

Witness: MI5 WITNESS  
Party: 4<sup>th</sup> Respondent  
Number: 2  
Exhibit: MI5 1  
Date: 14/11/17

Case No. IPT/15/110/CH

IN THE INVESTIGATORY POWERS TRIBUNAL  
BETWEEN:

PRIVACY INTERNATIONAL

Claimant

and

- (1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS
- (2) SECRETARY OF STATE FOR THE HOME DEPARTMENT
- (3) GOVERNMENT COMMUNICATION HEADQUARTERS
- (4) SECURITY SERVICE
- (5) SECRET INTELLIGENCE SERVICE

Respondents

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WITNESS STATEMENT OF MI5 WITNESS

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I, MI5 WITNESS, Senior Manager in the Security Service, of Thames House London SW1, WILL SAY as follows:

- 1) I am a Senior Manager in MI5 and have worked for MI5 for 31 years. I have been a member of the Senior Management Team for 9 years. In my current role I am responsible for MI5's advanced and strategic analysts. I have been involved in MI5's bulk personal data ("BPD") activities since 2006. Additionally, I have been involved in MI5's acquisition and use of bulk communications data ("BCD") over that same period.
- 2) I am authorised to make this statement on behalf of MI5. The contents of this statement are within my own knowledge and are true to the best of my knowledge and belief. Where matters are not within my own knowledge they are based upon documentation made available to me and from discussions with others within MI5.
- 3) I am the MI5 witness who made the MI5 OPEN witness statement dated 16 October 2017. I made that statement to respond, in OPEN for the purposes of the

OPEN hearing then taking place, to a point that arose from IPCO's email of 10 October 2017.

- 4) I make this statement to respond to a number of points that have recently arisen (and arose at the OPEN hearing). In particular, I make this statement in order to describe to the Tribunal, so far as relevant to the issue of proportionality:
  - a) the capabilities of MI5 in relation to BPD and BCD; and
  - b) the techniques that MI5 employs when accessing (ie searching) its BPD and BCD holdings.
- 5) I understand that the Claimant's Counsel, in the course of his submissions on 17/10/17, referenced that the SIA might hold a dataset such as "everybody's Facebook account". Additionally, I understand that he referred to the possibility that dating websites or apps (as examples of social media data) might also be held by the SIA as BPD. I have seen, in this regard, pages 52 to 55 of the transcript from 17 October 2017.

[REDACTION]

- 6) The Tribunal's letter of 2 October 2017 to IPCO, and IPCO's response by email of 10 October, addresses the Claimant's question that is premised on the SIAs' use of "artificial intelligence" techniques.
  - a) In particular, by question c) of the Tribunal's letter of 2 October, the Tribunal asked: "*How are the Respondents' artificial intelligence techniques (including, for example, the use of algorithms, 'machine learning' techniques, data mining techniques and automated decision making) audited, if at all?*".
  - b) IPCO responded saying: "*The Commissioners conducted no audits of such techniques*".
- 7) I am able to address, in CLOSED, the extent of MI5's capabilities/techniques in the area of artificial intelligence ("AI") so far as that relates to MI5's use of/access to BPD and BCD. In relation to this question I have discussed matters with colleagues, within MI5, who have particular expertise in this area.
- 8) Based on my discussion with colleagues, I am able to say as follows:
  - a) So far as I am aware there is no precise definition of the meaning of AI. That is, in part, because AI describes an aspiration (that machines will be able to do tasks we have normally thought of as being beyond them and only possible for humans to carry out). Thus, AI is a term that is usually avoided by computer scientists.

- b) "Machine learning" is the technique that computer scientists generally use in order to deliver what are thought of as AI capabilities.
- c) "Machine learning" may be defined as a "*computer science technique by which a computer identifies the solution to a problem on the basis of a set of inputs rather than the solution being the outcome of a set of human generated rules within a computer program.*"
- d) A type of machine learning technique would be learning by example. An instance of this may be as follows. A computer could be given a dataset consisting of photographs of pathological examples. A human expert has identified which of them are, or are not, positive matches for a particular disease. The computer assesses the features of the photographs (comparing the diseased to healthy samples) and itself generates rules which it can then use to assess further samples without human interaction.
- e) The Tribunal's question to IPCO suggests that the use of algorithms, data mining techniques and automated decision making would constitute AI. However, those techniques are used in a very wide range of computer programs, many of which do not use any form of AI or machine learning techniques. Accordingly, we would not equate any of those techniques with "machine learning".

[REDACTION]

- 9) I have seen from page 88 of the transcript from 17 October 2017 that the Claimant's Counsel referred, in the context of criticising the oversight of queries, to "all the modern issues which arise in relation to profiling of entire populations and looking for behaviours". In CLOSED I am able to address that suggestion and describe the nature of the search techniques typically employed by MI5 investigators and the operational rationale for those techniques being employed.

[REDACTION]

- 10) In response to IPCO's email to the Tribunal of 10 October 2017 I provided an OPEN witness statement dated 16 October 2017. In that OPEN witness statement, when referring to the fact that the default position for searches was to search all BPDs in each of the two MI5 systems, I explained that this was in order to ensure that the searches are comprehensive and that something is not missed. In CLOSED I am able to provide further explanation. The nature of MI5's BPD holdings and the reason for searching our BPD holdings also informs the rationale for searching across a range of datasets. In particular, if we wish to search against an address to which a person has a link, then not searching all datasets risks intelligence failure. For example, we would then risk not identifying that that address arises in relation to, say, [REDACTION]

- 11) Further, the sheer volume and pace of the work that is undertaken by investigators is such that carrying out a series of partial and incomplete searches of our bulk data holdings would hinder effective and prompt analysis, in circumstances where reliable information is needed in time critical situations in order to respond national security threats. In order to fulfil MI5's statutory function of protecting the UK from threats to national security, and to provide assurance that we are doing so, it is critical for MI5 to use, to the best of its ability, the tools and data that it holds for the purposes of that function. On 17 October 2017, Andrew Parker (MI5's Director General) gave a public speech which referred to the current threat and also talked about the scale and pace of work in MI5 at this time. I am now able to exhibit a transcript of that speech as MI5 1.
- 12) The Tribunal ought, also, to be aware that the way in which the BPD search tool (in the system that is used by investigators, rather than the specialist analysts) returns results to investigators, itself minimises intrusion. Investigators are provided with a preview, so that they can determine whether or not that preview result justifies further human examination (and consequential intrusion). In the area which is used by specialist analysts the vast majority of search results will also provide a preview.
- 13) At pages 87 to 88 of the transcript, I have seen that the Claimant's Counsel referred to the lack of technical understanding, within IOCCO or IS Com, of the SIAs' processing techniques. [REDACTION] Further, and based on my own experience of dealing with the Commissioners over a number of years, I believe that the Commissioners had a good understanding of how, in practice, MI5 officers searched our BPD and BCD holdings. In particular, in June 2016 Sir Mark Waller was given a demonstration of the system that MI5 investigators use when accessing BPD.

[REDACTION]

Statement of Truth

I believe that the facts stated in this witness statement are true.

*MI5 Witness*  
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Dated: 14/11/17