Statement made on behalf of:

The Commissioner of Police of the

Metropolis

Witness:

Caroline Goode

Statement No:

1

Exhibits Referred to:

N/A

Date Statement Made:

27th August 2013

IN THE HIGH COURT OF JUSTICE **QUEEN'S BENCH DIVISION DIVISIONAL COURT** 

CLAIM No: CO/1732/2013

R (on the application of) David Miranda

Claimant

(1) The Secretary of State for the Home Department

First Defendant

(2) The Commissioner of Police of the Metropolis

Second Defendant

Witness:

Caroline Goode

Occupation:

Police Officer

Address:

New Scotland Yard, London, SW1H 0BG

I believe the facts stated in this witness statement are true

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1. I am a Detective Superintendent in the Metropolitan Police Service (MPS) currently attached to SO15, the MPS Counter-Terrorism Command.

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for the investigation, a summary of which is set out below, outlining objectives and potential lines of enquiry and ensuring that the investigation is carried out lawfully

and expeditiously. I am responsible for all strategic and tactical decisions throughout

I am the Senior Investigating Officer (SIO). My role is to set the strategic direction

the investigation. My immediate line manager is the Head of Operations for SO15

and ultimately I am answerable to the Commissioner of Police of the Metropolis.

3. I am authorised to make this witness statement on behalf of the Second Defendant in

opposition to the Claimant's application for interim relief in these proceedings. I

make this statement from my own knowledge and where matters are not within my

own knowledge, from information and documents made available to me and from

consultation with other agencies.

2.

4. This statement is made in order to address issues arising from the Claimant's

application for interim relief dated 21st August 2013. Evidence in support of the

substantive claim for judicial review will be served, as the Court has ordered (Order of

Beatson LJ and Kenneth Parker J dated 23<sup>rd</sup> August 2013) on the 12<sup>th</sup> September 2013.

5. The history of these proceedings is succinctly set out in paras 3 and 4 of the Divisional

Court judgment dated 23<sup>rd</sup> August. Save where necessary, I will not repeat this here.

The Investigation

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6. At the hearing of the interim relief application on the 22<sup>nd</sup> August 2013, the MPS announced that based on its assessment of at least some of the material that was seized

from Mr Miranda on the 18th August 2013, it had commenced a criminal investigation.

7. The effect of the Order made by the Court on the 23rd August, however, prevents the

MPS from fully carrying out this criminal investigation and therefore runs the risk of

the MPS failing properly to perform its statutory function to prevent and detect crime.

As the Order is presently drafted it may, arguably, prevent investigation of the section

40(1)(a) TACT offences and would certainly prevent further access to the material for

the purposes of investigating offences contrary to the 1911 and 1989 Official Secrets

Acts.

8. The material seized from Mr Miranda is currently under examination by SO15, with

the assistance of other government agencies, within the terms permitted by the Court

Order.

9. We have examined all of these things separately and I have assessed that all of them

may be needed for use as evidence in criminal proceedings.

10. One of the things seized was an external hard drive. This contained data that was

heavily encrypted using a form of encryption known as 'True Crypt' which renders

the material extremely difficult to access. The hard drive contains approximately 60

gigabytes of data, of which only 20 have been accessed to date. The remainder is

encrypted and officers are working with experts from other agencies to try and obtain

access to that material.

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11. From the material that has been accessed so far, I am told that the hard drive contains approximately 58,000 UK documents which are highly classified in nature, to the highest levels. The disclosure of this material would be gravely injurious to UK

the capability to counter the threat from terrorism.

12. I am advised that the processing that was applied to the data that has been decrypted

from the hard drive is such that each document has to be reconstructed into a legible

interests, would endanger lives, pose a significant risk to public safety and diminish

format prior to it being fully assessed. So far only 75 documents have been

reconstructed since the property was initially seized. This represents only a tiny

fraction of what was seized.

13. The MPS have been working with the appropriate partners across government, and we

have shared material with these partners.

14. The material discloses approximately 58,000 UK documents of the highest level of

classification which we believe have been stolen from GCHQ. Disclosure of any

information contained within those documents would be gravely injurious to UK

interests, would directly put lives at risk and would pose a risk to public safety and

diminish the ability to counter terrorism. Potentially the possession of that

information may constitute offences under section 58 and 58A of TACT 2000 and the

Official Secrets Acts.

15. Beyond the obligation to investigate allegations of crime, the primary functions of the

Police are to protect life and prevent crime. It is already obvious that a gross breach

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of security has occurred. The material needs to be examined as a matter of urgency to identify the nature of the material stolen in order to enable the MPS to mitigate the risks posed by the theft, the unlawful possession and disclosure of this material. For example, should the identity of individuals working for HMG be revealed their lives and the lives of their families could be directly at risk. Similarly should details of ongoing/historic operations and/or methodology be revealed the operation itself could be rendered ineffective. This will consequently put the lives of the general public at risk as we would be less able to counter the threat from terrorism. If the MPS was able to identify what identities and information are contained within the material we would be able to mitigate the risk posed to those individuals, those operations and the general public at large by putting appropriate measures in place.

- 16. It is also necessary to urgently examine the material in order to conduct an effective and expeditious investigation. For example, to identify others involved in the criminal conspiracy in time to prevent further offences and/or the destruction of evidence. It is not sufficient merely to detain the material and prevent its non-disclosure or return to mitigate the risk to the lives of those who may be identified by the data. It is likely that the MPS is investigating a conspiracy with a global dimension. It is necessary to ascertain if this stolen, classified material has been disseminated to others in order to prevent further disclosure which would prove valuable to terrorists, thereby preventing further offences and protecting public safety. Even if it transpires that no one else was involved it is necessary to prevent evidence being destroyed/further disseminated.
- 17. Should the Court order the MPS to stop examining the material, I strongly believe that lives will be put at risk. As stated earlier the material has been shared with partner agencies. It is necessary that we continue to share this material as they are assisting

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the MPS to access the data, interpret the threat posed by those documents and take steps to mitigate the risk. Should the court order that the MPS is no longer allowed to share the data, the MPS would be severely hindered in their efforts to access the material as the expertise of other partners is pivotal to those efforts.

18. All of the downloaded data may form part of criminal proceedings and as such will be detained by police under schedule 7 of TACT, for as long as is necessary.

## **Conclusion**

19. There is an urgent need for the MPS to inspect, copy, disclose, examine, transfer or otherwise interfere with the material that was seized from Mr Miranda on the 18th August 2013 for the purposes of criminal investigations into offences relating to section 40(1)(a) TACT and offences under the Official Secrets Act.

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