount Haldane. Halfway down
16 that page, he refers to the broad principle:

17 "The courts of this country must as between parties
18 administer justice in public."

19 He says that's subject to apparent exceptions. He
20 gives some examples of those exceptions at common law.

21 At the bottom of the page, he says:

22 "As the paramount object must always be to do
23 justice, the general rule as to publicity, after all
24 only the means to an end, must accordingly yield, but
25 the burden lies on those seeking to displace its

1 application in the particular case to make out that the
2 ordinary rule must as of necessity be superseded by this
3 paramount consideration. The question is by no means
4 one which consistently with the spirit of our
5 jurisprudence can be dealt with by the judge as resting
6 in his mere discretion as to what is expedient. The
7 latter is treated as one of principle and as turning not
8 on convenience but on necessity."

9 My Lady, the test to be applied is set out on
10 page 439, which is opposite halfway down. He says:
11 "I think that to justify an order for hearing in
12 camera, it must be shown that the paramount object of
13 securing that justice is done would really be rendered
14 doubtful of attainment if the order were not made."

15 There he is referring to an order for a hearing in
16 camera, but the common law test is of general
17 application. That's clear from Attorney-General v
18 Leveller at tab 3. Taking your Ladyship to it very
19 briefly, the critical passage is at page 450.

20 Your Ladyship will see at the bottom of 449 at H, he
21 summarises the general rule of open justice, referring
22 to Scott v Scott. He then says at C:

23 "However, since the purpose of the general rule is
24 to serve the ends of justice, it may be necessary to
25 depart from it where the nature or circumstances of the

1 particular proceeding are such that the application of
2 the general rule in its entirety would frustrate or
3 render impracticable the administration of justice or
4 would damage some other public interest for whose
5 protection Parliament has made some statutory derogation
6 from the rule."

7 Of course the Attorney-General v Leveller case was
8 not an in camera case. It was about effectively
9 an order for anonymity. It was a colonel, it was
10 a witness who was giving evidence in those proceedings.
11 So that common law test, the test as to whether it would
12 frustrate the administration of justice, is the apposite
13 test. It is the test that your Ladyship has to apply
14 under the common law.

15 At tab 4 of your Ladyship 's bundle is the case of
16 ex parte McDonagh. One can see from the headnote of
17 that case how it bears on the issues before your
18 Ladyship, because it was a defendant in this case who
19 was charged with driving a motor vehicle without an MOT
20 certificate. When he pleaded not guilty, he asked the
21 Justices not to reveal his address, and the Justices
22 permitted him to write his address on a piece of paper
23 and made an order under section 11 of the Contempt of
24 Court Act. The basis of that was that he had previously
25 been very seriously harassed by his ex-wife at his

1 previous address, and he had moved to a new address and
2 he didn't want her to know what it was. That order
3 under section 11 was judicially reviewed by a journalist
4 in the local newspaper and the holding, your Ladyship
5 can see. They allowed the application and essentially
6 they said:

7 "Such power was not to be exercised for the benefit
8 of a defendant's feelings and comfort. The order
9 preventing the publication of the defendant's address
10 had not been made on the basis that it was necessary for
11 the proper administration of justice and there are
12 therefore no grounds that warranted departure from the
13 general rule of the open justice principle."

14 Effectively, your Ladyship can see on page 557 the
15 basis on which Mr Hocking had asked for the order. At
16 the very top of 557, your Ladyship can see he explained
17 the reason why he wanted it:

18 "He said he had divorced from his wife and ever
19 since the divorce, he had been subject to such serious
20 harassment from her that he had been obliged to obtain a
21 High Court injunction restraining her from molesting
22 him. She had previously, when she did know where he
23 lived, damaged his motor vehicle and thrown things
24 through the windows of his home, and he feared that if
25 she became aware of his present address, there would be

1 a repetition of that behaviour."
2 My Lady can see from C, the court clerk had drawn
3 the attention of the Justices to section 11 and
4 effectively they made the order that was being sought by
5 Mr Hocking and refused to give out his home address.
6 Once this matter came, my Lady, before the
7 Divisional Court, Lord Justice Watkins made the
8 following observations at the bottom of page 561. It is
9 quite a long passage, and I propose to give
10 your Ladyship an opportunity just to mark it and read
11 it.
12 LADY JUSTICE HALLET: I have read it recently.
13 MR VASSEL-ADAMS: Your Ladyship will be familiar with it.
14 Essentially the gist of it is this: that there is
15 a distinction to be drawn between the administration of
16 justice and the private welfare of people who are caught
17 up in the administration of justice, and even though
18 Lord Justice Watkins was entirely satisfied that the
19 application -- there had been evidence that Mr Hocking
20 was likely -- might well be harassed by his former wife
21 if his address was made public, he didn't feel that that
22 touched on the proper administration of justice.
23 That point was also adopted by the Queen's Bench
24 Division in Northern Ireland in the case at tab 5 of
25 my Lady's bundle and in that case --

1 LADY JUSTICE HALLET: I think we could go to The Guardian
2 News to be honest, Mr Vassel-Adams.

3 MR VASSEL-ADAMS: I will do. I will just draw your
4 attention to it very briefly. Page 447. It is a very
5 short judgment. It is from The Times law report so it
6 will not take a great deal of your Ladyship's time.

7 Lord Justice McCullum:

8 "A possible attack upon the defendant by
9 ill-intentioned persons could not be regarded as
10 a consequence of the publication of the proceedings of
11 the court which had influenced the court in its
12 deliberations, and the danger of its occurrence should
13 not cause the court to depart from well-established
14 principles. The concerns expressed by the Justice of
15 the Peace were not factors which touched upon or
16 endangered the due administration of justice in the way
17 that concept had been expounded by the House of Lords."
18 That was a young man who was appearing on a charge
19 of indecent assault. He effectively said that if his
20 name and address were made public, he would be subjected
21 to violent attacks.

22 The Guardian News and Media case has already been
23 drawn to your Ladyship's attention. In our submission
24 it is relevant for a number of factors, not the least of
25 which is that there are considerable similarities, as

1 Ms Gallagher has already pointed out, between the basis
2 of some of the concerns which are expressed in this
3 case, namely loss of contact and rejection within
4 a particular community, damage to reputation within
5 a community, which essentially formed the basis of the
6 application in that case. Those are set out at
7 paragraph 21 of the judgment, and I don't propose to
8 take your Ladyship to it again because your Ladyship has
9 already been taken to it.

10 I rely upon it -- and your Ladyship has already been
11 taken to paragraph 72, which I also rely upon.

12 The court made an important observation in this
13 case, and I do rely upon it in this context, and it is
14 at paragraph 63, and I take your Ladyship to it, if I
15 may, where the court was trying to weigh the article 10
16 argument as against the article 8 argument in terms of
17 whether an anonymity order in that case should be
18 upheld.

19 I invite your Ladyship to read paragraph 63 through.

20 LADY JUSTICE HALLET: I have done.

21 MR VASSEL-ADAMS: In summary, this is a recognition by the
22 Supreme Court that stories about particular individuals
23 are much more interesting, attractive for readers and
24 for the viewing public than anonymous stories and it is
25 entirely legitimate for the media to wish to be able to

1 name individuals who are involved in important court
2 proceedings, and it is for the media effectively as
3 opposed to judges to judge what's going to be of
4 interest to their viewers. That was one of the factors
5 that the court said the judges had to take into account
6 when carrying out those balancing exercises.
7 Effectively in our submission that's an important
8 point for this case. The evidential value of the
9 evidence of witness A is an important matter for your
10 Ladyship to rule upon in determining whether or not she
11 should be required to give evidence, but it's
12 a different consideration from the public interest
13 factors which may weigh in favour of reporting by the
14 media of the stories. In other words, the story may be
15 an important news story even if her evidence isn't very
16 important to the matters that the inquest has to
17 determine.
18 They are two discrete questions, and in my
19 submission it is self-evident that a young woman who has
20 been having a relationship with one of the central
21 people behind the 7th July bombings only days before the
22 bombing, that the circumstances of that are likely to be
23 of very considerable interest to readers and viewers
24 around this country. That is an important factor
25 your Ladyship must take into consideration when weighing

1 the article 10 rights of the media, which are engaged in
2 an application of this kind, with the article 8 rights
3 of the young lady concerned.

4 LADY JUSTICE HALLET: Well, let's just look at the
5 practicalities. I mean, this is all good stuff when it
6 comes to principles of law, Mr Vassel-Adams. I have
7 made it plain before that I totally accept the general
8 principles. I for one have never needed any persuading
9 of the importance of the freedom of the press to report
10 fully and fairly, but let's just look at the
11 circumstances of this particular witness if we may.
12 Just supposing, for the purposes of argument, witness A
13 is an entirely innocent young woman who has found
14 herself caught up with one of these bombers and who,
15 against her better judgment, decided to cooperate with
16 the police in telling them what she knew, because she
17 had seen the devastating effect of what Tanweer had
18 done, and just supposing that that woman's life would be
19 in turn devastated by revelation of her identity, how do
20 I balance that with the fact that giving her name will
21 add an added attraction to the press reporting, when the
22 interested parties tell me it does not, in fact, add
23 significantly to these proceedings and my enquiries,
24 because that's what I have to focus on. What is, in
25 fact, the balancing exercise here?

1 MR VASSEL-ADAMS: I would accept that, my Lady.
2 Respectfully, that exercise has to be conducted in
3 relation to article 2, it has to be conducted in
4 relation to article 8 and it has to be conducted in
5 relation to the common law. Let's start with article 2
6 first.

7 Article 2, re Officer L, the threshold test is, is
8 there a real and immediate risk to life? That's the
9 threshold test for article 2 to be engaged.

10 LADY JUSTICE HALLET: Indeed.

11 MR VASSEL-ADAMS: It is not engaged in this case. There is
12 no evidence before this court, certainly none whatsoever
13 in the witness statement of the officer, to indicate
14 that this young lady's life would be at risk if her name
15 were to be published in connection with these
16 proceedings.

17 What evidence there is is effectively entirely
18 speculative, put on an entirely speculative basis, that
19 some members of the community she lives in may not be
20 happy about it if her name is -- if she is identified,
21 but respectfully, my Lady, this is an issue that comes
22 up in nearly -- in many of the major trials, as
23 your Ladyship will be aware, and a very good example of
24 it was given by the trial involving Mr Justice Gross, as
25 he then was, when various people -- terrorists were

1 being prosecuted, and it was suggested their addresses
2 shouldn't go into the public domain, because then there
3 could be attacks on their families. He said, "Can you
4 tell me of an example, please, of any attacks on the
5 families of people who have been prosecuted for
6 terrorism? Have there been any attacks on the families,
7 for example, of the people who were responsible for the
8 July 7th bombings?"

9 To which the answer was, "No, there have not been
10 any public attacks by the members of the public on the
11 families of those who were responsible for the
12 bombings."

13 Likewise, I am not aware of any evidence that
14 witnesses who have been cooperating with the police in
15 terrorism investigations have themselves been targeted
16 by other terrorists or people who are sympathetic with
17 them. If the Metropolitan Police has evidence that they
18 are able to adduce of that, then well and good, but it's
19 put on an entirely speculative basis that this may
20 happen, but the reality is there is not evidence to
21 substantiate it, and in a court of law it is evidence
22 that counts. That's my submission in relation to
23 article 2. It is simply not engaged.

24 In relation to the common law test, which is: would
25 disclosure of her name frustrate the administration of

1 justice in these or other proceedings, in my respectful
2 submission, it would not. This is a situation where we
3 are being asked to take into account the private welfare
4 of the person concerned, and rather than the public
5 administration of justice, as it has been understood and
6 interpreted by the House of Lords, and that's why those
7 two cases which I cited, *ex parte McDonagh* and the *ex*
8 *parte Belfast Telegraph Group*, are really very much on
9 point so far as the common law test goes.

10 In relation to article 8, I would accept that the
11 article 8 rights of the young lady are engaged, but
12 your Ladyship should be aware that the courts have been
13 extremely resistant to the suggestion that article 8
14 should be invoked so as to undermine the open justice
15 principle of common law.

16 The Guardian News case in your Ladyship's bundle is
17 only one of a whole string of recent examples of cases
18 before the Court of Appeal and the Supreme Court where
19 article 8 has been invoked unsuccessfully in relation to
20 open justice issues.

21 I will just give your Ladyship the names of those
22 cases. The first one, 2005, was in *Re S*. That was
23 a case where it was a murder trial and one of the
24 surviving siblings in that case applied for
25 an injunction based on article 8 preventing the

1 identification of the defendant mother and the House of
2 Lords held, Lord Shillane(?) giving the leading
3 judgment, that the strong public interest in open
4 justice had to prevail.

5 The other is the Trinity Mirror case, with which
6 your Ladyship may be very familiar, but that was
7 a defendant in criminal proceedings, who argued that his
8 name should not be published, because it would put his
9 family in great difficulties and great embarrassment,
10 and interfere with their article 8 rights, and that was
11 rejected.

12 The next case is the Re Guardian case, which in
13 your Ladyship's bundle, followed by the Re BBC case,
14 which is also in your Ladyship's bundle, both cases
15 where article 8 was invoked in connection with legal
16 proceedings where people were seeking anonymity and the
17 Supreme Court said no. The reason the Supreme Court
18 said no, in my respectful submission, is that more than
19 any other country in the world, this country has adhered
20 to the open justice principle.

21 The reason that the open justice principle exists in
22 article 6 of the European Convention of Human Rights,
23 article 10 of the Universal Declaration of Human Rights,
24 the International Covenant of Civil and Political
25 Rights, is because it was a legacy of this country

1 through the common law to the rest of the world, and
2 unless there is really clear and compelling evidence
3 that meets the test, and there are only a limited number
4 of tests that apply then your Ladyship, in my respectful
5 submission, has to take a very -- it is not an easy
6 stance, but in our submission it's a principled stance,
7 and it's a stance that is based on where the law stands
8 at the present time.

9 LADY JUSTICE HALLET: All right. Let's just focus then on
10 article 8. Just supposing I have within the closed
11 material ample evidence that the revelation of this
12 woman anticipates identity would have a devastating
13 impact on her life, how do you say I should consider the
14 balance between the right to freedom of expression under
15 article 10 and her rights under article 8.

16 MR VASSEL-ADAMS: I don't wish to cop out of this but I am
17 just about to. The reason is I have not seen the
18 materials. This is the first time I have ever been
19 engaged in an argument about article 8 where it is said
20 that the material is so sensitive that they can't be
21 disclosed on terms to counsel for the purpose of making
22 effective submissions, but that seems to be the
23 position. So I don't know what factors -- what she is
24 relying upon at all, and it puts me in an almost
25 impossible position. How can the proper balance be

1 weighed up if I can't really make submissions on the
2 actual evidence rather than in the abstract?

3 LADY JUSTICE HALLET: Do I correctly summarise your
4 arguments that your side of the balance, we have the
5 extremely important principle under article 10 about
6 which you have properly reminded me, and we have the
7 fact that it is important for the editors to decide what
8 should go into a news story to make an important story
9 more attractive to the reader. Those are the two
10 aspects going on your side of the balance?

11 MR VASSEL-ADAMS: No. That is not right. They are two of
12 the factors, but inevitably in any case one would wish
13 to argue about what the public interest is in the story
14 as a whole, and unfortunately one can only do that when
15 one has seen the evidence, because unless I know what
16 evidence she would actually give if she is called as
17 a witness, I can't really make submissions.

18 LADY JUSTICE HALLET: I am not going to allow her, even if
19 she were identified, I would not allow her to give
20 evidence that I consider irrelevant to these
21 proceedings. Therefore you can take it that, if called,
22 the evidence she can give is that she had a relationship
23 with Tanweer, that she had a meeting on -- well, you
24 have seen it in the summarised statement, because the
25 two matters that I would add don't affect these

1 submissions. So take it that this summarised statement
2 is the evidence she would give and I would not allow her
3 to be asked questions about anything else.

4 MR VASSEL-ADAMS: In my submission the -- it is an -- for
5 the public's interest in and engagement with these
6 terrible events, this is significant evidence. It is
7 significant evidence and it will be of great interest to
8 the reading public, and in my submission, there should
9 be an extremely compelling case to warrant
10 an exceptional departure from the open justice principle
11 so as to prevent her name from going into the public
12 domain.

13 LADY JUSTICE HALLET: Can I just interrupt there. I have
14 interrupted everybody else, so why not interrupt you?
15 "significant", you used the word, that her evidence
16 would be significant. All the people involved in these
17 proceedings have submitted to me that her evidence may
18 be relevant, but it is not central and it is not vital.
19 So I appreciate you have used the word "significant"
20 which I sometimes use in a judgment. You can use it to
21 have a number of different meanings, but significant in
22 what sense? It is not -- I could conduct these
23 proceedings without having witness A called, couldn't I?

24 MR VASSEL-ADAMS: I would have to say yes to that. I don't
25 wish to place too much weight on what shade of meaning

1 "significance" has in this context, because it appears
2 that her evidence is of limited relevance in the context
3 of the issues that this tribunal has to decide, and
4 I don't wish to gainsay that in any way, shape or form.
5 I am sure your Ladyship will appreciate that as a news
6 story, it's a big news story. I don't need to go much
7 further than that, because it engages the open justice
8 principle. It engages the article 10 rights of the
9 media. There's a strong public interest in the
10 identification of those involved in legal proceedings,
11 and unless there are really, truly, and I am not in
12 a position to engage with what the exceptional
13 circumstances are in this case, but unless there are
14 truly exceptional circumstances in relation to her
15 privacy that go beyond the ordinary effect that one
16 might -- that can very often be the case with public
17 identification in legal proceedings. It is normally
18 distressing, embarrassing and difficult and it can
19 create difficulties in people's relationships and in
20 other aspects of their lives. That, as Scott v Scott
21 itself recognises, is unfortunately part of the public
22 administration of justice. It is not easy for those
23 involved. But we adhere to that principle, as
24 your Ladyship seeks to adhere to that principle, for
25 very good reasons, and that is my case.

1 LADY JUSTICE HALLET: Thank you very much, Mr Vassel-Adams.
2 Anybody wish to add anything? Mr Keith?
3 MR KEITH: My Lady, there are observations one can make in
4 open without having to go into the closed issues which
5 my Lady must also examine, because that's part of Mr
6 Hill's application.
7 Before I make one or two comments if I may, could
8 I simply raise with you the outstanding PII
9 applications.
10 LADY JUSTICE HALLET: We have another closed hearing, do we
11 not?
12 MR KEITH: May I suggest this. Mr Hall has kindly indicated
13 he is available on Wednesday afternoon, as is his
14 client. Looking at Wednesday's list of witnesses, we
15 have, I think, four witnesses after the background
16 material. It may well be we will finish by 3.15, 3.30,
17 which would allow an hour for PII. I believe Mr Smith
18 may have a difficulty. West Yorkshire Police are
19 represented by Mr Skelt today and the West Yorkshire
20 Police application is not likely to take more than
21 ten minutes or so. So could I invite you to deal with
22 that application today anyway? I have spoken to
23 Mr Andrew O'Connor and Mr Hall and they don't believe
24 that putting back the Secretary of State's PII
25 application will have any practical consequences.

1 LADY JUSTICE HALLET: You had better see what Mr Smith has
2 said.

3 MR KEITH: I see Mr Smith's eyebrows have risen violently
4 over the last 20 seconds.

5 We don't know whether there will be a transcriber
6 available on Wednesday, but in the hope there will be
7 a closed transcriber available, may I, subject to that
8 enquiry, invite you to put that over, because I don't
9 think that we will finish the PII application in less
10 than an hour, an hour and a quarter, and there is still
11 about another 20 minutes or so in relation to anonymity
12 because of Mr Hill's reliance on closed issues.

13 LADY JUSTICE HALLET: Mr Hall, I am sorry you have been
14 hanging around all day. Are you content if I say now we
15 will try to get back to you on Wednesday.

16 MR HALL: Yes.

17 LADY JUSTICE HALLET: Mr Skelt, does that mean -- no. You
18 are still interested in the anonymity and then we are
19 going to deal with your short point.

20 MR SKELT: Yes. Thank you.

21 LADY JUSTICE HALLET: Right. Yes, Mr Keith, unless Mr Smith
22 raised an eyebrow at me or not.

23 MR KEITH: I would never dream of raising an eyebrow at you,
24 my Lady, but I am in the direct line of fire.

25 LADY JUSTICE HALLET: This is about texting in court.

1 Mr Smith has reminded me that certain rules were in
2 place before Christmas in the inquest and I am asked to
3 see if we can say something about it today.
4 Any member of the press anxious to start texting in
5 court this afternoon?
6 MEMBER OF THE PRESS: Not texting. It would be nice to know
7 whether we can access e-mails.
8 LADY JUSTICE HALLET: Indeed. Right. I need to just think
9 about this. Does that affect you at the moment?
10 MEMBER OF THE PRESS: Yes. I have been told I can't use my
11 mobile and I need to use it for that purpose.
12 MR KEITH: The Lord Chief Justice made a ruling.
13 LADY JUSTICE HALLET: He has. It is temporary guidance
14 which is as far as I can remember, handheld devices --
15 you can probably remind me, I suspect. Live text-based
16 communications. The only reservation I had was we had
17 a problem, you recall, when one of the screens revealed
18 to the families or some of the bereaved families the
19 news of the Secretary of State's decision to appeal my
20 ruling. They saw it on a big screen. I am obviously
21 entirely content to operate the Lord Chief Justice's
22 guidance provided, please, that we don't have screens
23 that can be seen by any bereaved families, because
24 I wouldn't want to cause them any kind of distress.
25 I think they just suddenly saw the Google headline of

1 the Secretary of State's decision, if you remember,
2 because somebody had a laptop out there.

3 MR KEITH: My Lady is absolutely right.

4 LADY JUSTICE HALLET: Members of the media can take it I am
5 content to follow the Lord Chief Justice's guidance with
6 that reservation. Please make sure that your screens
7 can't be seen by anybody around you.

8 MEMBER OF THE PRESS: Does that extend to live Twittering,
9 Tweeting during the court, ie reporting to Twitter.com
10 when we return to the evidence on Wednesday and
11 thereafter?

12 LADY JUSTICE HALLET: As far as I am concerned -- I have to
13 go back to the Lord Chief Justice's guidance. As
14 I recall, it does deal with that, does it not?

15 MEMBER OF THE PRESS: Yes. Contemporaneous reporting.

16 LADY JUSTICE HALLET: Yes, but with the same reservation,
17 particularly when we get back to the evidence, because
18 of the families being around. I really don't want
19 members of the families to be able to see what people
20 are doing so. if you can use your discretion. If I find
21 that the families can see what's going on or they are in
22 any way distressed by what's happening, then I may have
23 to revisit it. But if you could all use your
24 discretion, I am entirely happy to follow the guidance
25 to the letter. Thank you.

1 Yes, Mr Keith.

2 MR KEITH: My Lady, the first issue is, of course, whether
3 or not my Lady is to refer to the evidence of D or E or
4 A at all, or merely to have their evidence summarised
5 through the coronial officer or to read them or to
6 invite them to be called to give oral evidence. This is
7 an issue that has been raised by my learned friends
8 Ms Gallagher and Mr Patterson.

9 It is a very fine judgment, because, of course,
10 my Lady directed that one of the relevant issues is that
11 of background, upbringing, radicalisation and
12 association and so on. Against that, of course, we are
13 not concerned here with the inquest into the bombers or
14 into the activities of Hasina Patel. My Lady knows that
15 many thousands of pages of background material have been
16 reviewed over Christmas and hundreds of witness
17 statements examined, and out of that, my Lady has
18 directed provisionally, and there must be some limit,
19 that these witnesses are worthy of exploration, but they
20 are all, and I accept, tangential.

21 Witness D in relation to whom coincidentally there
22 was no anonymity issue, because that application has
23 been withdrawn, gives quite detailed references to
24 shooting and Lindsay's intentions about taking some sort
25 of retributive act in London. Therefore it is quite

1 detailed. There probably is a good argument that that
2 evidence is worthy to be called live.
3 Witness E, and witness E was a very much younger
4 witness at the time of the relevant events in question,
5 is much more tangential because all that witness can
6 talk about is the reference to "you are next". That is
7 why my Lady has directed that that evidence can be
8 summarised through the coronial officer.
9 Witness A is very much on the dividing line and more
10 tangential. As my Lady has observed, all that's really
11 relevant to witness A's statement is that which is
12 summarised in the gist. May I say in relation to the
13 gist, that gist is not the final position on what in her
14 evidence might become relevant. It was prepared by
15 Metropolitan Police to assist the interested persons,
16 because your inquest secretariat did not receive
17 permission from the Met to disclose the statements at
18 all to the IPs in advance of this anonymity application
19 being determined.
20 So my Lady is quite right that there may be certain
21 aspects of her statement which are otherwise relevant
22 which could be adduced in due course. We are not
23 limited to the gist. The gist was simply prepared for
24 the purposes of this application to assist the IPs.
25 My Lady, it is open to you to reflect further on

1 whether or not all or none of these witnesses should be
2 called live as opposed to being referred to through the
3 hearsay evidence of the coronial officer, but we would
4 suggest that D and A probably do merit being called
5 live, but if my Lady takes the view that the
6 extraordinary distress that might be caused to A by the
7 very giving of evidence, even if her identity were not
8 to be disclosed, is such that, frankly, there is really
9 not much point in calling her, given the evidence could
10 be adduced through the alternative method of coronial
11 officer, then it is open to my Lady to so order.
12 Even, however -- and this is the second issue --
13 my Lady determines that none of these witnesses should
14 give evidence live or alternatively can have their
15 evidence read or summarised through the hearsay officer,
16 that is no answer or no necessary answer to the issue of
17 whether or not their applications for anonymity should
18 be granted in relation to A and B.
19 My learned friend Mr Hill is not right to suggest
20 that the name can properly be withheld without further
21 ado if their evidence is adduced through the hearsay
22 route to the coronial officer. There must still be,
23 because of the primary obligation of open justice, some
24 proper justification for the withholding of their names
25 from the public domain, and therefore whichever route is

1 adopted, there must be some consideration and an answer
2 to the issue of the anonymity applications.
3 All I would say in open is that there are two, in
4 our submission, important considerations, both of which
5 have been touched upon already. The open material does
6 suggest that the effect on A of having her identity
7 disclosed would be devastating. Against that, it is
8 undoubtedly the case that we are not concerned here with
9 the withholding of a name of a defendant or of
10 a prosecution witness, as my Lady has already observed.
11 We are concerned with my Lady's inquisitorial
12 proceedings into events of 7th July 2005 in relation to
13 witnesses A and B in particular in a very tangential
14 way.
15 All that, with the greatest respect to his
16 arguments, my learned friend Mr Vassel-Adams can seek to
17 rely upon is the general principle of open justice and
18 article 10, as my Lady has observed, and I would simply
19 draw to my Lady's attention that in The Guardian case,
20 which was the paradigm case concerning the weighing up
21 of article 8 and article 10 and the way in which these
22 competing considerations could be applied, Lord Rodger
23 particularly observed at paragraphs 67 to 69 that the
24 luxury of not disclosing the defendants' or rather the
25 applicants' names in that case was more than

1 counterbalanced by the fact that the defendant
2 applicants themselves were challenging the freezing
3 orders made against them and the whole structure of the
4 regime which was being applied against them. His
5 Lordship observed that there was a public interest in
6 knowing who was challenging the freezing orders. There
7 is no equivalent right, in our submission, to know the
8 name of an innocent witness who unknowingly entered into
9 a relationship with a man who turned out to be a mass
10 murderer. Her distinction -- her position is very
11 different to both the applicant defendants in The
12 Guardian case and Mr Hocking, who was similarly
13 a defendant in criminal proceedings in the Evesham
14 Justices case.

15 Therefore my Lady is entitled to reach the view that
16 even the open material upon which reliance is placed by
17 Mr Hill may be sufficient to meet or rather to justify
18 derogation from the principle of open justice, and to
19 justify the departure from the requirements of article
20 10, given the lack of relevancy of the name of the
21 witness, the lack of relevancy other than tangentially
22 in relation to the evidence that witness A is likely to
23 give and the role of that witness in these proceedings,
24 which are inquisitorial proceedings.

25 If my Lady is of that view, then the closed

1 material, which I have to say is fairly broadly properly
2 reflected in the open assessment, may not be necessary
3 for the purposes of Mr Hill's application.

4 LADY JUSTICE HALLET: Thank you. Anybody else have anything
5 else to add?

6 I am satisfied on the basis of the material
7 presently before me that both witnesses A and D should
8 give evidence live, as it has been described, before me
9 if at all possible. If I need to review that decision,
10 I shall do so in the light of any further material that
11 may or may not be put before me. Given that I have
12 concluded that witnesses A and D should give evidence,
13 I must now turn to whether or not there should be any
14 revelation of the identities of witnesses A, B and C and
15 E. Witness D no longer requires any anonymity -- any
16 order of anonymity. I have now lost my Ds and my Es.

17 MR KEITH: I am sorry to rise to my feet. My Lady is quite
18 right in relation to D and E.

19 LADY JUSTICE HALLET: I only need to rule as far as the
20 revelation of the identity of witnesses A, B and C are
21 concerned.

22 The submissions before me have focused upon witness
23 A, given that it is accepted that it would be helpful
24 for witness A to be called before me. I am acutely
25 conscious of the importance of being as open as possible

1 in these proceedings, and I have repeatedly stated my
2 intention to make everything public that can possibly be
3 made public. I am anxious to ensure that these
4 proceedings are reported fully and fairly, as indeed
5 they have been to date.

6 However, I am also acutely conscious of the fact
7 that I have stated more than once that I do not intend
8 to do anything that would put people's lives at risk or
9 which would seriously damage their lives or, as Mr Hill
10 has added for the purposes of his submissions this
11 afternoon, would discourage people from cooperating
12 fully in investigations into horrific terrorist attacks
13 of this kind.

14 Mr Vassel-Adams, who has again represented the
15 media, or many aspects of the British media before me
16 today, has helpfully provided for me a bundle containing
17 a number of authorities, and he has rightly taken me
18 through the important principles under common law and
19 the European Convention on Human Rights which are set
20 out and emphasised in those authorities. Ms Gallagher
21 for her part placed a considerable emphasis, as indeed
22 Mr Vassel-Adams did, in a very recent decision of the
23 Supreme Court in *Re Guardian News and Media Limited*, now
24 reported 2 Appeal Cases 697.

25 As I have said before, and I said to Mr Vassel-Adams

1 during the course of argument, I need no reminding of
2 the vital importance of the rights to freedom of
3 expression under article 10, and I have paid due
4 attention to all the guidance provided by the Supreme
5 Court in the Guardian Newspaper case.

6 As far as witness A is concerned, she had
7 a relationship with Tanweer, and a summarised statement
8 has been provided of what she would say if called to
9 give evidence or what would remain of any statement if
10 read, once redacted. Essentially it comes to this: that
11 she can assist these proceedings with information about
12 Tanweer having gone to Pakistan some time before the
13 bombing, that he seems to have returned from Pakistan,
14 if what he told her was true, not long before she met
15 him in June 2005, and she can also describe meetings or
16 conversations with him in the days leading up to the
17 actual bombings.

18 The evidence that she can give has been accepted by
19 the interested parties as being relevant, and when I say
20 interested parties, this includes Mr Keith, counsel to
21 the inquest, as being relevant, but not vital or central
22 to the issues which I have set out. However, it may be
23 that her statement or her evidence can assist me on the
24 question of Tanweer's motivations and radicalisation.

25 I have the benefit, denied to Ms Gallagher,

1 Mr Patterson and Mr Vassel-Adams, of closed material
2 which sets out in some considerable detail the effect
3 upon witness A's life or possible effect upon her life
4 if her identity is revealed.

5 I cannot reveal the extent of the consequences to
6 her of revelation of her identity without risking
7 revelation of her identity. Therefore, as Ms Gallagher
8 put it, this is a somewhat Kafka-esque judgment in that
9 people, I am afraid, must take it from me that I am
10 satisfied that there is sufficient material in the
11 closed material to indicate that the risk to witness A
12 of the revelation of her identity goes far further than,
13 as Mr Vassel-Adams and Ms Gallagher put it, a risk
14 simply to her reputation. I am satisfied the revelation
15 of her identity could have devastating impact upon her
16 life, her privacy and possibly upon her health.

17 For my part, I suspect that article 2 may possibly
18 be engaged, but even if I put article 2 to one side and
19 I balance her rights under article 8 and article 10, I
20 am entirely satisfied the balance comes down in favour
21 of not revealing her identity. In my judgment these
22 circumstances are exceptional.

23 The other side of the coin, as Mr Vassel-Adams has
24 mentioned, the important principles of open justice and
25 ensuring that important news stories are attractive to

1 the public, in my judgment are totally outweighed by the
2 impact upon the witness of her identity being known. It
3 would be simply disproportionate, I have concluded, in
4 these inquisitorial proceedings to reveal the identity
5 of a witness who provided this information in strict
6 confidence to the authorities, and I also bear in mind
7 Mr Hill's submissions that albeit it will not always be
8 a conclusive factor, that she has assisted the
9 authorities, when she did not need to do so, and
10 I wouldn't wish, as I have already indicated, to
11 discourage other people from doing the same, should the
12 sad occasion arise in the future. If I was simply
13 applying common law principles, I am satisfied that it
14 would not be in the interests of justice and the proper
15 administration of justice to reveal her identity.
16 As far as witness B is concerned, it may well that
17 be the witness's identity does not need to be revealed,
18 because any evidence the witness can give can be
19 summarised and admitted by way of a coronial officer
20 giving evidence before me. Mr Patterson, who leads for
21 the bereaved families on this particular aspect, accepts
22 that that would be possibly a perfectly proper course to
23 be adopted. Therefore this witness may not need
24 technically an anonymity order.
25 To my mind, the similar arguments and principles as

1 far as witness A are concerned apply to witness B. I
2 have no doubt, given what I know about the witness's
3 cooperation with the authorities, that the revelation of
4 the witness's identity could have devastating impact
5 upon that witness's life as well. To my mind again it
6 would be simply disproportionate, for the purposes of
7 adding colour to an important story, to reveal the
8 source of this evidence. The important thing as far as
9 these proceedings are concerned is that the evidence
10 that the witness can give is revealed and that, I am
11 satisfied, can be done in such a way which does not
12 offend the interests of justice, does not offend the
13 European Convention and in particular article 10, but
14 does ensure that I can carry out a full and effective
15 hearing.

16 I also again bear in mind that I would not wish to
17 discourage the likes of witness B from providing this
18 kind of information.

19 I apologise to those who don't have the benefit of
20 the closed material, as I do. I can sadly say no more
21 other than what I have said.

22 Witness C I should add, the same principles will
23 apply, and in any event I doubt by the looks of it that
24 witness C is going to be particularly relevant, but for
25 the time being, I haven't, I confess, focused on witness

1 C, but for the time being the same ruling will apply to
2 witnesses A, B and C.

3 MR KEITH: I am very grateful. Thank you very much, my
4 Lady. Mr Smith has just passed me a note.

5 LADY JUSTICE HALLET: I don't know if Mr Vassel-Adams wants
6 to say something before we go on.

7 MR VASSEL-ADAMS: May I just say something further? Some
8 care will need to be taken up over the drawing up of the
9 order relating to this, and I just mention that because
10 the way it is currently drafted would preclude the media
11 saying anything about any of these people, including not
12 connected with these proceedings at all.

13 LADY JUSTICE HALLET: Is this my very own super-injunction,
14 Mr Vassel-Adams?

15 MR VASSEL-ADAMS: It might turn out to be.

16 LADY JUSTICE HALLET: I can't have one of those.

17 MR VASSEL-ADAMS: If the form in which Mr Hill has drafted
18 it were to be adopted by this court. May I suggest,
19 rather than getting into wording now, that it is
20 circulated. I will make some proposals to Mr Hill. I
21 am sure they will meet with the court's approval. The
22 wording should be that the person is not identified as
23 being a witness in these proceedings and then it limits
24 it appropriately. Otherwise it is disproportionate,
25 particularly bearing in mind that in relation to witness

1 B, there is a lot of information already in the public
2 domain.

3 LADY JUSTICE HALLET: Absolutely. Please do make sure that
4 everyone knows exactly where they stand. I don't want
5 people being confused as to what they can and can't
6 report. I am merely ruling that nothing should be
7 published which would either identify or tend to
8 identify these witnesses.

9 MR VASSEL-ADAMS: Them as being witnesses in these
10 proceedings.

11 LADY JUSTICE HALLET: The usual order that I might make in
12 a different jurisdiction. Mr Keith.

13 MR KEITH: My Lady, returning to the public interest
14 immunity issues, Mr Smith kindly made some enquiries as
15 to whether or not a transcriber might be available on
16 Wednesday. The prospects of such a transcriber being
17 available can't be confirmed just yet. He correctly
18 points out even in the absence of a transcriber, it
19 would be open to you, my Lady, to have the hearing
20 recorded and transcribed later. On that basis, we are
21 content for my Lady to proceed if it leads to my Lady's
22 approval in the way that I have suggested.

23 Given the number of witnesses for Wednesday, there
24 is a possibility that we may finish a little before
25 3.30, so could I invite you to direct or invite Mr Hall

1 to be here from 3 o'clock in case we finish
2 a few minutes before 3.30.
3 LADY JUSTICE HALLET: Mr Hall, why don't I say if you could
4 just stay in touch over lunch or something, and if you
5 are a couple of minutes late because you have not had
6 much notice, I will understand. I will not have you
7 hanging around or indeed your instructing solicitor
8 hanging around or anybody. So just stay in touch over
9 lunch and we will give you a best estimate time.
10 MR KEITH: With that, may I invite my Lady to return to
11 closed for the purposes of the West Yorkshire Police PII
12 application.
13 LADY JUSTICE HALLET: Does that mean I have to leave?
14 MR KEITH: Five minutes, if my Lady would.
15 (4.19 pm)
16 (Hearing continued in private session)