

Witness: GCHQ Witness
Party: 3rd Respondent
Number: 11
Exhibit: N/A
Date: 19.02.18

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

ELEVENTH WITNESS STATEMENT OF GCHQ WITNESS

I, **GCHQ WITNESS**, Deputy Director in the Government Communications Headquarters (GCHQ), Hubble Road, Cheltenham, Gloucestershire, GL51 0EX, WILL SAY as follows:

1. I was until 12 January 2018 Deputy Director Mission Policy at GCHQ. In that role I was responsible for drawing up the operational policies that underpin GCHQ's intelligence gathering activities and for ensuring that they are complied with. I was in this role from January 2015, having previously served as Deputy to my predecessor. I have worked for GCHQ in a variety of roles since 1997.
2. I am authorised to make this witness statement on behalf of GCHQ. 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 the department.

3. I make this statement to set out the circumstances that led to the need to correct evidence given in my fourth OPEN Witness Statement dated 16th June 2017. It has also been necessary for me to correct information provided in my CLOSED evidence relating to other aspects of the operation of GCHQ's s.94 regime. I have notified the Foreign Secretary and IPCO of the necessity to correct that CLOSED evidence. Sir Adrian has expressed his concern in relation to this episode. I have apologised to the Tribunal for having provided incorrect evidence. In all cases I believed at the time that the evidence I gave was true. I have never sought to mislead the Tribunal. I repeat that apology here.
4. GCHQ is a large organisation, and the administration of the s.94 direction regime is treated as exceptionally sensitive, which means that visibility of such documents is kept strictly limited. As a result, the Mission Policy team, which manages GCHQ's warrantry requirements, has only had involvement with the practical operation of the s.94 arrangements when there was the need for a new direction, or a change in the data provided under an existing one (unlike, for example, RIPA warrants, there is no statutory requirement for s.94 directions to be renewed on a regular basis). Since GCHQ first started using s.94 directions to obtain BCD there have been periods of several years when no such need has arisen. Although the team collates a six-monthly report to the Foreign Secretary, drawing on inputs from operational areas on the value and use of data obtained under the directions, this does not involve detailed consideration of the directions themselves or the paperwork relating to them; rather the team focuses on the data obtained and the use made of it.
5. Day-to-day management of the acquisition and disposition of data under the s.94 arrangements is handled by a separate team within GCHQ. Following the identification of the deficiencies in my fourth OPEN witness statement relating to the submissions for s.94 directions, the directions themselves and the trigger letters sent to PECNs in response to those directions, Mission Policy worked closely with this team and with GCHQ's legal advisers to find all available documentation relating to s.94 Directions. The result of this activity was my tenth OPEN witness statement.

Statement of Truth

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

GCHQ Witness
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Dated: 19 February 2018

