

Monday, 13 April 2026

1
2 (2.00 pm)
3 **THE CHAIR:** Yes, Ms Langdale.
4 **MS LANGDALE:** Thank you.
5 Can we have please CPSE0000194, page 1. This is
6 your meeting, Mr Khalil, on 23 November 2023, the
7 internal meeting --
8 **A.** Yes.
9 **Q.** -- (*overspeaking*) -- please. We see, at page 3, comment
10 by Andrew Baxter, who I understand is a very senior
11 member of the Crown Prosecution Service.
12 **A.** Yes.
13 **Q.** He says:
14 "I felt the reports didn't have enough information
15 about the last 2-3 years of his life. He obtained a 2:1
16 and went on to a masters course. I don't have any
17 background, his participation on the course, tutor's
18 observations. He has come through it successfully at
19 the time of these events. The reports don't pontificate
20 this."
21 Mr Murphy points out various statements that have
22 been obtained since from the University. But it was
23 unusual, wasn't it, the level of intelligence and
24 engagement with the University during this time and
25 what's described as psychotic episodes since effectively

1

1 **Q.** You saw that at the time of preparing for the case?
2 **A.** I'm pretty sure I did.
3 **Q.** So if we look at the top of this page, the tribunal
4 find:
5 "Whilst [VC] ... denies any ongoing symptoms ... of
6 today's date, the tribunal accepts the Responsible
7 clinician's evidence that he was expressing delusional
8 beliefs until shortly before today's hearing and that
9 recovery is unlikely to take place over such a short
10 timescale."
11 Then (iii):
12 "Less than three weeks ago [VC's] ... delusions were
13 sufficiently severe and distressing so as to cause him
14 to seriously assault a police officer and require
15 physical restraint. This is the second time his illness
16 has resulted in someone else suffering a significant
17 injury. Whilst [VC] ... accepts these events occurred,
18 his evidence appeared to minimise them somewhat,
19 describing them as 'unfortunate' ... and the consequence
20 of 'poor judgment' which suggests a lack of insight."
21 That decision is given on the 23rd. If I can ask to
22 have on screen, please, NGPF0007677, page 1. The
23 decision is handed down effectively as "poor judgement,
24 doesn't understand insight".
25 Then we see NGPF0007677, page 1. He's been offered

3

1 2020? An unusual factor.
2 **A.** What was unusual?
3 **Q.** An unusual factor that he was able to be sufficiently
4 rational to engage in his course and succeed in his
5 course.
6 **A.** I don't agree with that. He had enrolled on a master's
7 course as I recall. He had been unable to continue with
8 that and was overwhelmed. He'd then had to downgrade
9 back to a bachelor's course. Yes, he was working as
10 a student through that, but that is not inconsistent
11 with having a mental disorder.
12 **Q.** Were you aware of the Mental Health Tribunal decision in
13 September 2021 in respect of him? I know we've sent it
14 to you, but were you aware at the time of that?
15 **A.** I honestly can't remember now, but I'm happy to assume
16 that I was.
17 **Q.** Well, let's have a look at it. Let's look at the
18 content.
19 **A.** Yes.
20 **Q.** So if we go to PAGR0000016. Page 5. This is part of
21 the decision of the tribunal given on 23 September.
22 **A.** Yes.
23 **Q.** So he has assaulted the police officer. Did you see the
24 footage of that assault?
25 **A.** I've seen that, yes.

2

1 a caution previously in relation to one of the earlier
2 events, and he emails Thursday, 23 September, eight
3 minutes past eight:
4 "Hello PC Collins,
5 "This is [VC] ... You offered me the option of
6 a conditional caution a couple of months ago.
7 I initially refused but would now like to reconsider.
8 Is it still possible to do so?"
9 That displays a very sophisticated understanding of
10 what had happened in the tribunal and what might have
11 been required; do you agree?
12 **A.** I don't see it as necessarily related to the tribunal,
13 I see it as him trying --
14 **Q.** It's the same date and it's not much later than the
15 decision which basically describes him as having poor
16 judgement and no insight into earlier events.
17 **A.** Yes, but this is him trying to evade problems with
18 regard to the police, I anticipate.
19 **Q.** Well, he'd been offered the caution earlier and wasn't
20 interested in it.
21 **A.** And now he's willing to take it.
22 **Q.** Yeah.
23 **A.** Yeah.
24 **Q.** So that's tactical, isn't it? It must be, he --
25 **A.** I dare say.

4

1 Q. -- wasn't willing to take it at the time.
 2 A. Yeah.
 3 Q. So again, you do, in the end -- let us be clear where we
 4 are going, we are going to go to the sentence in a
 5 moment, you set out the planning, he planned this --
 6 A. Yes.
 7 Q. -- there's no question. But this is planning, isn't it?
 8 It's thinking strategically. He's just been admitted
 9 and he's assaulted PC Pritchard and he's thinking of the
 10 next steps; would you agree that's what this appears to
 11 represent?
 12 A. Absolutely. There he is, September 2021, trying to
 13 negotiate his way out of possibly worse consequences for
 14 him, yes.
 15 Q. That can come down, thank you.
 16 You stated earlier that it's really necessary to
 17 have independent accounts and assessment, isn't it, to
 18 understand what somebody in VC's position is saying and
 19 whether it's true or not?
 20 A. It's what they look for. We look for.
 21 Q. In terms of the psychiatrists, one of the matters that
 22 you discuss in this meeting, which we can have back on
 23 the screen, CPSE0000194, page 4, we'll see your
 24 contribution at the end of page 4, is whether the
 25 defendant can malign or disguise, sometimes disguise

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1 relation to the knife and how he was minimising and
 2 doing exactly what had happened at the tribunal?
 3 A. Yes.
 4 Q. Looking for what he was saying about the voices in the
 5 same way that we know from his letter to the
 6 Investigatory Powers Tribunal what he was saying about
 7 voices and mind control, but we hear a lot in the
 8 proceedings, don't we, about threats to his family
 9 thinking they were going to die, et cetera?
 10 A. Yes.
 11 Q. Do you agree with me, when you trace those voices
 12 through and what they're saying, there is an emphasis
 13 that changes, actually, in the way it's represented?
 14 A. His account at different times can be inconsistent.
 15 Broadly speaking, he gave an account of behaviours which
 16 were regularly identifiable with mental ill health over
 17 at least a four-year period.
 18 Q. I'm not disputing the mental ill health, to be clear,
 19 Mr Khalil, we are agreed about that.
 20 A. Yes.
 21 Q. But it's the level of planning, and what happened on the
 22 day of 13 June we're particularly focusing on.
 23 If we look, please, at pages 10 and 11 of this
 24 document.
 25 A. Is this the internal conference?

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1 symptoms?
 2 We know, because we've seen the reports, as have
 3 you, for example, in relation to the knife and why he
 4 had the knife on the night of the attacks he gives
 5 different versions, doesn't he?
 6 A. Yes.
 7 Q. He says to Dr Shaffiulla that he was carrying all of
 8 his personal belongings that he had because he had no
 9 place to live, in other words "inadvertently they
 10 happened to be on me".
 11 He tells Dr McSweeney:
 12 "it was not unusual for me to carry a knife,"
 13 bringing a knife was "just an idea that got in there".
 14 A. Yes.
 15 Q. By the time he sees Professor Blackwood, he says:
 16 "He bought a knife in 2022 in despair and sought to
 17 resist the commands, thoughts." *(As read)*
 18 Do you agree they're very different emphases on the
 19 same question, aren't they: why did he have a knife?
 20 And actually the key one: why did he have a dagger on
 21 the night of -- *(overspeaking)* --
 22 A. He's given a different account. That's precisely what
 23 a psychiatrist would look to examine and what the
 24 lawyers would be looking --
 25 Q. Did you examine those different accounts at the time in

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1 Q. Yes, this is the internal conference. There's
 2 discussion at the bottom of page 10 and onto the top
 3 paragraph about the families seeing the psychiatric
 4 reports in controlled conditions. It doesn't look like
 5 you engage here on that topic. What's your
 6 understanding about whether families can take, and have,
 7 and read, in their own time, psychiatric reports in
 8 criminal cases?
 9 A. I would not expect them to have them.
 10 Q. Why is that? Are there rules preventing that or
 11 conditions? What's the reason for that?
 12 A. It's evidence in the case, it is not material that would
 13 be given to anyone outside those parties and the
 14 investigating personnel.
 15 Q. The victims for those purposes of the deceased are not
 16 viewed as parties --
 17 A. No.
 18 Q. -- or not sufficiently interested to be able to see what
 19 the psychiatrist is saying?
 20 A. No, very much interested, but they're not parties to the
 21 case.
 22 Q. But that's not law that prevents that; that's more of
 23 a convention, is it, that it's going too wide, or what's
 24 the position?
 25 A. I can't recall if there's an actual statutory ban on it,

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1 but it's never done.

2 **Q.** If there isn't a statutory prevention for that, do you
3 think there's an issue with that being done?

4 **A.** I think there are potentially many issues, yes.

5 **Q.** Case-by-case basis, somebody is sitting in a room for
6 a couple of hours with a hard copy document and taking
7 it back later. That couldn't be a problem, could it?

8 **A.** Yes, because you're dealing with issues of principle.

9 **Q.** If we look, please, at page 13 of this meeting, you set
10 out:

11 "We need some paragraphs in the addendum. Features
12 of the behaviour that are rational and thought through
13 ... case that pushes us to the hybrid order. Double
14 edged, driven ... [by', that should be] psychosis."

15 So your conclusion at this meeting, whilst you were
16 dealing with the acceptance of pleas, what were you
17 stating, just to be clear, about the need for a hybrid
18 order and planning?

19 **A.** I was stating that as far as I was concerned,
20 I understood that those of us prosecuting wished to seek
21 to obtain a hybrid order if it was properly achievable.
22 I understood that if I was one of the bereaved family
23 members, assuming it wasn't a murder conviction, and it
24 was manslaughter by reason of diminished responsibility,
25 they would wish there to be a public penal element to

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1 things the families had not been told, they didn't have
2 details of the events, they didn't want details of the
3 events. There was still obviously immense distress and
4 we didn't want to add further to that.

5 I wanted to ensure that I didn't, insofar as I could
6 avoid it, say or do anything to add to their anxieties,
7 and I think I asked to be prompted if I'd forgotten
8 something which they did want to hear about, so that's
9 why this agenda was largely created: to make sure that,
10 even if I didn't have it in front of me whilst I was
11 speaking, somebody could remind me if I hadn't covered
12 something, because I was asked if I would lead the
13 conference and the discussions, and obviously I saw that
14 that was sensible.

15 **Q.** How long was the meeting roughly; can you remember?

16 **A.** Sorry, with the families?

17 **Q.** Yes, this one, the 24th.

18 **A.** I think I was there for about an hour-and-a-half, and
19 then I, when I left, I think it continued for some time
20 after that.

21 **Q.** Can we go to the meeting notes then, please.
22 CPSE0000196 and if we go, please, to page 3. So --

23 **A.** Sorry, it has the times on the front. Okay.

24 **Q.** Were you aware that before this meeting, the families
25 did not know and were not aware that the possibility of

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1 sentencing, and so they would wish for there to be
2 a hybrid order and I was anxious, insofar as I could
3 achieve it, to attain any assistance that I could from
4 the psychiatrists, if it could be derived from there,
5 and also from the investigating officers, which we had,
6 we collated all sorts of materials about decision
7 making, planning and the like.

8 **Q.** That was DC Beddoe's report, was it? That one or
9 similar --

10 **A.** Well, not just that --

11 **Q.** A combination --

12 **A.** -- all the other materials that I could place before the
13 sentencing judge to say, "This is the Crown's position
14 in terms of the sentence for which we argue".

15 That's what I was hoping to achieve.

16 **Q.** That can come down, please. Can we have CPSE0000895,
17 page 2. Mr Khalil, that should be an agenda for your
18 meeting with the family on 24 November?

19 **A.** Thank you, yes.

20 **Q.** We see that's a significant agenda. There's a lot to
21 get through there, isn't there?

22 **A.** Yes. I think it, in fairness, reflected that which at
23 least one of the families wanted to know about. So
24 I think on the previous document, the internal email,
25 I was told, towards the end, that there were certain

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1 a plea to manslaughter would be accepted?

2 **A.** I can't remember how much I had been told that. If it's
3 in the note of the previous meeting, then that will
4 help.

5 I know I was asked to explain.

6 **Q.** What diminished responsibility --

7 **A.** What diminished responsibility was and the consequences
8 of that.

9 **Q.** So there was no reason for you to assume that they would
10 have known then. They needed to understand what
11 diminished responsibility was and -- (*overspeaking*) --

12 **A.** I assumed I had responsibility for explaining that, yes.

13 **Q.** So it's a huge amount of information to take in and take
14 on, isn't it?

15 **A.** Yes, it is.

16 **Q.** Page 3 you say:

17 "Explanations [in paragraph 3] have been sought and
18 found. The psychiatrists have had access to his mental
19 health records, his accounts to family members, all the
20 Prosecution papers - which describe in graphic detail
21 the events of that night."

22 Just so we're clear, Dr McSweeney had not seen all
23 of the prosecution papers, ie used and unused, he'd seen
24 statements and a summary, hadn't he?

25 **A.** Yes, he had.

12

1 Q. He hadn't seen VC's custody record or video footage from
 2 the custody suite. Yes, is that right?
 3 A. Yeah.
 4 Q. Neither of them had had sight of the video footage of
 5 the assault on PC Pritchard, had they, which might have
 6 enabled them to test VC's account about that? Can you
 7 remember?
 8 A. Sorry, what was --
 9 Q. You know, the footage, the body-worn footage of his
 10 attack on the police officer, at the time the Mental
 11 Health Act warrant was being executed, they hadn't seen
 12 that either, had they, the psychiatrists at that time?
 13 A. If you tell me they hadn't, then I don't disagree with
 14 you.
 15 Q. We know the 101 calls or the calls to the police from
 16 Sebastian they hadn't heard. Would that normally not
 17 arrive in the context of a prosecution case of this
 18 nature that they would hear audio calls unless it was in
 19 relation to the index offences?
 20 A. It would be unusual. There's such a mass of material,
 21 I don't see that those would have added to the awfulness
 22 of what they were provided with.
 23 Q. Obviously, it hadn't been obtained so they weren't aware
 24 of the statement either for the 2014/2015 mental health
 25 difficulties that his flatmate or housemate shared --

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1 which would be fruitless from everything I had read, and
 2 I was anxious not to divert the attention of the
 3 families from that which really needed to be covered in
 4 this meeting.
 5 So it was, as I say, shortly, a very short answer to
 6 what was quite a long and could have been quite a long
 7 and complex answer.
 8 Q. Well, I suppose, the answer, then, from what you
 9 understood was: "Yes, we can, but, no, the testing
 10 hasn't been done. It's not necessary."
 11 A. It's not necessary and there is here, it's been
 12 considered and there is no suggestion of drug-induced
 13 psychosis, and then explain why.
 14 Q. But in --
 15 A. I was conscious I was dealing with certainly two medics,
 16 and what I didn't want to cause, in this meeting, which
 17 was the first time I'd met with these particular
 18 families, was to cause them to become sidetracked by
 19 other enquiries which were going to go nowhere, and
 20 I knew they would go nowhere, and so I really wanted to
 21 ensure that we focused upon that which they absolutely
 22 needed to know and understand in this very first
 23 meeting. So that's why I was really quite short in my
 24 response.
 25 Q. But it was -- was it -- I'm presuming it was a mistaken

15

1 A. No --
 2 Q. -- with the Inquiry.
 3 A. -- but they had the better part of four years of
 4 material.
 5 Q. If we go, please, to page 5, the top paragraph.
 6 Mr Hendy:
 7 "My Internet dropped out. Have there been
 8 toxicology reports done regarding whether he took
 9 substances before? Can we rule out that this is drug
 10 related paranoid schizophrenia?"
 11 A. Yes.
 12 Q. You say:
 13 "Shortly, the answers are yes and yes. There is no
 14 suggestion of a drug induced psychosis. Thank you for
 15 mentioning it."
 16 Was that an assumption by you re the drug testing,
 17 that you thought there had been drug testing? You
 18 clearly say yes to the second question, but the drug
 19 testing; you have been asked about whether that has been
 20 done.
 21 A. I knew he'd been asked to provide intimate samples and
 22 declined that. So I should have answered it more fully,
 23 I suppose, and explained that a senior officer had gone
 24 through the process of asking for samples and so on.
 25 I was concerned that this was an area of investigation

14

1 belief, though, that something had been done around
 2 toxicology or were you just not focusing on the fact
 3 that as we are reading it now and you would agree, it
 4 looked like you were saying yes to both; in other words,
 5 yes, they've done the testing. No one corrected you in
 6 the meeting.
 7 A. No, it's inelegantly phrased. I absolutely take that on
 8 board.
 9 Q. Because in fact, you know, toxicology became a very
 10 important issue, and --
 11 A. Sorry, when?
 12 Q. For the families and with the police looking at whether
 13 toxicology could have been done or should have been done
 14 with hair strand testing. Were you aware of that? Were
 15 you ever consulted about that?
 16 A. I don't recall that I was, but I know from other
 17 experience that testing a hair or hairs isn't going to
 18 provide a toxicological assessment of whether, on the
 19 day, there was any drugs involved. It isn't that
 20 precise, and it can't be.
 21 Q. I'm sure, but what about credibility? We agree, don't
 22 we, that defendants are lying or not and the reasons for
 23 lies are all part of the analysis, so it would be
 24 relevant to credibility, wouldn't it? Even if there had
 25 been longer term use, not indicative of the day,

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1 lifestyle, lies, it's all relevant, isn't it,
2 potentially?
3 **A.** Credibility already was identified by everyone concerned
4 that he's perfectly capable of giving conflicting or
5 untrue answers upon enquiry. So if he'd had some minor
6 drug prior to the events and that affected his
7 credibility, it wouldn't have affected any of the
8 decision-making processes.

9 **Q.** If we look please at page 3, go back to page 3, second
10 paragraph, and when you're describing the arrest you
11 then say:

12 "He then parked up and allowed his arrest. This
13 seems like extraordinary behaviour."

14 Nobody corrects you there and then, but had you
15 watched that arrest or did you know that in fact it
16 wasn't like that, he didn't just park up and allow his
17 arrest?

18 **A.** His vehicle was brought to a stop.

19 **Q.** And he tried to reverse it over an officer who was
20 behind him and he had a knife with him that they
21 believed he intended to use to attack them. So this
22 wasn't somebody brought to a stop and passively handing
23 himself over or in or anything like that. But no one
24 corrected you. Did you --

25 **A.** No, I -- it goes back to having been told the family did

17

1 **A.** No.

2 **Q.** -- the end of the sentence. Because if we go to
3 page 10, Mr Webber picks that up, doesn't he. He says:

4 "I thought the police had to stop the van?"

5 "We were told he resisted."

6 **A.** Well, there's a bit above that.

7 **Q.** Well, "He stopped and allowed his arrest."

8 **A.** "He stopped and allowed his arrest. We were told he
9 resisted."

10 So there I'm informed that they had been told
11 something of the events. So I say:

12 "The van was stopped, and he was tasered ..."

13 **Q.** Would it have been better to say: what information do
14 you have, how much more information do you want? Rather
15 than second-guessing how it might land and impact and
16 not being as accurate.

17 **A.** It took me an hour and a half to explain the information
18 that I knew was being asked for from the conference I'd
19 had the previous day. To have started by asking "Can
20 you tell me everything you know", and then "Do you want
21 to know more?" I just don't know where we'd have gone
22 with that. What was absolutely paramount, as far as
23 I could see, was that families understood the
24 significance of the process that we were involved in by
25 way of trying to make the decisions that were

19

1 not have detail of the events of the day.

2 **Q.** Well, if --

3 **A.** How the vehicle came to a halt, why it came to a halt,
4 wasn't going to affect and didn't affect the examination
5 of him or our conclusions as to his behaviour. And this
6 was a person who attacked officers, sought to attack
7 them on arrest and detention, and had just killed and
8 tried to kill three people. The nature of the car being
9 stopped I'm afraid was not a relevant factor and was
10 never going to be.

11 **Q.** Well, you've introduced it. You begin here with:

12 "... took a vehicle ... drove into further victims
13 ... nobody knew his motive ... then parked up and
14 allowed his arrest ... seems extraordinary ..."

15 As though that is also part of something
16 extraordinary, that he just volunteers himself or hands
17 himself up. That's how I read it, but if that's unfair,
18 tell me.

19 **A.** Well, I think that is unfair, because I was describing
20 him using a dagger on people unknown and then taking
21 a vehicle and using that as a weapon, effectively, to
22 attack people. That's what I was describing as being
23 unusual.

24 **Q.** Right, so not that he allowed his arrest. That was
25 just --

18

1 forthcoming and potential consequences of those
2 decisions. And that's why this conference was, as it
3 were, set up for me to lead it, and I hoped in that
4 attempt that I set out explaining the law, with all its
5 complexities but in terms of that they would understand,
6 and then the consequences by way of sentencing also in
7 a way that could be understood. Because I realised it
8 could be overwhelming.

9 **Q.** If we look at page 13, Mr Hendy also asks:

10 "... psychiatric reports, can the families get
11 copies? Open justice, diminished responsibility is
12 a decision effectively taken by lawyers and the
13 [families] ... don't get to see. The doctors doing the
14 reports will have explained to the patient they may be
15 disclosed in court. Court cases are hard for the
16 families to understand. It might assist the other
17 families."

18 So he raises that issue head on. I don't know if
19 you were there when that was raised by him, were you?

20 **A.** I'm not sure. If we go back or forward we'll see.

21 I can see the answer given, not by me, is --

22 **Q.** Did you leave that meeting earlier than others or not?

23 **A.** Yes, I did. There's a time marking of me leaving. It's
24 about an hour and a half in.

25 **Q.** I think you're there before at page 12, but either way

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1 a reasonable request and reasonable for him to be
 2 there --
 3 **A.** Oh hang on, yeah -- there I am, yes.
 4 **Q.** Reasonable request and reasonable for Mr Hendy to be
 5 there for the meeting, do you agree, to support them?
 6 **A.** I would have expected Mr Hendy to know that they
 7 wouldn't be given the psychiatric reports.
 8 **Q.** I'm still not clear as a matter of law why they couldn't
 9 be, actually, but we can no doubt look at that later.
 10 **A.** We can look that up later.
 11 **Q.** But you say as a matter of convention they're not, so
 12 perhaps he recognises -- we'll be hearing from him in
 13 due course -- how much upset that causes and people
 14 ought to have an opportunity to understand the
 15 information and to challenge it where they want to.
 16 **A.** I can't answer for him.
 17 **Q.** That can come down, please.
 18 Can we go, please, to CPSE0008516, page 1. This is
 19 an email from your junior having spoken to you, and
 20 further to that meeting, and we see -- well, you tell
 21 us. What was the decision, then, in terms of getting
 22 further material?
 23 **A.** Sorry, just a minute. This is -- is this the email
 24 exchanges as to whether we instruct Dr Latham.
 25 **Q.** Yes, would you rather see all of them and then respond

21

1 achievable within that timeframe, because every -- on
 2 every occasion when a date is pushed back, all those
 3 involved experience anxiety and we didn't wish to add to
 4 the concerns of those involved already.
 5 **Q.** Well, in this case the anxiety was by the case
 6 proceeding at that pace, so we can break fixtures, can't
 7 we, where we need to and -- (*overspeaking*) --
 8 **A.** We can do, with all the trauma that that causes to the
 9 families involved. Because you can't simply slot in
 10 a case a couple of weeks later; it just doesn't work
 11 that way. Months might then go by before the case could
 12 be re-listed or worse than that, and it really isn't
 13 satisfactory to willingly embark on something that one
 14 anticipates will extend the duration of concern.
 15 So we considered all the possibilities that seemed
 16 realistic to us, and --
 17 **Q.** Shall we look at the emails --
 18 **A.** Yes.
 19 **Q.** -- (*overspeaking*) -- you wanted to see all three, so if
 20 we go to CPSE --
 21 **A.** Just in the last paragraph there's one point of
 22 importance, because we understood that one or more of
 23 the families was considering, as we see there, obtaining
 24 an independent expert. And we realised that they simply
 25 didn't have the authority to do that in the sense that

23

1 in one go?
 2 **A.** That would be helpful, yes. Thank you.
 3 **Q.** Here's the first one, then. Have look there, there's
 4 discussion about CPS being "minded to instruct an expert
 5 in order to reassure the victims that all that could be
 6 done has been done", and "a middle ground might be to
 7 limit the ambit of the instructions to a review of the
 8 available material and existing reports ..."
 9 **A.** Yes, thank you.
 10 **Q.** And we see further down, this would be of benefit, "that
 11 it would address Dr Kumar's concern ..."
 12 Just to be clear, all the families have these
 13 concerns, don't they?
 14 **A.** Yes, not limited to one.
 15 **Q.** So let's talk about family's concerns, "but also ought
 16 to be achievable in a much shorter timeframe than a full
 17 assessment, which would necessarily include an interview
 18 with the Defendant ..."
 19 The timeframe, just briefly, custody time limits,
 20 was this the concern about the timeframe? We hear it
 21 raised in terms of what can next be done.
 22 **A.** Not in terms of custody time limits, no. I mean we had
 23 proceedings under way with a timetable set by the --
 24 what could have been the trial judge, and we were
 25 concerned that if we were to have a trial it should be

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1 the papers upon which such an expert would wish to be
 2 instructed wouldn't be made available to them. So we
 3 had that in mind as part of our decision-making as to
 4 whether, bearing in mind they would be disadvantaged in
 5 trying to pursue that, we should, in these particular
 6 circumstances, take that burden upon ourselves and
 7 effectively do it for them, which is why partly we
 8 did it.
 9 **Q.** So if we do take that down and go to the CPSE0008516,
 10 page 3. This is your junior's email.
 11 **A.** Yes.
 12 **Q.** Your senior junior, Mr Ratliff.
 13 **A.** Yes.
 14 **Q.** Setting out options (i) to (iii):
 15 "... seek to adjourn the hearing on Tuesday, on the
 16 basis the Prosecution require time to properly liaise
 17 with the victims;
 18 "(ii) ... Defendant enters his plea ... we inform
 19 the Court that whilst we do not anticipate there will be
 20 a trial, we require further time (perhaps 2 weeks) to
 21 notify the parties of a final decision;
 22 "(iii) The Defendant enters his pleas on Tuesday and
 23 we inform the Court that those pleas are acceptable, and
 24 deal with any fall-out from the families after ..."
 25 And we see your fourth option if we go to page 2.

24

1 Your email. Sets out option (iv). So tell us what your
 2 view was.

3 **A.** Sorry, where are ...? Obtaining the opinion of the
 4 fourth expert. That's what we did.

5 **Q.** Yes, and do you say:
 6 "Obviously we will need a timeframe within which the
 7 fourth expert considered he/she could assist ..."

8 **A.** Yes.

9 **Q.** "... plus time f[or] the families to be told of the
 10 conclusions ..."

11 This case was enormous, it was served in unused
 12 material. Was it feasible that anyone could do anything
 13 more than a simple read through of the psychiatrist's
 14 report and some key facts in that level of time?

15 **A.** It would depend on the level of expertise of the person
 16 we instructed, which is why we went to --

17 **Q.** However expert we are, we have to prepare, don't we, and
 18 read the documents?

19 **A.** Yes, but that's why we sent it to someone who we
 20 believed would be able to do it and, furthermore, if
 21 not, would say so.

22 **Q.** We know, if we can continue with emails, that the
 23 families were told that the prosecution were not going
 24 to accept pleas at that stage.

25 If we go to HMCP0000352, page 2.

25

1 **A.** Yes.

2 **Q.** Can we go, please, to another document, CPSE0000199,
 3 page 1. This was a meeting you had with some of the
 4 bereaved families, including Elaine Newton on this
 5 occasion and one of Ian Coates's sons, James Coates and
 6 it followed the preliminary hearing and you covered some
 7 of the issues surrounding diminished responsibility,
 8 et cetera?

9 **A.** Yes.

10 **Q.** You explained the purpose of Dr Latham's review. How
 11 did you explain that at this meeting?

12 **A.** Well, I can't tell you verbatim, obviously, but he'd
 13 been instructed to conduct a review of the work that had
 14 already been done by his predecessors to ensure that
 15 everything that should have been covered had been
 16 covered, and that the conclusions were secure and if
 17 they were not, either the work hadn't been done
 18 correctly or the conclusions were not sufficiently
 19 robust, then he was to say so.

20 If he could comment himself upon the partial
 21 defence, well, he was going to be invited to do that,
 22 but the real purpose of it was to see whether that which
 23 had already been done was sufficiently robust for us to
 24 proceed and form a judgement upon it.

25 **Q.** At this point, were you aware whether the survivors of

27

1 **A.** Thank you.

2 **Q.** That's one of the FLOs at the bottom sending a letter to
 3 Dr Kumar and Dr Sinead O'Malley-Kumar setting out:
 4 "The CPS will not accept those pleas tomorrow.
 5 Their position will be that they will need further time
 6 to consult both with the bereaved families and victims
 7 and for further psychiatric analysis."
 8 Then if we see page 1, we see letter from Dr Kumar:
 9 "It is of much comfort to us that the plea will not
 10 be accepted at this time."
 11 If I can take the point shortly, you get a number of
 12 documents from Dr Kumar setting out the family's
 13 concerns with care --

14 **A.** Yes.

15 **Q.** -- articulate, reasonable, every one of them, reasonable
 16 to raise, and appropriate?

17 **A.** Yes.

18 **Q.** That can come down, thank you.

19 There was no question that however difficult it was
 20 for these families -- and it's very clear how difficult
 21 it was -- the communication with you was both
 22 respectful, professional, and inviting further
 23 consideration of the issues that had been raised.

24 **A.** Yes.

25 **Q.** Genuinely raised and genuine concerns?

26

1 the driving attacks, the attempt murder victims, were
 2 aware of any of these discussions around diminished
 3 responsibility, pleas, the trial, VC's previous
 4 interactions with the police? Any of these things.
 5 What did you understand the level of communication was
 6 with those victims at this time?

7 **A.** I don't think I'd been asked to have any meetings with
 8 them and so my broad understanding was that they would
 9 have one or more officers liaising with them, and they
 10 would have been told that which was appropriate. But
 11 I wasn't privy to what they knew or were being told.

12 **Q.** That can come down, please. Thank you.

13 Can we have CPSE0008127, please, and this is an
 14 email from you, and it makes reference -- if we just
 15 have the whole page on the screen, I think that's fine
 16 for this, it's large enough.

17 **A.** Thank you.

18 **Q.** You refer to documents being sent to Dr Blackwood with
 19 whom you spoke "on Friday evening". They were documents
 20 that you were preparing as prosecution lead counsel; is
 21 that right?

22 **A.** I think that's right.

23 **Q.** It refers to a conversation with him on Friday evening.
 24 Can you tell us, I don't see a note anywhere of that
 25 conversation, so can you remember now for us what that

28

1 was about, please?
 2 **A.** Well, we were anticipating a sentencing hearing,
 3 I think, by now, yes. And I was concerned that he was
 4 going to have to produce a short report, oh there we go,
 5 in the last paragraph, I did warn him he'd been asked to
 6 prepare a short joint report or addendum report to deal
 7 with sentencing. That was the focus of my conversation
 8 with him. And that he should understand that the Crown
 9 would be seeking and the families would be seeking
 10 a hybrid order, and that was going to be the focus of
 11 our submissions to the court and I wanted him to
 12 understand that that was our position.

13 Because I was conscious that he and other
 14 psychiatrists regularly argue for the imposition of
 15 a hospital order with a restriction, because of their
 16 reservations about the regime surrounding the imposition
 17 of a hybrid order. So I was seeking to ensure that he
 18 had understood the importance from the Crown and the
 19 families' perspectives of the alternative form of
 20 sentencing.

21 **Q.** Did he respond in any way to that? What did he say to
 22 you about that?

23 **A.** Well, he made it plain that he well understood that, and
 24 that was within his understanding, not just from this
 25 case, but from others also. And somewhere there's an
 29

1 This is your meeting on 15 January 2024, to take the
 2 families through what's happening "next week".

3 Did you have any idea why Ian Coates's sons weren't
 4 at that meeting or not or did you just get the agenda
 5 and who was going to attend?

6 **A.** I was simply told who would be there and was asked
 7 effectively to chair the meeting again.

8 **Q.** If we go to page 2, please, you refer here to the fact,
 9 in this second paragraph:

10 "Those representing the defendant wish to avoid
 11 playing key CCTV in the court room."

12 **A.** Yes.

13 **Q.** "We have not been provided with the reasons, just that
 14 they object."

15 Is that something that you have come across before:
 16 that it's the defence in these circumstances that are
 17 particularly concerned it's not played?

18 **A.** Yes.

19 **Q.** You were asked further about that --

20 **A.** Sorry, not played in the courtroom. They don't object
 21 to the judge seeing the material; they are objecting to
 22 it being played in the public arena.

23 **Q.** Why was that in this case that VC was objecting to it
 24 being played in the public arena?

25 **A.** They're very distressing.

31

1 email where I asked, I think, Alan Murphy to make sure
 2 that --

3 **Q.** That he was instructed?

4 **A.** That he was instructed --

5 **Q.** I saw that --

6 **A.** -- and he got a short response saying, "I would do this
 7 in any event". So it was all part of that same
 8 conversation, whether in writing or orally, to try to
 9 ensure that if we could, we had the best material to put
 10 before the sentencing judge to achieve that which we
 11 knew the families would be arguing for.

12 **Q.** Did you have more than one conversation with
 13 Professor Blackwood over the phone or just one? There's
 14 reference to, for ease of your reference, CPSE0008005,
 15 page 1. From yourself to Alan Murphy:

16 "... I think the judge will want it in another
 17 report ...

18 "I did speak to him about the management of the
 19 families' expectations, so he may be willing to add
 20 something to his previous writings."

21 Is that the --

22 **A.** I think that's the -- I only had one conversation of any
 23 substance with him, and then I met him at court in the
 24 usual way.

25 **Q.** That can come down, please, and can we have CPSE0000212.
 30

1 **Q.** So if we go to page 10, Dr O'Malley-Kumar asks you about
 2 that and says, for very obvious reasons:

3 "We don't want images released into the public
 4 domain."

5 **A.** Yes.

6 **Q.** "The defence are not wanting it to played in open court
 7 to reduce the public disgust ... protect the defendant
 8 and the ugliness of his actions being reportable and
 9 presented in court. They are trying to protect their
 10 client. We don't want [it] ... to be on the news, I
 11 will not be able to watch it, but the defence are trying
 12 to protect their client. Can we agree it should be
 13 played in court? So it can be reported and the public
 14 know what he is capable of?"

15 You comment -- your opinion is, in effect, that:

16 "We can convey ... in words and knowing [the judge]
 17 ... has watched it. I don't think it will make such
 18 a difference."

19 **A.** Yes.

20 **Q.** Just as a matter of formalities, is it possible for
 21 something to be played in court for those present in
 22 court and the media present in court but never
 23 broadcast?

24 **A.** It is, but the principle is if something has been played
 25 in court or produced in court, then it's available to be
 32

1 distributed through media outlets.

2 **Q.** So was that your concern about that? Because --

3 **A.** Yes.

4 **Q.** -- undoubtedly the judge seeing it in his room doesn't

5 have the same impact that Dr O'Malley-Kumar was raising:

6 that the public might wish to know or be shocked by the

7 contents of that?

8 **A.** Yes, but the public isn't passing sentence here. The

9 importance of this material is that the person passing

10 sentence does see it and understand it. The public

11 doesn't need to see it. It can have it described and

12 understand the ghastliness of those events, which is

13 what's happened, but putting this material in -- if it

14 went into the public domain it would forevermore be in

15 the public domain, and I know from other cases the

16 distress of years later material still being viewed and

17 commented upon on social media and the like is

18 appalling. So, prosecuting or defending, we seek to try

19 to limit the possibility of this sort of evidence being

20 promulgated for evermore.

21 **Q.** Did the fact that Grace's mother was even prepared to

22 contemplate that bring home to you how important it was

23 for her that the gravity of these offences were

24 recognised?

25 **A.** Of course. But there was no question at all of not

33

1 and speak to him subsequently.

2 As I addressed them, I invited any questions to be

3 asked of me, and some perfectly sensible and good

4 questions were asked of me, which helped me to realise

5 that actually they were following what was being said in

6 this conference. And that further reassured me that if

7 he had failed to appreciate something, they would be

8 able to convey it to him later in a manner or style best

9 suited to his level of understanding.

10 So in the time available, I did what I could.

11 **Q.** I think you told the HMCPSI interviewers that they were

12 asking you about a day in the life of someone in

13 a psychiatric hospital?

14 **A.** That's right, yes.

15 **Q.** And they were keen to know about what that would look

16 like --

17 **A.** Yes.

18 **Q.** -- and whether he would ever be released?

19 **A.** They were and they had a perception, potentially, but

20 it's entirely commonplace, that he would simply be there

21 playing pool or snooker as he pleased on a day-to-day

22 basis and it would be quite a comfortable environment.

23 And I was able to, as it were, reassure them that that

24 was very far from the reality of being kept on

25 a hospital ward in high security circumstances, under

35

1 recognising the gravity of these offences. I said in my

2 opening note --

3 **Q.** We'll come to your note. I'm going to come to your

4 note.

5 **A.** -- that our case was that this was at the very highest

6 end of offending.

7 **Q.** I'm going to come to this. This can come down, please.

8 CPSE0000216, page 1, and this is a meeting that you have

9 with Wayne Birkett and Tracey Hodgson.

10 **A.** Is this after sentence?

11 **Q.** Yes.

12 **A.** Yes, thank you.

13 **Q.** What steps did you take, or were taken, as far as you

14 were concerned, to enable Wayne Birkett, who had

15 a serious brain injury, to follow what was being said

16 and done at this point?

17 **A.** In this conference?

18 **Q.** Yes. Or in relation to the whole proceedings, in fact.

19 **A.** Well, in my dealings with him, I was introduced to him

20 and family members. I understood his clear

21 disadvantages from his injuries. I spoke as slowly and

22 carefully as I could. I was conscious that he would

23 inevitably find it very difficult to follow what was

24 being said, but was reassured that he had family members

25 there who would be able to understand what I was saying,

34

1 the potential for forced medication. Such people are

2 not free to go about their time as they wish. I've

3 represented others when defending who have been subject

4 to similar orders, and I know that they, in periods of

5 lucidity, do all they can to try to get out of that

6 hospital environment because it is so restrictive.

7 So I've explained this to them in a way that I hope

8 led them to appreciate that this was not letting him off

9 with some easy disposal. Far from it.

10 **Q.** Sharon, one of the other victims of the van attack, was

11 not able to be in court, she wasn't leaving her home at

12 that time.

13 **A.** Yes.

14 **Q.** Is CVP or Teams available into Nottingham court

15 number 1? Could that have been arranged for her to see

16 the sentencing process had she wanted to? Is that

17 something that was ever discussed within the CPS?

18 **A.** It wasn't discussed with me, so I don't know what

19 discussions, if any, there were.

20 **Q.** But courts can manage CVP, I think, in Nottingham --

21 **A.** Yes.

22 **Q.** -- by Teams or the others for --

23 **A.** I dare say.

24 **Q.** -- and even without seeing into the room, so you could

25 avoid seeing the defendant, if you didn't want to. You

36

1 could have audio only. So there are ways -- adjustments
 2 that can be made and measures taken for participation.
 3 **A.** Not suggesting otherwise.
 4 **Q.** So in this situation who would have been responsible for
 5 that, the discussion for those measures? Is that the
 6 CPS? I'm not suggesting it would have been yours
 7 necessarily. Who would take that on, to have
 8 conversations with victims about participation in the
 9 hearing itself?
 10 **A.** I would have thought it would start with the liaison
 11 officer, whoever her contact was, and if necessary be
 12 put through to others. But I wouldn't be a party to
 13 that.
 14 **Q.** That can come down. You prepared a prosecution opening
 15 note. You referred to it earlier.
 16 **A.** Yes.
 17 **Q.** Can we go to some parts of it, please. CPSE0000475.
 18 And you identify in this opening -- and we'll go through
 19 them, please -- various features that the prosecution
 20 brought to the court's attention. If we can go to
 21 page 6, please, paragraph 40. What did you say was the
 22 significance in terms of planning or otherwise, the
 23 significance of that conversation was or is?
 24 **A.** Well, that he realised that he had already done
 25 something very serious. So it went with planning, it

37

1 **A.** Yes.
 2 **Q.** You knew she had jumped out of the window.
 3 **A.** Yeah.
 4 **Q.** And been seriously injured; did you know that?
 5 **A.** I think I understood that, yes.
 6 **Q.** Paragraph 73, you refer to:
 7 "D's family had become concerned about [his] ...
 8 Mental health again. Themes included voices telling him
 9 his family members would die."
 10 What were your sources for that or evidential basis
 11 or that? I appreciate it appears here and there, but
 12 that --
 13 **A.** I think it came from what his brother had said. It came
 14 from the interviews with him, with the psychiatrists.
 15 **Q.** So psychiatrists and brother.
 16 **A.** Yes, there may have been other sources too, but ...
 17 yeah.
 18 **Q.** Paragraph 77 you refer to:
 19 "In mid-January ... he was involved [with] ... an
 20 altercation with a flatmate."
 21 Have you seen that video or footage of the flatmate
 22 Christopher being held in a headlock by VC and,
 23 subsequent to that, him -- it's referred to in the
 24 medical notes as the "hostage situation" where he lets
 25 one flatmate go out --

39

1 went with an understanding that what he had done was
 2 fundamentally wrong.
 3 **Q.** That can come down, thank you. Paragraph 68, which is
 4 page 10. This refers to the events on 23 May 2020 and
 5 him coming back to the apartment, knocking down another
 6 door and arrested for criminal damage. That indeed is
 7 what the arrest referred to. The Inquiry has heard
 8 evidence from the woman who jumped out of the first
 9 floor window injuring her back and requiring surgery, so
 10 very serious injuries.
 11 Were you aware of her statements or her position at
 12 the time of putting that together? And would that have
 13 made any difference to include that?
 14 **A.** It wouldn't have made a difference to the opening or the
 15 sentence, but I think I mentioned it in some other
 16 document that I prepared, not necessarily for the judge,
 17 but I was aware of it.
 18 **Q.** Paragraph 73 --
 19 **A.** Is it in the sentencing note as to --
 20 **Q.** We're going to go to that as well.
 21 **A.** Right, okay.
 22 **Q.** You'll have a chance --
 23 **A.** It may be in there, but there's mention of it in one of
 24 the documents.
 25 **Q.** But you knew about that?

38

1 **A.** Yes.
 2 **Q.** -- and he is circling in the space and doesn't let the
 3 two of them?
 4 **A.** I think I did at some point but --
 5 **Q.** Do you know now when you had sight of that?
 6 **A.** No.
 7 **Q.** If we see at paragraph 83, reference to the Arvato
 8 Warehouse.
 9 **A.** The place of employment, yes.
 10 **Q.** Yes, "D attacked two employees".
 11 **A.** Yes.
 12 **Q.** Again, no details of the injuries there on those two
 13 people. Were you aware of those or not? Can't you
 14 remember?
 15 **A.** Yes, I think that was -- I think there were statements
 16 relating to that, or police reports.
 17 **Q.** Paragraph 92. References to SIM cards. You're very
 18 detailed in how he's handling the SIM cards.
 19 Can you just tell us why you say that's a feature of
 20 planning and what that represented, this movement of SIM
 21 cards?
 22 **A.** Yes, this was one of the pieces of evidence that we
 23 deployed to try and demonstrate to the judge that there
 24 was planning, there was an attempt to avoid detection,
 25 hallmarks of behaviour that might increase his level of

40

1 retained responsibility when the judge came to
2 addressing the appropriate type of sentence.

3 So removing the SIM card, using one he hasn't had
4 before; same with clothing, changing his clothing,
5 deflecting or avoiding detection. These features which,
6 as it were, sat aside from the psychosis that was
7 driving his behaviour but showed that simultaneously he
8 was capable of taking steps which to a layperson look
9 entirely rational but are capable of sitting within and
10 alongside the psychosis that is the dominant feature of
11 his behaviour.

12 These are bits of information which could cause
13 a judge to say, "Therefore his level of retained
14 responsibility should be not at the lower level, but
15 medium or higher, and therefore increase the possibility
16 of passing the hybrid order."

17 So that's why I went into detail about that.

18 **Q.** You continue at page 15. You set out the defendant's
19 movements.

20 **A.** Yes.

21 **Q.** Phone calls to his brother again, the things he's saying
22 to them: dissociate yourself from me, if anything
23 happens don't come and see me in hospital.

24 **A.** That's the same point, really, that I've just been
25 making.

41

1 just take down the large -- thank you. A number of the
2 paragraphs have at the end of them a bold reference.
3 Those were references to the material that was available
4 to be cross-referenced and the consequence of events was
5 being put up on screen, as it were, so the judge could
6 follow for himself the passage of the defendant around
7 the city centre and, as it were, co-relate what I was
8 saying with what was visible on screen to ensure that he
9 fully understood the consequence of these events.

10 **Q.** We see at paragraph 114 you've referred, and again
11 earlier, to the clothing that was being worn?

12 **A.** Yes, yes, agree.

13 **Q.** You refer again to the phone at paragraph 116, and you
14 ... sorry, just at 116, why do you say, "D clearly knew
15 the nature of what he had done"? You've referred to it
16 before, but just to make that clear.

17 **A.** Well, he knew that he had stabbed Grace and Barnaby and
18 likely killed them. That accords with the assessment of
19 the psychiatrists save one who postulated possible
20 insanity, which we rejected, that he knew the nature of
21 that which he had done.

22 So one of the three factors effectively of
23 diminished responsibility was set aside and we were
24 addressing the judge saying given this man knew the
25 gravity of the offences he was committing, he knew right

43

1 **Q.** At the bottom, "Elias described his brother as sounding
2 calm."

3 **A.** Yes.

4 **Q.** What did you take from that, in terms of what you were
5 talking about retained responsibility, if anything?

6 **A.** Just seeking to describe the defendant at that time, of
7 his brother understanding or believing that what was to
8 become the defendant didn't sound as if he was about to
9 threaten other members of the public, but sounded of
10 calm demeanour. So despite that, was capable of
11 inflicting this -- these appalling offences.

12 **Q.** If we look, please, at paragraph 100, more reference to
13 switching off his telephone --

14 **A.** Yes.

15 **Q.** "off again". 106, hiding the area --

16 **A.** Yes.

17 **Q.** -- "of a shadowed pedestrian walkway".

18 And you say, 107:

19 "... clearly formed his plan to hide and wait for
20 suitable victims to arrive. This was premeditated and
21 calculated behaviour designed to provide him with the
22 maximum element of surprise in the attacks that
23 followed."

24 **A.** Whilst this was -- whilst I was addressing the judge on
25 this document, a number of the paragraphs, if we could

42

1 from wrong, he knew he'd assaulted, probably fatally,
2 this is why his level of retained responsibility should
3 be at a higher level. This is all material we were
4 seeking to deploy with that purpose in mind.

5 **Q.** Your sentencing note -- that can come down and if we can
6 have, please, CPSE0000486, page 15. Perhaps not have
7 one -- starting at page 15 -- not one paragraph
8 highlighted, but just to scope through the document,
9 please.

10 **A.** Yes.

11 **Q.** 57, 58, just gently go through the document, please,
12 Lawrence and we see what do you set out again, and what
13 appears to be relevant?

14 Over the page, page 16, beginning various points.

15 **A.** Yes, there are --

16 **Q.** Keep going, please.

17 **A.** -- about ten or 12 enumerated points.

18 Twelve points that we highlighted, as it were, to
19 try and raise the retained responsibility.

20 **Q.** Over the page, please, you set out from paragraph 66:
21 "The Defendant's acts or omissions and the extent of
22 his continuing risk to the public".

23 **A.** Yes.

24 **Q.** 66, 67.

25 **A.** Again, a series of points confronting the risk.

44

1 Q. You say of note, please, at paragraph 71, page 21:
2 "The Prosecution observe, however, that the
3 Defendant was aware he had committed previous acts of
4 violence. He was told, on multiple occasions, of the
5 need to take his medication. He continued to fail to
6 take his medication and hidden and lied about that fact
7 with care."

8 You used the word "lie". The psychiatrists talk
9 about masking symptoms, don't they, or concealing that,
10 and we heard evidence from the psychiatrist, I think it
11 was Dr Mirvis, that the relationship with the patient is
12 significant in that, that telling people you're a liar
13 or that's not true --

14 A. Yes.

15 Q. -- isn't perhaps the best way for that. Do, in your
16 experiences, psychiatrists have difficulty in describing
17 anything as a lie when they're assessing patients for
18 the purposes of reports?

19 A. No.

20 Q. But he did lie, VC, didn't he, about his medication?

21 A. Yes.

22 Q. So did you expect to see that somewhere in any report
23 that he was a liar about what he had taken?

24 A. Not necessarily, but each will have their own way of
25 making it clear that which they're saying, but the

45

1 So you ask him that open question, he gives his
2 opinion. If we go to --

3 A. Well, I knew what his opinion was because it was in the
4 report.

5 Q. Of course, but you're not leading him on that or taking
6 him to that.

7 A. Yes.

8 Q. That's his opinion in his report and if we go, please,
9 to page 30, we find, when he's cross-examined, at D:

10 "... in the light of your experience and your
11 caution that you have analysed and you have seen many of
12 the documents ... and you understand that it's your duty
13 openly and fairly to assess the level of retained
14 culpability and responsibility for his actions by this
15 man?"

16 "Yes."

17 The next question:

18 "Your concluded view -- and there are different
19 levels set out in the Act that governs these things;
20 high, medium, lesser culpability -- is that he falls
21 squarely within lesser culpability; his mental
22 responsibility is lesser in this case because of his
23 mental illness."

24 And the answer is "Yes".

25 Culpability is a moral and legal question, isn't it,

47

1 message was clear that he had lied. And I didn't shy
2 from it.

3 Q. You say again, the prosecution position, 79:

4 "For the reasons set out above, it is open to the
5 Court to conclude the most suitable sentence is
6 a sentence of life imprisonment."

7 Et cetera, and:

8 "... further open to the Court to conclude that it
9 is appropriate to make an order under section 45A ..."

10 So, as you rightly say, a matter for the judge.

11 A. Yes.

12 Q. Can we just go to evidence, please, and the role of
13 psychiatrists in the process. That can come down and if
14 we can have HMCP0000581 and go, please, to page 17. If
15 we go to 17 at (c), you are calling Professor Blackwood.
16 You do a proper examination-in-chief saying:

17 "[I] understand the court has to come to its own
18 conclusions to the level of retained responsibility. So
19 far as your assessment is concerned, can you help us
20 with your conclusions there, please?"

21 A. Yes.

22 Q. The answer:

23 "I would consider that his degree of retained
24 responsibility for all of the acts was at the lower end
25 of the spectrum."

46

1 it's not one in those terms that the psychiatrist should
2 be drawn into; do you agree?

3 A. Not entirely, no. Because a judge is entitled to
4 understand, within the nature of the illness that they
5 are dealing with, what level of retained responsibility
6 there rests in that particular person. And as part of
7 that, they can be assisted with the view of the
8 psychiatrist as to how the mental disorder affected the
9 behaviour. In some people, there's a combination of
10 factors involved, and one is trying to discern the
11 different proportion of potential driving forces.

12 This was not one of those cases. This was a case
13 where all the psychiatrists agreed that there was a sole
14 driving force and that was the mental illness. Nothing
15 else was in play here.

16 And so it's entirely proper that the judge
17 understood from a psychiatric point of view what that
18 meant, but nonetheless understood from the Crown's
19 perspective that that wasn't the end of the judge's
20 consideration of the case, because there could be other
21 features of the case which nonetheless increased
22 residual responsibility, which we had set out in our
23 report and also addressed him on orally.

24 So I don't agree that this is an area where the
25 psychiatrists had no role to play or it's merely a moral

48

1 judgement. It isn't.

2 **Q.** It's a moral and legal judgement, isn't it?

3 **A.** We're dealing with the law here. One frequently has to

4 remind people this is not a court of morals; it's

5 a court of law. The judge, uncomfortable though it

6 often is, has to follow the correct legal pathway to

7 a sentence. It's not a moral judgement that he is

8 making.

9 **Q.** I'm not suggesting in this question that the

10 psychiatrist couldn't provide a view of where it fell on

11 a spectrum in the psychiatrist's opinion, lower, medium

12 or high?

13 **A.** Yes.

14 **Q.** But as you say, that was a matter of the judge. It's

15 the use of the word "culpability" which implies more

16 than level of retained responsibility, are you culpable?

17 Are you morally, legally responsible?

18 **A.** I'm sorry, I just don't agree.

19 **Q.** That can come down. Thank you.

20 Can I ask you one question arising from your HMCPSP

21 interview, which is HMCP0000576, page 2. And you say in

22 that second answer:

23 "I spoke to Dr B[lackwood] on the telephone on 12[th

24 January] ... as to the issue of residual

25 responsibility -- I wanted to ensure that he was

49

1 yes, they did it knowingly and they're entirely

2 responsible for that. They knew what they were doing,

3 and they should be considered entirely responsible for

4 that pattern of behaviour. Other cases they say yes,

5 they did all that, but it is part and parcel of the

6 illness, and that is what is driving the substitution of

7 prescribed drugs for illicit drug taking. And within

8 the sentencing guidelines, one has to focus upon the

9 distinction between those two factors. Alcohol, the

10 same. So all those parameters would go with it.

11 Personality disorder, one always looks to see if the

12 person that one is dealing with has, separate and

13 distinct from the psychosis that you're dealing with,

14 a personality disorder because it may be that it's the

15 personality disorder is driving their behaviours or

16 partly driving it, and then the psychiatrist will assist

17 you as to which is the dominant driving factor in any

18 given case.

19 So I was anxious to be clear in my mind as to

20 whether there was any possibility of Professor Blackwood

21 suggesting late in the day, for example, having read any

22 more materials or read the other reports, that any of

23 these other features ought to be considered, and he was

24 clear that they weren't. So I wanted to know for sure

25 in my own mind where we were going with this.

51

1 unequivocal about his findings -- there were no issues

2 of drugs/alcohol/personality disorder that would qualify

3 the paranoid schizophrenia ..."

4 Just dealing with those three issues, drugs,

5 alcohol, personality disorder, how do they, in

6 principle -- not in this case, but generally, how do

7 those features qualify any paranoid schizophrenia?

8 **A.** They would be factors which I would expect firstly the

9 psychiatrist to draw to the court's attention. If there

10 was a longstanding history of drug abuse, very often

11 paranoid schizophrenics stop taking their prescribed

12 medication, they substitute it with illicit drug-taking,

13 very often cannabis. They describe relief from their

14 symptoms as a result of taking cannabis rather than the

15 prescribed medication. I've had a number of cases where

16 they are repeatedly told by the medics that they have to

17 stop taking the illicit substance and get back on their

18 medication. And so if there's that sort of pattern of

19 behaviour focusing on drugs, for example, then the judge

20 has to concentrate again dealing with residual

21 responsibility as to whether they have determinedly

22 ignored the advice of medical practitioners over

23 a period of time knowing that it will exacerbate or make

24 worse their particular illness.

25 Sometimes, in those cases, the psychiatrists advise,

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1 **Q.** Have you done a number of cases where there have been

2 co-morbidities between psychosis and personality

3 disorder?

4 **A.** Absolutely, yes.

5 **MS LANGDALE:** Thank you. I have no further questions,

6 Chair. It might be time to take the afternoon break

7 because there are further questions.

8 **THE CHAIR:** So if we start again at 3.25. Thank you.

9 (3.11 pm)

10 (A short break)

11 (3.25 pm)

12 **THE CHAIR:** Yes, Mr Moloney.

13 **MR MOLONEY:** Thank you, Chair.

14 **Questioned by MR MOLONEY**

15 **MR MOLONEY:** Mr Khalil, in the course of your evidence

16 you've mentioned the distress that can be occasioned to

17 families of victims by delay to criminal proceedings.

18 **A.** Yes.

19 **Q.** Yeah. Just to be clear, the families of the deceased in

20 this case were unconcerned about how long these

21 proceedings took to reach a just and proper conclusion,

22 weren't they?

23 **A.** Were?

24 **Q.** Were unconcerned.

25 **A.** Unconcerned?

52

1 Q. Yes. They wanted things done properly.
 2 A. They want it done properly, but to say they were
 3 unconcerned as to how long it would take, I find
 4 surprising.
 5 Q. Well, the fact that they were looking to instruct
 6 an independent expert themselves at their own expense at
 7 the end of November, is that not good evidence that
 8 their primary concern was that they wanted things to be
 9 done properly?
 10 A. It's certainly evidence they wanted things done properly
 11 but to say that they were unconcerned about how long it
 12 would take, no, and they were not the only victims in
 13 the case.
 14 Q. I said the families of the deceased in this case,
 15 Mr Khalil. I didn't refer to the other victims in this
 16 case. My words were "the families of the deceased",
 17 that their primary concern essentially was to ensure
 18 that the proceedings reached a just and proper
 19 conclusion, and that is why they are prepared to
 20 instruct an independent expert at the end of November of
 21 2023 at their own expense, and it's good evidence of
 22 what their primary concern is, isn't it?
 23 A. I didn't have any discussions with the family of the
 24 third deceased.
 25 Q. And after their concerns about instructing an

53

1 material on VC's phone, and secondly, DC Beddoe's
 2 report.
 3 A. Yes.
 4 Q. Firstly, the material on VC's phone. Ms Langdale has
 5 asked you a number of questions about it and I'm not
 6 going to go over them, but you've been asked about VC's
 7 possession of material relating to the Christchurch
 8 shootings and the Buffalo shootings.
 9 A. *(No audible answer given).*
 10 Q. Just to be clear, the Christchurch shootings were on
 11 15 March 2019 and 51 people were killed in mosques in
 12 Christchurch by a lone killer, yes?
 13 A. Yes.
 14 Q. And the Buffalo shootings were on May 14 of 2022, a year
 15 before VC's killings, ten people were murdered by a lone
 16 killer.
 17 A. Yes.
 18 Q. And you asked, and you said that the potential reason
 19 for VC to do so was to essentially seek to justify his
 20 own understanding of his condition by reference to other
 21 events. Do you remember saying that?
 22 A. I don't recall if I directed it to those two particular
 23 events. I know that I was taken to material showing how
 24 he was explaining certain events, whether those two were
 25 included by way of mind thought insertion and the like.

55

1 independent expert and the concerns about the opinions
 2 of the psychiatrists and wanting them checked, Dr Latham
 3 was instructed.
 4 A. He was.
 5 Q. Were you aware that Dr Latham's first reaction on being
 6 asked to do the report was to say that he didn't have
 7 time?
 8 A. I'm not sure if I was aware at the time but I've
 9 certainly seen correspondence subsequently about that,
 10 yes.
 11 Q. And Mr Murphy then rang him and told him that the
 12 prosecution wasn't asking him to see VC and do an
 13 assessment.
 14 A. Yes, I realise that.
 15 Q. And indeed, Dr Latham wasn't available for the scheduled
 16 trial date either; did you know that?
 17 A. I can't -- I don't think I did.
 18 Q. Right. Would that have been of concern to you if you
 19 had been aware that Dr Latham wasn't available for the
 20 scheduled trial date?
 21 A. We'd have no doubt worked around it, because the trial
 22 wouldn't have just lasted two days, if there was
 23 a trial.
 24 Q. There's just two things I want to ask you about
 25 specifically, having dealt with delay. Firstly, the

54

1 Q. All right. But in terms of those two, they were
 2 multiple killings by a lone killer. Were you aware of
 3 the nature of those attacks?
 4 A. Yes.
 5 Q. Yes. And may I just ask you this: they were multiple
 6 killings, lone killer, and of course we know he looked
 7 at the Dunblane shootings as well. Did you ever
 8 consider why it was he needed to have the videos of
 9 those shootings on his phone in order to justify his
 10 understanding by reference to others?
 11 A. I don't know that he needed to have videos on his phone.
 12 The fact that they were there, no.
 13 Q. You didn't consider the relevance of having videos as
 14 opposed to just pure research in relation to those
 15 killings?
 16 A. I anticipate one would go with the other.
 17 Q. Did you know whether or not either of those killers
 18 referred to their killings being motivated by mind
 19 control at all?
 20 A. I don't now recall.
 21 Q. You don't now recall. Okay.
 22 A. If there's a document that helps, by all means direct me
 23 to it, but I don't now recall, I'm sorry.
 24 Q. No, no, I'm just asking you, Mr Khalil.
 25 The fact that a defendant has watched -- because VC

56

1 committed lone killings --
 2 **A.** Yes.
 3 **Q.** -- of a number of people, and he tried to kill other
 4 people.
 5 **A.** Yes.
 6 **Q.** And if he hadn't been stopped he probably would have
 7 gone on to try and kill other people, wouldn't he?
 8 **A.** He may have done.
 9 **Q.** Now the fact that a defendant has watched videos of the
 10 nature he did watch is often regard as, and deployed as,
 11 what is known as mindset material in criminal trials,
 12 isn't it?
 13 **A.** It can be.
 14 **Q.** It's often, if somebody has committed an offence of
 15 a particular character and then he has watched material
 16 which is relevant to the offence of that particular
 17 character, then it will often be deployed as mindset
 18 material, Mr Khalil, won't it?
 19 **A.** I agree, it can be.
 20 **Q.** Thank you. Did you ever ask how many times VC had
 21 watched those videos?
 22 **A.** No.
 23 **Q.** Because watching once, not knowing what one is going to
 24 see, might be explicable. But watching those videos
 25 many times might undermine the notion that it was in

57

1 **Q.** Did you ever ask Professor Blackwood if he'd asked VC
 2 about those videos?
 3 **A.** No.
 4 **Q.** It appears that no psychiatrist has ever asked him about
 5 his reasons for having those videos on his phone. If
 6 somebody was going to ask him about them, would you
 7 expect it to be a psychiatrist?
 8 **A.** Yes.
 9 **Q.** In this context?
 10 **A.** Yes, if somebody was, it would -- it would probably be
 11 under their remit, or perhaps at interview, if it was
 12 known then.
 13 **Q.** And there was other material that Ms Langdale has taken
 14 you through, but additionally there was 150 photographs
 15 of school-leavers for a Berkshire grammar school; were
 16 you aware of that?
 17 **A.** I don't recall that.
 18 **Q.** Were you aware of a video from May 2023 where he filmed
 19 people coming out the Tesco Express on Alfreton Road for
 20 a considerable period?
 21 **A.** I think I was, yes.
 22 **Q.** Would you have expected him to have been asked about
 23 those by a psychiatrist during the assessment?
 24 **A.** Not necessarily, no.
 25 **Q.** Ms Langdale has asked you about the addendum report from

59

1 order to justify his understanding by reference to
 2 others; would you agree?
 3 **A.** Not necessarily, no.
 4 **Q.** So if VC had repeatedly watched those videos, you think
 5 that that might still be consistent with him -- when --
 6 I suggest to you there is no evidence of mind control
 7 being the motivator for those, they were white
 8 supremacists, no evidence that essentially watching
 9 those videos repeatedly would not give you essentially
 10 highly relevant mindset material, potentially?
 11 **A.** I say it might do, yes.
 12 **Q.** And then, did you ever ask when he last watched those
 13 videos?
 14 **A.** No.
 15 **Q.** Because watching them a number of times close to the
 16 events might be more relevant than watching them once,
 17 many, many months in advance.
 18 **A.** Are you suggesting he did?
 19 **Q.** I'm just asking you if you ever asked, made any
 20 enquiries about when he watched those videos and how
 21 many times?
 22 **A.** No.
 23 **Q.** Good. Did you ever discuss the relevance of those
 24 videos with Professor Blackwood at any point?
 25 **A.** No.

58

1 Professor Blackwood and essentially on the issue of
 2 whether or not there should be a hybrid sentence or
 3 a 37/41 disposal.
 4 **A.** Yes.
 5 **Q.** You raised that, Mr Khalil, on 14 January.
 6 **A.** Right.
 7 **Q.** Yeah. We've seen the email. Why did you want that
 8 report, if you don't mind the obvious question,
 9 Mr Khalil?
 10 **A.** Well, because it would be needed for sentencing
 11 purposes.
 12 **Q.** Yeah, needed for sentencing purposes. You'd need to
 13 know what his position was --
 14 **A.** Yes.
 15 **Q.** -- and discuss it with him --
 16 **A.** Absolutely.
 17 **Q.** -- and then prepare for the sentencing hearing.
 18 **A.** Yes.
 19 **Q.** Did you receive that sentence, that report, that
 20 addendum report, just before 10.30 on the night before
 21 sentencing?
 22 **A.** If you tell me I did, then of course I agree with you.
 23 **Q.** Thank you.
 24 **A.** I know I had it before sentence.
 25 **Q.** Just to make sure of it, could we please look at

60

1 CPSE0009239. There we see from Mr Murphy to you there,
 2 and it's on 22 January at 22:27.
 3 **A.** Yes.
 4 **Q.** Thank you. Now just very briefly on DC Beddoe's report.
 5 **A.** Yes.
 6 **Q.** You're aware of the report DC Beddoe wrote on evidence
 7 of rational behaviour --
 8 **A.** I am.
 9 **Q.** -- on VC's part, and you know of the email Mr Murphy
 10 sent in response to it on 15 December.
 11 **A.** Yes, yes.
 12 **Q.** And can I ask you to have a look at CPSE0009097.
 13 Mr Murphy's email was 15 December. This is later that
 14 evening from junior, from your junior, to -- thank
 15 you -- in response to Mr Murphy's email:
 16 "Hi Alan
 17 I entirely agree with the below. I am also far
 18 convinced with Leigh's response". *(As read)*
 19 That was Leigh Sanders, Detective Chief
 20 Superintendent, yes.
 21 **A.** Yes.
 22 **Q.** "If it wasn't to set out the police view as to the
 23 acceptability of the pleas then I don't understand the
 24 point of it, and specifically the 'It is not possible to
 25 say with any certainty' opinion aspect:
 61

1 them to a false conclusion.
 2 **Q.** So were you also concerned that the views of DC Beddoe
 3 might be shared with the families?
 4 **A.** I did have those concerns, because I think in some
 5 instances he'd simply got a few things wrong but, more
 6 importantly, it was a document that was describing one
 7 set of features being deployed or seeking potentially to
 8 be deployed for another purpose and that would have been
 9 wholly wrong and misleading. It would have taken
 10 a great deal of time to unravel that, and so everyone
 11 involved, particularly the grieving families,
 12 understood.
 13 **Q.** And just very briefly, could we look at CPSE0009524. If
 14 we could please go to page 4 of this, and we see the
 15 final paragraph of Mr Murphy's email:
 16 "Can I ask that this document is placed on the
 17 sensitive schedule of unused material MG6D - it is
 18 plainly sensitive in my view. It will not be
 19 disclosable to the defence as it doesn't meet the CPIA
 20 test and it would plainly not be disclosable to anyone
 21 else."
 22 **A.** Yes.
 23 **Q.** So it went on the sensitive schedule.
 24 **A.** Yes.
 25 **Q.** What, in your view, would be the real risk of serious
 63

1 "I hope that your last sentence got the message
 2 across to the police about sharing this view with the
 3 families. I am very concerned that this may have been
 4 or will be done - whether in the form of the 'report' or
 5 in discussion."
 6 As leading counsel for the Crown, did you share the
 7 view that the purpose of the report was apparently to
 8 set out the police view about the acceptability of the
 9 pleas, which was perceived to be contrary to that of
 10 counsel and the CPS?
 11 **A.** Well, it was drafted in a way that suggested that was
 12 the purpose of it, but the subsequent email exchanges
 13 that I've seen say that that was not the purpose of it.
 14 And my concern, actually, was that this document falsely
 15 described acts of apparent rationality as having
 16 a bearing upon the diagnosis, because it was describing
 17 it as having capacity and as Dr Latham had made clear in
 18 his report:
 19 "... diminished responsibility is not a capacity
 20 based test."
 21 And so there was a real risk that simply providing
 22 a document like this would cause further
 23 misunderstanding amongst a wider readership that were
 24 not as cognisant of the legal definitions which were
 25 constraining all of the practitioners, and would lead
 62

1 prejudice to an important public interest, justifying
 2 putting it on the schedule of sensitive unused material?
 3 **A.** Well, I wouldn't have expected it to be on a schedule,
 4 to start with, because it's internal communication. The
 5 fact that Alan Murphy decided that he would put it on
 6 a schedule actually makes it, in a sense, easier to find
 7 subsequently. But it remains an internal document. So
 8 I wouldn't expect it to be anything other than sensitive
 9 under one of the tests for non-disclosure there.
 10 **Q.** Well, there's a difference between confidential and --
 11 well, let me ask you this: why could it not be put on
 12 the non-sensitive schedule and marked clearly "not
 13 disclosable" and go through a section 8 process if
 14 necessary?
 15 **A.** Well, it could have been, but it invites a section 8
 16 process to which it shouldn't have been vulnerable.
 17 **Q.** Well, if it wasn't vulnerable, it wasn't vulnerable.
 18 There's a real difference between what is disclosable
 19 and what is sensitive, isn't there?
 20 **A.** There is, but one, it wasn't disclosable, I don't think
 21 it should ever have been on a schedule, but having put
 22 it on a schedule, it certainly shouldn't have been
 23 provided further. It neither undermined the Crown case
 24 nor assists the defence, and it was a sensitive
 25 communication within the CPS and between CPS and police
 64

1 so --

2 **Q.** So if it is a confidential communication, that justifies
3 it going on the sensitive schedule?

4 **A.** Yes.

5 **MR MOLONEY:** Thank you very much, Mr Khalil.

6 **THE CHAIR:** Thank you.

7 Yes, Ms Cartwright.

8 **Questioned by MS CARTWRIGHT**

9 **MS CARTWRIGHT:** Good afternoon, Mr Khalil.

10 **A.** Afternoon.

11 **Q.** (*Unclear*) Counsel.

12 Could I first of all go back to the note that you've
13 been taken through, which was your sentencing note,
14 please.

15 **A.** Yes.

16 **Q.** So it's CPSE0000475, please. Thank you. Now we can see
17 at paragraph 6 on page 2 you deal with VC's last known
18 address and just pausing there, we can see that other
19 than the Burford Road, party opening was referencing
20 flat 15, Madison Court, Derwent Way, Nottingham --

21 **A.** Yes.

22 **Q.** -- and reference that he'd been evicted from there as a
23 result of assaulting his flatmates and handed in his
24 keys whilst on section 17 unaccompanied leave from
25 hospital.

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1 **Q.** No.

2 **A.** No. The note had the names of his flatmates from 2022.

3 **Q.** Yes. So the flatmates that had been involved with the
4 altercation, the attack on Grace and Barney was in
5 eyesight of that accommodation, and he has a note with
6 their names on in the backpack, and so I want to
7 consider --

8 **A.** But I'm sorry, if I've misunderstood, please put me
9 right. You're suggesting that he was planning to attack
10 subsequently the three flatmates --

11 **Q.** No.

12 **A.** -- whose names are on the list?

13 **Q.** No, what I'm suggesting is that there's a relevant piece
14 of evidence in VC's backpack the night he attacked Grace
15 and Barney within eyesight of the accommodation which
16 gives further evidence and information of relevance to
17 motivation and culpability?

18 **A.** I don't see the connection with the assault on Grace and
19 Barnaby, that he has names of other people with whom he
20 had been living.

21 **Q.** Can I then ask you, please, in terms of the background.
22 You deal with the addresses where VC went to that night
23 and we can see and we'll look at in a moment the history
24 of previous incidents and perhaps if we start there,
25 please. If we go to page 10, please, and paragraph 67.

67

1 Can I ask you in terms of things whether you
2 appreciated or not, did you know that where VC attacked
3 Grace and Barney was in essentially eyesight of
4 Madison Court --

5 **A.** I don't think I --

6 **Q.** -- at Raleigh Park. The reason I ask you about that is
7 because we see also you reference at page 12,
8 paragraph 77 -- thank you -- again, that:

9 "In mid-January 2022 [VC] was involved in the
10 altercation with a flat-mate."

11 And then deals with what happened thereafter.

12 So that flatmate was one of the males called
13 Christopher and you've already been asked about the note
14 which was in VC's backpack which had the names of the
15 three flatmates that had been in the flat when that
16 altercation occurred.

17 Now, we don't see any reference to the note in the
18 backpack that night that you used in your opening, but
19 would you agree, bearing in mind at this stage you're
20 seeking to convey to the court relevant factors as to
21 retained responsibility and culpability, that the note
22 in VC's backpack fits with part of what you were
23 presenting to the court as to the planning that VC had
24 undertaken pre-attack?

25 **A.** No.

66

1 Thank you.

2 You have given some of the defendant's history which
3 included the incident in May 2020, I think, that led
4 into the two incidents that this Inquiry has
5 investigated related to 24 May 2020. Now we go to the
6 next paragraph, please, we see -- thank you -- reference
7 to the second incident after VC was released, and all
8 that's detailed in your opening was that:

9 "He was arrested for criminal damage, and following
10 a re-assessment, was detained under the [Mental Health
11 Act] and was admitted to inpatient psychiatric services
12 at the Highbury Hospital ..."

13 So can I ask you because one of the significant
14 things that happened between VC's first arrest and then
15 second arrest was the incident involving Feven where VC
16 forced his way into her accommodation, she jumped out of
17 the window and fractured her back.

18 **A.** Yes.

19 **Q.** Those fractures being attributed to grievous bodily harm
20 at least, and she received surgery and plates. So can
21 you assist as to why the full detail of that incident
22 was not included in the background of relevant
23 information of previous incidents with VC?

24 **A.** Not especially. I think here I was concerned to ensure
25 that the judge understood the pattern of admittances

68

1 within, broadly speaking, psychiatric services, his
 2 pattern of being treated and subsequently him stopping
 3 treatment. That was, I think, the focus here.
 4 **Q.** But can I then clarify, did you appreciate and
 5 understand what VC had done prior to his second arrest
 6 was he involved in an incident where those grievous
 7 bodily harm injuries were caused to a member of the
 8 public? Did you appreciate and understand that?
 9 **A.** I'm confident I would have done, yes.
 10 **Q.** So you chose not to include that as part of the relevant
 11 background information to the sentencing court?
 12 **A.** I didn't deliberately choose to exclude something. This
 13 document is how many pages long? I mean, I was trying
 14 to give the judge a broad understanding of his history,
 15 which is there. He'd also had a series of psychiatric
 16 reports which set out extensively background material.
 17 So I wasn't seeking to hide something or diminish the
 18 importance of an event.
 19 **Q.** But was it not highly relevant for when the judge was
 20 making an assessment as to culpability and harm, and
 21 looking at his background, that VC had been involved in
 22 an incident where such a significant incident had
 23 occurred, an injury sustained by a member of the public?
 24 **A.** Well, if it hadn't been clearly the result of mental
 25 ill health, I'd readily understand the point, but as the

69

1 events that drove VC back to Nottingham?
 2 **A.** I don't believe I did, no.
 3 **Q.** Can you assist as to why not?
 4 **A.** There's so much material that we had relating to this
 5 man and his behaviour, already.
 6 **Q.** So much material, but this is essentially hours,
 7 immediately before he attacks Grace and Barney as to
 8 something that happened in London involving Bill
 9 Monteiro's neighbour and VC?
 10 **A.** Yes, but we were already asserting that he was planning
 11 violence. He'd got a knife for the purpose. He'd got
 12 a change of clothes for the purpose. He'd got other SIM
 13 cards for the purpose. Adding to that with some
 14 WhatsApps just wasn't of the level of seriousness that
 15 we already had established and were putting before the
 16 court --
 17 **Q.** Now --
 18 **A.** -- and I made it plain in that paragraph, thank you for
 19 taking us to it, because I was asked about this earlier,
 20 that I said:
 21 "His claims of carrying weapons as a last-minute
 22 idea do not sit easily with him having dropped off a bag
 23 of belongings earlier but still having three knives and
 24 a metal bar in his backpack."
 25 Which was all part of what he was doing that very

71

1 psychiatrists were clear and as was obvious from this
 2 event, actual violence or threats of violence occasioned
 3 by him were driven by psychosis, and this was included
 4 amongst them.
 5 **Q.** Can we then, please, look at your paragraph 22 and
 6 page 4, please. You reference within the accounts
 7 provided by VC reference to him being threatened with
 8 a zombie sword in London before travelling to Nottingham
 9 and your opening went on to deal with the visit to
 10 Mr Monteiro. But can I ask you, because we don't see it
 11 in the chronology, were you aware that there were
 12 WhatsApp exchanges that Bill Monteiro had shared where
 13 he himself was referencing that VC had been involved in
 14 an incident with his neighbour?
 15 **A.** I think that I was, yes.
 16 **Q.** So you were aware of that?
 17 **A.** Yes.
 18 **Q.** Can I ask you, then, as part of the background, we've
 19 already heard from Mr Murphy about that and not
 20 investigating that matter. Can you assist from your
 21 position as prosecution counsel whether you considered
 22 that was a factor that should have been looked at and
 23 explored as part of the relevant chronology and
 24 potentially revealing evidence of relevance to
 25 culpability, retained responsibility, and the chain of

70

1 day and night."
 2 **Q.** Can I then ask you about the other addresses or
 3 locations where VC was immediately before the attack on
 4 Grace and Barney and then where he went?
 5 **A.** Yes.
 6 **Q.** Your opening references in the period before the attack
 7 on Ilkeston Road that VC was backwards and forwards on
 8 to Middleton Street, had you appreciated that Middleton
 9 Street had also been the location where VC had attacked
 10 a police officer and attacked Sebastian?
 11 **A.** I may have done, but I didn't have it in mind when I was
 12 drafting this.
 13 **Q.** Then can I ask you after the attack, we know that VC
 14 went towards Player Street and was out of sight at Brook
 15 Court for a number of minutes, I think somewhere between
 16 six and eight minutes. Had you appreciated that that
 17 address at Brook Court was where VC had forced his way
 18 into the accommodation of Feven, the individual who
 19 fractured her back?
 20 **A.** I think so, yes.
 21 **Q.** Pardon?
 22 **A.** I think I was, yes.
 23 **Q.** You think you were?
 24 **A.** Yes. I think just -- I did send this document to those
 25 instructing me and to the police to ensure that if there

72

1 were any errors or shortcomings, they could be amended
 2 or corrected. So I was anxious as I didn't, as it were,
 3 pretend to have a monopoly on the full material that
 4 ought to appear here, and that if someone was concerned
 5 that any feature was wrong or should be inserted, that
 6 that should happen. It's a routine procedure that I
 7 adopt so that others don't feel aggrieved that something
 8 is missing, or perhaps has been included. I remember
 9 being asked to remove some material at the request of
 10 the family that they didn't want in the opening and was
 11 entirely content to do that.

12 So it's very much a collaborative process.

13 **Q.** Then, finally, can I ask you about a topic, very
 14 briefly, that you dealt with with Ms Langdale KC?

15 **A.** Yes.

16 **Q.** It's the attendance note that you were taken to,
 17 CPSE0000216. Thank you. Now, obviously this is the
 18 discussion that took place with Mr Birkett, his partner
 19 Tracey --

20 **A.** Yes.

21 **Q.** -- and I think other family members were present.

22 **A.** Thank you.

23 **Q.** I think it's referenced as a conference, but we can see
 24 there the timings. I think 15 minutes are recorded for
 25 the discussion after the sentencing hearing. The

73

1 **Q.** That's why I just wanted to cover that with you. So as
 2 far as you understood, this was the first time that
 3 a conference was wanted. But would you agree to perhaps
 4 call it a "conference" is perhaps overstating a short
 5 meeting doing the best you were doing to try to explain
 6 what had happened, and I think address the concerns that
 7 Wayne and Tracey had about there not being a hybrid
 8 order and understanding what a hospital order meant?
 9 Would you agree?

10 **A.** People use different terms to describe a meeting.

11 **Q.** Well, it's ten minutes, maximum 15, with a gentleman
 12 with a brain injury, where I think you described your
 13 adjustments for Mr Birkett's condition was to speak
 14 slowly to him; is that correct?

15 **A.** Yes, but my hope was that the family members present
 16 would be able to readily understand what I was saying.
 17 Of course I understood that he would struggle to do that
 18 in that very meeting, and was reassured that there were
 19 other family members there who could carry away the
 20 material and if necessary there could be a subsequent
 21 meeting, of course.

22 And I remained for as long as those there wanted to
 23 have the meeting. Everyone, of course, was hugely
 24 distressed, so one can understand why it was not a long
 25 meeting there and then. But it didn't in any way stop

75

1 recollection of those present was actually it was
 2 somewhere maximum of ten minutes that this discussion
 3 took place.

4 But can we agree that, in advance of the sentencing
 5 hearing, had at any point the CPS told you that Tracey
 6 and Wayne wished to meet with the CPS and yourself? Had
 7 you been made aware that they would have liked
 8 a meeting?

9 **A.** After the hearing?

10 **Q.** Well, no, before. So certainly from August and
 11 September, they were seeking --

12 **A.** No. No.

13 **Q.** So essentially this meeting was after sentence because
 14 you'd been made aware that they wished to speak to you?

15 **A.** I wasn't aware that they wanted to speak to me before
 16 this occasion. I'd made it clear to those instructing
 17 me if anybody wanted a conference with me, I would
 18 facilitate it, and have done so whenever requested.

19 When we were at this hearing, I recall communicating
 20 that if anyone wished to speak to me beforehand, subject
 21 to the restrictions of time and the pressure of time
 22 about to go into a hearing, then of course I would speak
 23 with them. And equally afterwards. But this was, as I
 24 understood it, the first time that really a conference
 25 was really asked for, and so of course I attended.

74

1 someone, whether through an officer or the CPS, saying,
 2 "Well, actually more information is asked for, can we
 3 have another meeting later?" Of course we would have
 4 facilitated that.

5 **MS CARTWRIGHT:** Thank you very much for answering my
 6 questions.

7 **THE CHAIR:** Thank you. Ms Carey.

8 **Questioned by MS CAREY**

9 **MS CAREY:** Mr Khalil, just a few questions from me. As you
 10 know, I act on behalf of the Crown Prosecution Service.

11 **A.** Yes.

12 **Q.** Can I start with something that you were asked about
 13 earlier today, and evidence from Dr Blackwood that in
 14 times gone by there may have been a position where
 15 psychiatrists went into police custody to assess
 16 defendants.

17 **A.** *(Witness nodded).*

18 **Q.** You gave an answer which I didn't quite catch all of but
 19 essentially you said that there had been an occasion
 20 where you had advised that someone go in potentially to
 21 assess a suspect, and I just want to ask and be clear
 22 about what it was you were suggesting you had done.

23 **A.** Right.

24 **Q.** Can you help us with that, please, Mr Khalil?

25 **A.** Of course. When prosecuting, you become aware that

76

1 those defending are or likely to be pursuing
 2 a particular potential defence or partial defence, or
 3 even, let's say, mental illness preceding a defence, of
 4 unfit to be tried, that sort of thing. Timetables are
 5 set for preparation of reports, experts instructed.
 6 There have been occasions when those defending have
 7 simply not got on with the job that is required, or
 8 there have been failings not of their making, and I've
 9 taken the view that too much time is now passing, and in
 10 those circumstances, I have then advised that we,
 11 probably having already instructed an expert but, if
 12 not, should now instruct one, should start the process
 13 of those -- of interviewing the suspect.
 14 **Q.** Right.
 15 **A.** That's obviously not when he -- he or she but usually
 16 a he -- is initially retained. It'll be well down the
 17 line when everyone understands where the case is likely
 18 going. So it's not an assessment there and then in
 19 police custody; it's later, when you understand where
 20 the case is likely to be going.
 21 **Q.** Thank you very much. In this particular case we know
 22 that albeit it wasn't served until 2 October, in fact
 23 Dr McSweeney's report was dated at the end of August --
 24 **A.** August, yes.
 25 **Q.** -- suggesting that he had seen VC in the run-up to the

77

1 led to misunderstandings about the use to which it was
 2 put.
 3 **A.** Yes.
 4 **Q.** But the Inquiry has not actually looked at what
 5 DC Beddoe, copying you in, said about the report that he
 6 had written.
 7 **A.** No, thank you. Thank you.
 8 **Q.** Can we see there an email from him on 16 September where
 9 he apologises for any confusion and makes reference to
 10 the meeting which you'd asked for findings of "seemingly
 11 rational behaviour" to be set out for the purposes of
 12 trying to persuade the sentencing judge that a hybrid
 13 order was appropriate.
 14 **A.** Yes.
 15 **Q.** Then he -- Mr Beddoe says:
 16 "I agree with the points you raised Alan and had
 17 I had the clear report from Dr Latham before writing
 18 mine I certainly would have made reference to point 23.4
 19 and quoted [the fact that] 'The issue of diminished
 20 responsibility is not a capacity based test'. "
 21 You know that Mr Beddoe's review had in fact
 22 referred to capacity erroneously; is that correct?
 23 **A.** Yes, it is.
 24 **Q.** He said:
 25 "I did not intend to contest the [DR] ...

79

1 preparation of that report.
 2 **A.** Yes.
 3 **Q.** Between your instruction just a few days after the
 4 attacks and the service of Dr McSweeney's report in
 5 October, did you think, as leading counsel, you needed
 6 to advise the CPS to tell Dr Blackwood to go in to
 7 conduct his assessment of VC?
 8 **A.** Absolutely not, no.
 9 **Q.** Why did you not think that was necessary?
 10 **A.** There may be no need for the defendant to be assessed at
 11 all by a Crown psychiatrist. If the report from
 12 Dr McSweeney said, "Despite these various signs, he's
 13 fit to plead, knew what he was doing, the mental
 14 illness, if he has one, is not such as affords the
 15 partial defence of diminished responsibility", there
 16 would have been no report from Professor Blackwood. It
 17 would have been wholly premature to send
 18 Professor Blackwood to see if a partial defence or some
 19 other form of disposal might arise in a case. It would
 20 make no sense at all.
 21 **Q.** Thank you. Different topic, please. You've been asked
 22 about the Beddoe report.
 23 **A.** Yes.
 24 **Q.** Can we have up on screen, please, CPSE0009524, and
 25 you've given evidence that the report itself may have

78

1 Manslaughter defence suggested by the reports, just to
 2 answer the question post by [you] ... and highlight
 3 behaviours which may assist with assessing the degree of
 4 responsibility, risk and seriousness for sentencing."
 5 **A.** Thank you, yes.
 6 **Q.** Can I just deal with two other matters and planning.
 7 You've been asked a number of questions today about
 8 planning. And I'd like to split up, please, the
 9 relevance of planning to the acceptability of pleas, and
 10 the relevance of planning to sentencing and potentially
 11 whether a hybrid order might be the court order in due
 12 course.
 13 From your perspective, was the fact that VC had
 14 planned to kill considered by the psychiatrists who
 15 assessed him or peer-reviewed?
 16 **A.** Yes. Yes, it was, clearly.
 17 **Q.** Does the fact that VC planned the attacks mean that
 18 diminished responsibility was not available to him as
 19 a partial defence?
 20 **A.** No, it doesn't.
 21 **Q.** Were you satisfied, based on all the evidence in the
 22 case, that the legal test for diminished was in fact
 23 satisfied?
 24 **A.** I was.
 25 **Q.** By the end of November, around the times of the meetings

80

1 with the bereaved families, the O'Malley-Kumars and the
 2 Webbers, and the PTPH on 28 November, was there any
 3 evidential need from your perspective to break the
 4 fixture if there was to be a trial?
 5 **A.** No.
 6 **Q.** Did you have any concerns that the ultimate decision to
 7 accept pleas to manslaughter by reason of diminished
 8 responsibility was rushed by the CPS?
 9 **A.** No.
 10 **Q.** Or by you?
 11 **A.** No.
 12 **Q.** Or was in any way not done or considered properly?
 13 **A.** No. We had individually and collectively been focused
 14 upon potential defences from the very outset, and that
 15 never changed. Every time more material came in, I for
 16 my part, and I know from emails with Alan Murphy and
 17 others, we were individually and collectively
 18 reassessing whether any material shed further light on,
 19 altered, diminished, changed our views as to the overall
 20 picture in the case.
 21 So by the time I was providing written advice, this
 22 was something that had been contemplated and discussed
 23 all the way through. It wasn't new or rushed
 24 decision-making.
 25 **Q.** Finally, can I ask that we have, please, up on screen

81

1 Thank you, Chair.
 2 **Questioned by THE CHAIR**
 3 **THE CHAIR:** Yes, Mr Khalil. I just wanted to ask you
 4 a couple of questions. One is in relation to, I think
 5 there has perhaps been a bit of a misunderstanding, but
 6 about a psychiatrist, a consultant psychiatrist in the
 7 past and I think in fact Dr Latham told us that
 8 sometimes still does happen in London, being called in
 9 by the police, into the --
 10 **A.** Right.
 11 **THE CHAIR:** -- police station to do an assessment which
 12 would effectively have been a mental health assessment
 13 as to someone who had been taken into the custody for
 14 a case, even if there wasn't going to be Liaison and
 15 Diversion.
 16 **A.** Yes, yes.
 17 **THE CHAIR:** So just in relation to that, from a subsequent
 18 trial point of view, I think it might very well not have
 19 been the same consultant who became the expert, but
 20 would it have been of assistance in your experience,
 21 generally, to have had -- or in most cases -- to have
 22 someone go in and do that kind of assessment?
 23 **A.** I think that may very well be helpful.
 24 **THE CHAIR:** It's contemporaneous, isn't it?
 25 **A.** Yes, exactly, yes.

83

1 HMCP0000576, and page 3 of that document. This, I hope,
 2 Mr Khalil, is a summary of your interview with HMCPSI.
 3 And if we can see just above --
 4 **A.** Yes.
 5 **Q.** -- halfway down the page, you're asked about your
 6 experience and you're being asked about the periods of
 7 lucidity and the rational acts that VC was said to have
 8 displayed, and can I just ask you, please, to look at
 9 the KK, you say this:
 10 "If D could have been prosecuted for murder we would
 11 have done so -- if there was a scintilla [of doubt], we
 12 would have prosecuted for murder."
 13 **A.** Yes.
 14 **Q.** Is that an accurate summary of what you said to HMCPSI?
 15 **A.** It is.
 16 **Q.** Is it an accurate summary of what the position would
 17 have been had there been evidence which was capable of
 18 undermining the experts in this case?
 19 **A.** Absolutely, yes.
 20 **Q.** Had it been the case that Dr Latham had formed
 21 a different view and did not think that the partial
 22 defence applied, would you have hesitated to have
 23 prosecuted VC for murder?
 24 **A.** Wouldn't have hesitated for a moment.
 25 **MS CAREY:** Thank you very much.

82

1 **THE CHAIR:** Yes. Just dealing, then, with the question of
 2 the first conference you had, I think that was a Teams
 3 conference on 24 November --
 4 **A.** That's right.
 5 **THE CHAIR:** -- I think you've told the Inquiry that as far
 6 as you were aware, the families had not been told the
 7 full details of what had happened.
 8 **A.** Yes, we had -- I had a meeting with some of the
 9 instructing solicitors and the police the day -- I think
 10 the day before. There's a note somewhere setting out
 11 the details of that. Again, I think a Teams meeting,
 12 and I recall being told that they weren't aware of the
 13 details, and so effectively please be very careful,
 14 because it didn't feel appropriate to be providing
 15 shocking material --
 16 **THE CHAIR:** For the first time.
 17 **A.** -- for the first time, the first time of my meeting them
 18 over Teams, not even -- not actually person to person.
 19 That is a less easy, less accessible format, and there
 20 was a deal of very sensitive material that I was asked
 21 to cover, and to add to that with other material just
 22 didn't seem appropriate. So I was asked not to and
 23 I was doing my very best to comply with that request.
 24 **THE CHAIR:** Do you think that -- I don't know whether you
 25 listened to the evidence of Samantha Shallow this

84

1 morning --

2 **A.** I did.

3 **THE CHAIR:** -- I did ask her about whether it would be

4 better if people were provided, victims were provided

5 with some sort of written material of a very simple

6 nature and clear nature in advance, so it could be

7 talked through at meetings of this kind. Do you think,

8 from your experience, that would assist?

9 **A.** I'm sure it would assist with some. With others, it

10 might lead to further confusion or misunderstanding.

11 I've dealt with so many people in extremis now, that the

12 reactions of any individual to getting written materials

13 provided to them varied widely, just as their reactions

14 to meeting counsel can vary very widely.

15 So having one rule that is to be applied broadly,

16 I don't think would be a good idea.

17 **THE CHAIR:** Of course people can always choose not to read

18 it.

19 **A.** They can choose not to read it. But to have the

20 possibility of that, I think, would likely be

21 potentially helpful at least, and that would be to --

22 *(overspeaking)* --

23 **THE CHAIR:** Well, it would give you a basis of answering --

24 **A.** Yes.

25 **THE CHAIR:** -- some of the questions which were raised.

1 **A.** Of course, yes.

2 **THE CHAIR:** You would start with some level of

3 understanding.

4 **A.** Yes.

5 **THE CHAIR:** Yes, thank you.

6 Thank you. Well, we'll stop there now and we'll

7 start again tomorrow at 10.00. Thank you.

8 **(4.11 pm)**

9 **(The hearing adjourned until 10.00 am the following day)**

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24

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1 **INDEX**

2

3 Questioned by MR MOLONEY Page 52

4 Questioned by MS CARTWRIGHT 65

5 Questioned by MS CAREY 76

6 Questioned by THE CHAIR 83

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

<p>A</p> <p>any... [20] 50/7 51/17 51/20 51/21 51/22 53/23 58/19 58/24 61/25 66/17 73/1 73/5 74/5 75/25 79/9 81/2 81/6 81/12 81/18 85/12</p> <p>anybody [1] 74/17</p> <p>anyone [4] 8/13 25/12 63/20 74/20</p> <p>anything [7] 11/6 17/23 25/12 41/22 42/5 45/17 64/8</p> <p>anywhere [1] 28/24</p> <p>apartment [1] 38/5</p> <p>apologises [1] 79/9</p> <p>appalling [2] 33/18 42/11</p> <p>apparent [1] 62/15</p> <p>apparently [1] 62/7</p> <p>appear [1] 73/4</p> <p>appeared [1] 3/18</p> <p>appears [4] 5/10 39/11 44/13 59/4</p> <p>applied [2] 82/22 85/15</p> <p>appreciate [5] 35/7 36/8 39/11 69/4 69/8</p> <p>appreciated [3] 66/2 72/8 72/16</p> <p>appropriate [7] 26/16 28/10 41/2 46/9 79/13 84/14 84/22</p> <p>April [1] 1/1</p> <p>are [38] 5/4 5/4 7/19 8/10 8/15 9/4 9/12 14/13 16/3 16/22 16/23 20/15 24/23 25/3 25/17 31/16 31/21 32/6 32/9 32/11 36/1 37/1 41/9 41/12 44/15 46/15 47/18 48/5 49/16 49/17 50/16 52/7 53/19 58/18 67/12 73/24 77/1 77/4</p> <p>area [3] 14/25 42/15 48/24</p> <p>aren't [1] 6/19</p> <p>arena [2] 31/22 31/24</p> <p>argue [2] 10/14 29/14</p> <p>arguing [1] 30/11</p> <p>arise [1] 78/19</p> <p>arising [1] 49/20</p> <p>around [5] 16/1 28/2 43/6 54/21 80/25</p> <p>arranged [1] 36/15</p> <p>arrest [13] 17/10 17/12 17/15 17/17 18/7 18/14 18/24 19/7 19/8 38/7 68/14 68/15 69/5</p> <p>arrested [2] 38/6 68/9</p>	<p>arrive [2] 13/17 42/20</p> <p>articulate [1] 26/15</p> <p>Arvato [1] 40/7</p> <p>as [108]</p> <p>aside [2] 41/6 43/23</p> <p>ask [26] 3/21 47/1 49/20 54/24 56/5 57/20 58/12 59/1 59/6 61/12 63/16 64/11 66/1 66/6 67/21 68/13 70/10 70/18 72/2 72/13 73/13 76/21 81/25 82/8 83/3 85/3</p> <p>asked [35] 11/7 11/12 12/5 14/19 14/21 19/18 28/7 29/5 30/1 31/6 31/19 35/3 35/4 54/6 55/5 55/6 55/18 58/19 59/1 59/4 59/22 59/25 66/13 71/19 73/9 74/25 76/2 76/12 78/21 79/10 80/7 82/5 82/6 84/20 84/22</p> <p>asking [6] 14/24 19/19 35/12 54/12 56/24 58/19</p> <p>asks [2] 20/9 32/1</p> <p>aspect [1] 61/25</p> <p>assault [4] 2/24 3/14 13/5 67/18</p> <p>assaulted [3] 2/23 5/9 44/1</p> <p>assaulting [1] 65/23</p> <p>asserting [1] 71/10</p> <p>assess [3] 47/13 76/15 76/21</p> <p>assessed [2] 78/10 80/15</p> <p>assessing [2] 45/17 80/3</p> <p>assessment [14] 5/17 16/18 22/17 43/18 46/19 54/13 59/23 68/10 69/20 77/18 78/7 83/11 83/12 83/22</p> <p>assist [9] 20/16 25/7 51/16 68/21 70/20 71/3 80/3 85/8 85/9</p> <p>assistance [2] 10/3 83/20</p> <p>assisted [1] 48/7</p> <p>assists [1] 64/24</p> <p>assume [2] 2/15 12/9</p> <p>assumed [1] 12/12</p> <p>assuming [1] 9/23</p> <p>assumption [1] 14/16</p> <p>at [94]</p> <p>attack [11] 13/10 17/21 18/6 18/22 36/10 66/24 67/4 67/9 72/3 72/6 72/13</p> <p>attacked [6] 18/6 40/10 66/2 67/14 72/9</p>	<p>72/10</p> <p>attacks [7] 6/4 28/1 42/22 56/3 71/7 78/4 80/17</p> <p>attain [1] 10/3</p> <p>attempt [3] 20/4 28/1 40/24</p> <p>attend [1] 31/5</p> <p>attendance [1] 73/16</p> <p>attended [1] 74/25</p> <p>attention [3] 15/2 37/20 50/9</p> <p>attributed [1] 68/19</p> <p>audible [1] 55/9</p> <p>audio [2] 13/18 37/1</p> <p>August [3] 74/10 77/23 77/24</p> <p>authority [1] 23/25</p> <p>available [9] 22/8 24/2 32/25 35/10 36/14 43/3 54/15 54/19 80/18</p> <p>avoid [4] 11/6 31/10 36/25 40/24</p> <p>avoiding [1] 41/5</p> <p>aware [27] 2/12 2/14 11/24 11/25 13/23 16/14 27/25 28/2 38/11 38/17 40/13 45/3 54/5 54/8 54/19 56/2 59/16 59/18 61/6 70/11 70/16 74/7 74/14 74/15 76/25 84/6 84/12</p> <p>away [1] 75/19</p> <p>awfulness [1] 13/21</p> <hr/> <p>B</p> <p>bachelor's [1] 2/9</p> <p>back [14] 2/9 5/22 9/7 17/9 17/25 20/20 23/2 38/5 38/9 50/17 65/12 68/17 71/1 72/19</p> <p>background [7] 1/17 67/21 68/22 69/11 69/16 69/21 70/18</p> <p>backpack [6] 66/14 66/18 66/22 67/6 67/14 71/24</p> <p>backwards [1] 72/7</p> <p>bag [1] 71/22</p> <p>ban [1] 8/25</p> <p>bar [1] 71/24</p> <p>Barnaby [2] 43/17 67/19</p> <p>Barney [5] 66/3 67/4 67/15 71/7 72/4</p> <p>based [3] 62/20 79/20 80/21</p> <p>basically [1] 4/15</p> <p>basis [5] 9/5 24/16 35/22 39/10 85/23</p> <p>Baxter [1] 1/10</p> <p>be [137]</p> <p>be needed [1] 60/10</p>	<p>bearing [3] 24/4 62/16 66/19</p> <p>became [2] 16/9 83/19</p> <p>because [35] 6/2 6/8 9/8 11/12 16/9 18/19 19/2 20/7 23/1 23/9 23/22 29/13 29/15 33/2 36/6 47/3 47/22 48/3 48/20 51/14 52/7 54/21 56/25 57/23 58/15 60/10 62/16 63/4 64/4 66/7 68/13 70/10 71/19 74/13 84/14</p> <p>become [4] 15/18 39/7 42/8 76/25</p> <p>Beddoe [5] 61/6 63/2 78/22 79/5 79/15</p> <p>Beddoe's [4] 10/8 55/1 61/4 79/21</p> <p>been [92]</p> <p>before [23] 3/8 10/12 11/24 14/9 20/25 23/11 30/10 31/15 41/4 43/16 55/15 60/20 60/20 60/24 70/8 71/7 71/15 72/3 72/6 74/10 74/15 79/17 84/10</p> <p>beforehand [1] 74/20</p> <p>begin [1] 18/11</p> <p>beginning [1] 44/14</p> <p>behalf [1] 76/10</p> <p>behaviour [13] 9/12 17/13 18/5 40/25 41/7 41/11 42/21 48/9 50/19 51/4 61/7 71/5 79/11</p> <p>behaviours [3] 7/15 51/15 80/3</p> <p>behind [1] 17/20</p> <p>being [33] 9/3 13/11 18/8 18/22 19/16 19/18 22/4 28/11 28/18 31/22 31/24 32/8 33/16 33/19 34/15 34/24 35/5 35/24 39/22 43/5 43/11 54/5 56/18 58/7 63/7 68/19 69/2 70/7 73/9 75/7 82/6 83/8 84/12</p> <p>belief [1] 16/1</p> <p>beliefs [1] 3/8</p> <p>believe [1] 71/2</p> <p>believed [2] 17/21 25/20</p> <p>believing [1] 42/7</p> <p>belongings [2] 6/8 71/23</p> <p>below [1] 61/17</p> <p>benefit [1] 22/10</p> <p>bereaved [4] 9/22 26/6 27/4 81/1</p> <p>Berkshire [1] 59/15</p>	<p>best [5] 30/9 35/8 45/15 75/5 84/23</p> <p>better [3] 14/3 19/13 85/4</p> <p>between [8] 51/9 52/2 64/10 64/18 64/25 68/14 72/15 78/3</p> <p>Bill [2] 70/12 71/8</p> <p>Birkett [3] 34/9 34/14 73/18</p> <p>Birkett's [1] 75/13</p> <p>bit [2] 19/6 83/5</p> <p>bits [1] 41/12</p> <p>Blackwood [12] 6/15 28/18 30/13 46/15 51/20 58/24 59/1 60/1 76/13 78/6 78/16 78/18</p> <p>board [1] 16/8</p> <p>bodily [2] 68/19 69/7</p> <p>body [1] 13/9</p> <p>body-worn [1] 13/9</p> <p>bold [1] 43/2</p> <p>both [3] 16/4 26/6 26/21</p> <p>bottom [3] 8/2 26/2 42/1</p> <p>bought [1] 6/16</p> <p>brain [2] 34/15 75/12</p> <p>break [4] 23/6 52/6 52/10 81/3</p> <p>briefly [4] 22/19 61/4 63/13 73/14</p> <p>bring [1] 33/22</p> <p>bringing [1] 6/13</p> <p>bringing a [1] 6/13</p> <p>broad [2] 28/8 69/14</p> <p>broadcast [1] 32/23</p> <p>broadly [3] 7/15 69/1 85/15</p> <p>Brook [2] 72/14 72/17</p> <p>brother [5] 39/13 39/15 41/21 42/1 42/7</p> <p>brought [3] 17/18 17/22 37/20</p> <p>Buffalo [2] 55/8 55/14</p> <p>burden [1] 24/6</p> <p>Burford [1] 65/19</p> <p>but [100]</p> <hr/> <p>C</p> <p>calculated [1] 42/21</p> <p>call [1] 75/4</p> <p>called [2] 66/12 83/8</p> <p>calling [1] 46/15</p> <p>calls [4] 13/15 13/15 13/18 41/21</p> <p>calm [2] 42/2 42/10</p> <p>came [6] 18/3 18/3 39/13 39/13 41/1 81/15</p> <p>can [92]</p> <p>can't [10] 2/15 8/25</p>
--	---	--	---	---

<p>C</p> <p>can't... [8] 12/2 16/20 21/16 23/6 23/9 27/12 40/13 54/17</p> <p>cannabis [2] 50/13 50/14</p> <p>capable [6] 17/4 32/14 41/8 41/9 42/10 82/17</p> <p>capacity [4] 62/17 62/19 79/20 79/22</p> <p>car [1] 18/8</p> <p>card [1] 41/3</p> <p>cards [4] 40/17 40/18 40/21 71/13</p> <p>care [2] 26/13 45/7</p> <p>careful [1] 84/13</p> <p>carefully [1] 34/22</p> <p>Carey [3] 76/7 76/8 87/5</p> <p>carry [2] 6/12 75/19</p> <p>carrying [2] 6/7 71/21</p> <p>Cartwright [3] 65/7 65/8 87/4</p> <p>case [35] 3/1 8/12 8/21 9/5 9/5 9/13 13/17 23/5 23/5 23/10 23/11 25/11 29/25 31/23 34/5 47/22 48/12 48/20 48/21 50/6 51/18 52/20 53/13 53/14 53/16 64/23 77/17 77/20 77/21 78/19 80/22 81/20 82/18 82/20 83/14</p> <p>cases [9] 8/8 20/15 33/15 48/12 50/15 50/25 51/4 52/1 83/21</p> <p>catch [1] 76/18</p> <p>cause [5] 3/13 15/16 15/18 41/12 62/22</p> <p>caused [1] 69/7</p> <p>causes [2] 21/13 23/8</p> <p>caution [4] 4/1 4/6 4/19 47/11</p> <p>CCTV [1] 31/11</p> <p>centre [1] 43/7</p> <p>certain [2] 10/25 55/24</p> <p>certainly [6] 15/15 53/10 54/9 64/22 74/10 79/18</p> <p>certainty [1] 61/25</p> <p>cetera [3] 7/9 27/8 46/7</p> <p>chain [1] 70/25</p> <p>chair [6] 31/7 52/6 52/13 83/1 83/2 87/6</p> <p>challenge [1] 21/15</p> <p>chance [1] 38/22</p> <p>change [1] 71/12</p> <p>changed [2] 81/15</p>	<p>81/19</p> <p>changes [1] 7/13</p> <p>changing [1] 41/4</p> <p>character [2] 57/15 57/17</p> <p>checked [1] 54/2</p> <p>chief [2] 46/16 61/19</p> <p>choose [3] 69/12 85/17 85/19</p> <p>chose [1] 69/10</p> <p>Christchurch [3] 55/7 55/10 55/12</p> <p>Christopher [2] 39/22 66/13</p> <p>chronology [2] 70/11 70/23</p> <p>circling [1] 40/2</p> <p>circumstances [4] 24/6 31/16 35/25 77/10</p> <p>city [1] 43/7</p> <p>claims [1] 71/21</p> <p>clarify [1] 69/4</p> <p>clear [21] 5/3 7/18 9/17 12/22 21/8 22/12 26/20 34/20 43/16 45/25 46/1 51/19 51/24 52/19 55/10 62/17 70/1 74/16 76/21 79/17 85/6</p> <p>clearly [6] 14/18 42/19 43/14 64/12 69/24 80/16</p> <p>client [2] 32/10 32/12</p> <p>clinician's [1] 3/7</p> <p>close [1] 58/15</p> <p>clothes [1] 71/12</p> <p>clothing [3] 41/4 41/4 43/11</p> <p>co [2] 43/7 52/2</p> <p>co-morbidities [1] 52/2</p> <p>co-relate [1] 43/7</p> <p>Coates [1] 27/5</p> <p>Coates's [2] 27/5 31/3</p> <p>cognisant [1] 62/24</p> <p>collaborative [1] 73/12</p> <p>collated [1] 10/6</p> <p>collectively [2] 81/13 81/17</p> <p>Collins [1] 4/4</p> <p>combination [2] 10/11 48/9</p> <p>come [19] 1/18 5/15 10/16 21/17 26/18 28/12 30/25 31/15 34/3 34/3 34/7 34/7 37/14 38/3 41/23 44/5 46/13 46/17 49/19</p> <p>comfort [1] 26/9</p> <p>comfortable [1] 35/22</p> <p>coming [2] 38/5 59/19</p>	<p>commands [1] 6/17</p> <p>comment [3] 1/9 27/20 32/15</p> <p>commented [1] 33/17</p> <p>committed [3] 45/3 57/1 57/14</p> <p>committing [1] 43/25</p> <p>commonplace [1] 35/20</p> <p>communicating [1] 74/19</p> <p>communication [5] 26/21 28/5 64/4 64/25 65/2</p> <p>complex [1] 15/7</p> <p>complexities [1] 20/5</p> <p>comply [1] 84/23</p> <p>concealing [1] 45/9</p> <p>concentrate [1] 50/20</p> <p>concern [9] 22/11 22/20 23/14 33/2 53/8 53/17 53/22 54/18 62/14</p> <p>concerned [13] 9/19 14/25 17/3 22/25 29/3 31/17 34/14 39/7 46/19 62/3 63/2 68/24 73/4</p> <p>concerns [10] 22/13 22/15 23/4 26/13 26/25 53/25 54/1 63/4 75/6 81/6</p> <p>conclude [2] 46/5 46/8</p> <p>concluded [1] 47/18</p> <p>conclusion [4] 9/15 52/21 53/19 63/1</p> <p>conclusions [6] 18/5 25/10 27/16 27/18 46/18 46/20</p> <p>condition [2] 55/20 75/13</p> <p>conditional [1] 4/6</p> <p>conditions [2] 8/4 8/11</p> <p>conduct [2] 27/13 78/7</p> <p>conference [14] 7/25 8/1 11/13 19/18 20/2 34/17 35/6 73/23 74/17 74/24 75/3 75/4 84/2 84/3</p> <p>confident [1] 69/9</p> <p>confidential [2] 64/10 65/2</p> <p>conflicting [1] 17/4</p> <p>confronting [1] 44/25</p> <p>confusion [2] 79/9 85/10</p> <p>connection [1] 67/18</p> <p>conscious [3] 15/15 29/13 34/22</p> <p>consequence [3] 3/19 43/4 43/9</p>	<p>consequences [4] 5/13 12/7 20/1 20/6</p> <p>consider [4] 46/23 56/8 56/13 67/7</p> <p>considerable [1] 59/20</p> <p>consideration [2] 26/23 48/20</p> <p>considered [8] 15/12 23/15 25/7 51/3 51/23 70/21 80/14 81/12</p> <p>considering [1] 23/23</p> <p>consistent [1] 58/5</p> <p>constraining [1] 62/25</p> <p>consult [1] 26/6</p> <p>consultant [2] 83/6 83/19</p> <p>consulted [1] 16/15</p> <p>contact [1] 37/11</p> <p>contemplate [1] 33/22</p> <p>contemplated [1] 81/22</p> <p>contemporaneous [1] 83/24</p> <p>content [2] 2/18 73/11</p> <p>contents [1] 33/7</p> <p>contest [1] 79/25</p> <p>context [2] 13/17 59/9</p> <p>continue [3] 2/7 25/22 41/18</p> <p>continued [2] 11/19 45/5</p> <p>continuing [1] 44/22</p> <p>contrary [1] 62/9</p> <p>contribution [1] 5/24</p> <p>control [3] 7/7 56/19 58/6</p> <p>controlled [1] 8/4</p> <p>convention [2] 8/23 21/11</p> <p>conversation [7] 28/23 28/25 29/7 30/8 30/12 30/22 37/23</p> <p>conversations [1] 37/8</p> <p>convey [3] 32/16 35/8 66/20</p> <p>conviction [1] 9/23</p> <p>convinced [1] 61/18</p> <p>copies [1] 20/11</p> <p>copy [1] 9/6</p> <p>copying [1] 79/5</p> <p>correct [3] 49/6 75/14 79/22</p> <p>corrected [3] 16/5 17/24 73/2</p> <p>correctly [1] 27/18</p> <p>corrects [1] 17/14</p> <p>correspondence [1] 54/9</p> <p>could [39] 9/7 10/2</p>	<p>10/3 10/4 10/12 11/5 11/11 15/6 16/13 19/23 20/7 20/8 22/5 22/24 23/11 25/7 25/12 27/20 30/9 34/22 35/10 36/15 36/24 37/1 41/12 42/25 43/5 48/20 60/25 63/13 63/14 64/11 64/15 65/12 73/1 75/19 75/20 82/10 85/6</p> <p>couldn't [3] 9/7 21/8 49/10</p> <p>counsel [7] 28/20 62/6 62/10 65/11 70/21 78/5 85/14</p> <p>couple [4] 4/6 9/6 23/10 83/4</p> <p>course [22] 1/16 1/17 2/4 2/5 2/7 2/9 21/13 33/25 47/5 52/15 56/6 60/22 74/22 74/25 75/17 75/21 75/23 76/3 76/25 80/12 85/17 86/1</p> <p>court [31] 20/15 20/15 24/19 24/23 29/11 30/23 31/11 32/6 32/9 32/13 32/21 32/22 32/22 32/25 32/25 36/11 36/14 46/5 46/8 46/17 49/4 49/5 65/20 66/4 66/20 66/23 69/11 71/16 72/15 72/17 80/11</p> <p>court's [2] 37/20 50/9</p> <p>courtroom [1] 31/20</p> <p>courts [1] 36/20</p> <p>cover [2] 75/1 84/21</p> <p>covered [5] 11/11 15/3 27/6 27/15 27/16</p> <p>CPIA [1] 63/19</p> <p>CPS [12] 22/4 26/4 36/17 37/6 62/10 64/25 64/25 74/5 74/6 76/1 78/6 81/8</p> <p>CPSE [1] 23/20</p> <p>CPSE000194 [2] 1/5 5/23</p> <p>CPSE000196 [1] 11/22</p> <p>CPSE000199 [1] 27/2</p> <p>CPSE000212 [1] 30/25</p> <p>CPSE000216 [2] 34/8 73/17</p> <p>CPSE000475 [2] 37/17 65/16</p> <p>CPSE000486 [1] 44/6</p> <p>CPSE000895 [1] 10/16</p> <p>CPSE0008005 [1] 30/14</p>
---	--	--	--	---

<p>C</p> <p>CPSE0008127 [1] 28/13</p> <p>CPSE0008516 [2] 21/18 24/9</p> <p>CPSE0009097 [1] 61/12</p> <p>CPSE0009239 [1] 61/1</p> <p>CPSE0009524 [2] 63/13 78/24</p> <p>created [1] 11/9</p> <p>credibility [4] 16/21 16/24 17/3 17/7</p> <p>criminal [5] 8/8 38/6 52/17 57/11 68/9</p> <p>cross [2] 43/4 47/9</p> <p>cross-examined [1] 47/9</p> <p>cross-referenced [1] 43/4</p> <p>Crown [7] 1/11 29/8 29/18 62/6 64/23 76/10 78/11</p> <p>Crown's [2] 10/13 48/18</p> <p>culpability [9] 47/14 47/20 47/21 47/25 49/15 66/21 67/17 69/20 70/25</p> <p>culpable [1] 49/16</p> <p>custody [7] 13/1 13/2 22/19 22/22 76/15 77/19 83/13</p> <p>CVP [2] 36/14 36/20</p>	<p>deals [1] 66/11</p> <p>dealt [3] 54/25 73/14 85/11</p> <p>deceased [5] 8/15 52/19 53/14 53/16 53/24</p> <p>December [2] 61/10 61/13</p> <p>decided [1] 64/5</p> <p>decision [13] 2/12 2/21 3/21 3/23 4/15 10/6 17/8 20/12 21/21 24/3 24/21 81/6 81/24</p> <p>decision-making [3] 17/8 24/3 81/24</p> <p>decisions [2] 19/25 20/2</p> <p>declined [1] 14/22</p> <p>defence [14] 27/21 31/16 32/6 32/11 63/19 64/24 77/2 77/2 77/3 78/15 78/18 80/1 80/19 82/22</p> <p>defences [1] 81/14</p> <p>defendant [14] 5/25 22/18 24/18 24/22 31/10 32/7 36/25 42/6 42/8 43/6 45/3 56/25 57/9 78/10</p> <p>defendant's [3] 41/18 44/21 68/2</p> <p>defendants [2] 16/22 76/16</p> <p>defending [4] 33/18 36/3 77/1 77/6</p> <p>definitions [1] 62/24</p> <p>deflecting [1] 41/5</p> <p>degree [2] 46/23 80/3</p> <p>delay [2] 52/17 54/25</p> <p>deliberately [1] 69/12</p> <p>delusional [1] 3/7</p> <p>delusions [1] 3/12</p> <p>demeanour [1] 42/10</p> <p>demonstrate [1] 40/23</p> <p>denies [1] 3/5</p> <p>depend [1] 25/15</p> <p>deploy [1] 44/4</p> <p>deployed [5] 40/23 57/10 57/17 63/7 63/8</p> <p>derived [1] 10/4</p> <p>Derwent [1] 65/20</p> <p>describe [4] 12/20 42/6 50/13 75/10</p> <p>described [5] 1/25 33/11 42/1 62/15 75/12</p> <p>describes [1] 4/15</p> <p>describing [7] 3/19 17/10 18/19 18/22 45/16 62/16 63/6</p> <p>designed [1] 42/21</p> <p>despair [1] 6/16</p> <p>despite [2] 42/10 78/12</p> <p>detail [4] 12/20 18/1</p>	<p>41/17 68/21</p> <p>detailed [2] 40/18 68/8</p> <p>details [6] 11/2 11/2 40/12 84/7 84/11 84/13</p> <p>detained [1] 68/10</p> <p>detection [2] 40/24 41/5</p> <p>Detective [1] 61/19</p> <p>detention [1] 18/7</p> <p>determinedly [1] 50/21</p> <p>diagnosis [1] 62/16</p> <p>did [61] 2/23 3/2 6/19 6/20 6/25 11/8 11/25 17/15 17/24 17/25 20/22 20/23 24/8 25/4 27/11 28/5 29/5 29/21 29/21 30/12 30/18 31/3 31/4 33/21 34/13 35/10 37/21 39/4 40/4 42/4 45/20 45/22 51/1 51/5 54/16 54/17 56/7 56/17 57/10 57/20 58/12 58/18 58/23 59/1 60/7 60/19 60/22 62/6 63/4 66/2 69/4 69/8 71/2 72/24 78/5 78/9 79/25 81/6 82/21 85/2 85/3</p> <p>did it [1] 24/8</p> <p>didn't [27] 1/14 11/1 11/2 11/4 11/5 11/10 15/16 17/16 18/4 23/3 23/25 36/25 42/8 45/20 46/1 53/15 53/23 54/6 56/13 69/12 72/11 73/2 73/10 75/25 76/18 84/14 84/22</p> <p>die [2] 7/9 39/9</p> <p>difference [5] 32/18 38/13 38/14 64/10 64/18</p> <p>different [10] 6/5 6/18 6/22 6/25 7/14 47/18 48/11 75/10 78/21 82/21</p> <p>difficult [3] 26/19 26/20 34/23</p> <p>difficulties [1] 13/25</p> <p>difficulty [1] 45/16</p> <p>diminish [1] 69/17</p> <p>diminished [15] 9/24 12/6 12/7 12/11 20/11 27/7 28/2 43/23 62/19 78/15 79/19 80/18 80/22 81/7 81/19</p> <p>direct [1] 56/22</p> <p>directed [1] 55/22</p> <p>disadvantaged [1] 24/4</p> <p>disadvantages [1] 34/21</p> <p>disagree [1] 13/13</p>	<p>discern [1] 48/10</p> <p>disclosable [5] 63/19 63/20 64/13 64/18 64/20</p> <p>disclosed [1] 20/15</p> <p>disclosure [1] 64/9</p> <p>discuss [3] 5/22 58/23 60/15</p> <p>discussed [3] 36/17 36/18 81/22</p> <p>discussion [7] 8/2 22/4 37/5 62/5 73/18 73/25 74/2</p> <p>discussions [4] 11/13 28/2 36/19 53/23</p> <p>disguise [2] 5/25 5/25</p> <p>disgust [1] 32/7</p> <p>disorder [8] 2/11 48/8 50/2 50/5 51/11 51/14 51/15 52/3</p> <p>displayed [1] 82/8</p> <p>displays [1] 4/9</p> <p>disposal [3] 36/9 60/3 78/19</p> <p>disputing [1] 7/18</p> <p>dissociate [1] 41/22</p> <p>distinct [1] 51/13</p> <p>distinction [1] 51/9</p> <p>distress [3] 11/3 33/16 52/16</p> <p>distressed [1] 75/24</p> <p>distressing [2] 3/13 31/25</p> <p>distributed [1] 33/1</p> <p>Diversion [1] 83/15</p> <p>divert [1] 15/2</p> <p>do [42] 4/8 4/11 5/3 6/18 7/11 9/2 11/6 19/13 19/14 19/20 21/5 23/8 23/25 24/7 24/9 24/19 25/5 25/12 25/20 27/21 30/6 36/5 40/5 43/14 44/12 45/15 46/16 48/2 50/5 50/6 54/6 54/12 55/19 55/21 58/11 71/22 73/11 75/17 83/11 83/22 84/24 85/7</p> <p>doctors [1] 20/13</p> <p>document [17] 7/24 9/6 10/24 27/2 38/16 42/25 44/8 44/11 56/22 62/14 62/22 63/6 63/16 64/7 69/13 72/24 82/1</p> <p>documents [6] 25/18 26/12 28/18 28/19 38/24 47/12</p> <p>does [3] 33/10 80/17 83/8</p> <p>doesn't [10] 3/24 6/5 8/4 19/3 23/10 33/4 33/11 40/2 63/19 80/20</p>	<p>doing [8] 7/2 20/13 51/2 71/25 75/5 75/5 78/13 84/23</p> <p>domain [3] 32/4 33/14 33/15</p> <p>dominant [2] 41/10 51/17</p> <p>don't [43] 1/16 1/19 2/6 4/12 7/8 13/13 13/21 16/16 16/21 19/21 20/13 20/18 22/13 25/17 28/7 28/24 31/20 32/3 32/10 32/17 36/18 41/23 45/9 48/24 49/18 54/17 55/22 56/11 56/20 56/21 56/23 59/17 60/8 61/23 64/20 66/5 66/17 67/18 70/10 71/2 73/7 84/24 85/16</p> <p>done [34] 9/1 9/3 14/8 14/20 15/10 16/1 16/5 16/13 16/13 22/6 22/6 22/21 27/14 27/17 27/23 34/16 37/24 38/1 43/15 43/21 52/1 53/1 53/2 53/9 53/10 57/8 62/4 69/5 69/9 72/11 74/18 76/22 81/12 82/11</p> <p>door [1] 38/6</p> <p>Double [1] 9/13</p> <p>doubt [3] 21/9 54/21 82/11</p> <p>down [19] 3/23 5/15 10/16 21/17 22/10 24/9 26/18 28/12 30/25 34/7 37/14 38/3 38/5 43/1 44/5 46/13 49/19 77/16 82/5</p> <p>downgrade [1] 2/8</p> <p>Dr [29] 6/7 6/11 12/22 21/24 22/11 26/3 26/3 26/8 26/12 27/10 28/18 32/1 33/5 45/11 49/23 54/2 54/5 54/15 54/19 62/17 76/13 77/23 78/4 78/6 78/12 79/17 79/25 82/20 83/7</p> <p>Dr B [1] 49/23</p> <p>Dr Blackwood [3] 28/18 76/13 78/6</p> <p>Dr Kumar [3] 26/3 26/8 26/12</p> <p>Dr Latham [8] 21/24 54/2 54/15 54/19 62/17 79/17 82/20 83/7</p> <p>Dr Latham's [2] 27/10 54/5</p> <p>Dr McSweeney [3] 6/11 12/22 78/12</p> <p>Dr McSweeney's [2] 77/23 78/4</p>
---	---	---	--	--

<p>D</p> <p>Dr Mirvis [1] 45/11</p> <p>Dr O'Malley-Kumar [2] 32/1 33/5</p> <p>Dr Shaffiulla [1] 6/7</p> <p>Dr Sinead [1] 26/3</p> <p>drafted [1] 62/11</p> <p>drafting [1] 72/12</p> <p>draw [1] 50/9</p> <p>drawn [1] 48/2</p> <p>driven [2] 9/14 70/3</p> <p>driving [8] 28/1 41/7 48/11 48/14 51/6 51/15 51/16 51/17</p> <p>dropped [2] 14/7 71/22</p> <p>drove [2] 18/12 71/1</p> <p>drug [10] 14/9 14/14 14/16 14/17 14/18 15/12 17/6 50/10 50/12 51/7</p> <p>drug-induced [1] 15/12</p> <p>drug-taking [1] 50/12</p> <p>drugs [5] 16/19 50/2 50/4 50/19 51/7</p> <p>drugs/alcohol/personality [1] 50/2</p> <p>due [2] 21/13 80/11</p> <p>Dunblane [1] 56/7</p> <p>duration [1] 23/14</p> <p>during [2] 1/24 59/23</p> <p>duty [1] 47/12</p>	<p>62/12 63/15 79/8</p> <p>emails [4] 4/2 23/17 25/22 81/16</p> <p>embark [1] 23/13</p> <p>emphases [1] 6/18</p> <p>emphasis [1] 7/12</p> <p>employees [1] 40/10</p> <p>employment [1] 40/9</p> <p>enable [1] 34/14</p> <p>enabled [1] 13/6</p> <p>end [12] 5/3 5/24 10/25 19/2 34/6 43/2 46/24 48/19 53/7 53/20 77/23 80/25</p> <p>engage [2] 2/4 8/5</p> <p>engagement [1] 1/24</p> <p>enormous [1] 25/11</p> <p>enough [2] 1/14 28/16</p> <p>enquiries [2] 15/19 58/20</p> <p>enquiry [1] 17/5</p> <p>enrolled [1] 2/6</p> <p>ensure [10] 11/5 15/21 27/14 29/17 30/9 43/8 49/25 53/17 68/24 72/25</p> <p>enters [2] 24/18 24/22</p> <p>entirely [8] 35/20 41/9 48/3 48/16 51/1 51/3 61/17 73/11</p> <p>entitled [1] 48/3</p> <p>enumerated [1] 44/17</p> <p>environment [2] 35/22 36/6</p> <p>episodes [1] 1/25</p> <p>equally [1] 74/23</p> <p>erroneously [1] 79/22</p> <p>errors [1] 73/1</p> <p>especially [1] 68/24</p> <p>essentially [9] 53/17 55/19 58/8 58/9 60/1 66/3 71/6 74/13 76/19</p> <p>established [1] 71/15</p> <p>et [3] 7/9 27/8 46/7</p> <p>et cetera [3] 7/9 27/8 46/7</p> <p>evade [1] 4/17</p> <p>even [7] 11/10 16/24 33/21 36/24 77/3 83/14 84/18</p> <p>evening [3] 28/19 28/23 61/14</p> <p>event [3] 30/7 69/18 70/2</p> <p>events [19] 1/19 3/17 4/2 4/16 11/2 11/3 12/21 17/6 18/1 19/11 33/12 38/4 43/4 43/9 55/21 55/23 55/24 58/16 71/1</p> <p>ever [11] 16/15 35/18 36/17 56/7 57/20</p>	<p>58/12 58/19 58/23 59/1 59/4 64/21</p> <p>evermore [1] 33/20</p> <p>every [4] 23/1 23/2 26/15 81/15</p> <p>everyone [4] 17/3 63/10 75/23 77/17</p> <p>everything [3] 15/1 19/20 27/15</p> <p>evicted [1] 65/22</p> <p>evidence [23] 3/7 3/18 8/12 33/19 38/8 40/22 45/10 46/12 52/15 53/7 53/10 53/21 58/6 58/8 61/6 67/14 67/16 70/24 76/13 78/25 80/21 82/17 84/25</p> <p>evidential [2] 39/10 81/3</p> <p>exacerbate [1] 50/23</p> <p>exactly [2] 7/2 83/25</p> <p>examination [2] 18/4 46/16</p> <p>examine [2] 6/23 6/25</p> <p>examined [1] 47/9</p> <p>example [3] 6/3 50/19 51/21</p> <p>exchanges [3] 21/24 62/12 70/12</p> <p>exclude [1] 69/12</p> <p>executed [1] 13/11</p> <p>existing [1] 22/8</p> <p>expect [5] 8/9 45/22 50/8 59/7 64/8</p> <p>expectations [1] 30/19</p> <p>expected [3] 21/6 59/22 64/3</p> <p>expense [2] 53/6 53/21</p> <p>experience [6] 16/17 23/3 47/10 82/6 83/20 85/8</p> <p>experiences [1] 45/16</p> <p>expert [11] 22/4 23/24 24/1 25/4 25/7 25/17 53/6 53/20 54/1 77/11 83/19</p> <p>expertise [1] 25/15</p> <p>experts [2] 77/5 82/18</p> <p>explain [5] 12/5 15/13 19/17 27/11 75/5</p> <p>explained [4] 14/23 20/14 27/10 36/7</p> <p>explaining [3] 12/12 20/4 55/24</p> <p>Explanations [1] 12/17</p> <p>explicable [1] 57/24</p> <p>explored [1] 70/23</p> <p>Express [1] 59/19</p>	<p>expressing [1] 3/7</p> <p>extend [1] 23/14</p> <p>extensively [1] 69/16</p> <p>extent [1] 44/21</p> <p>extraordinary [3] 17/13 18/14 18/16</p> <p>extremis [1] 85/11</p> <p>eyesight [3] 66/3 67/5 67/15</p> <p>F</p> <p>facilitate [1] 74/18</p> <p>facilitated [1] 76/4</p> <p>fact [19] 16/2 16/9 17/15 31/8 33/21 34/18 45/6 53/5 56/12 56/25 57/9 64/5 77/22 79/19 79/21 80/13 80/17 80/22 83/7</p> <p>factor [5] 2/1 2/3 18/9 51/17 70/22</p> <p>factors [5] 43/22 48/10 50/8 51/9 66/20</p> <p>facts [1] 25/14</p> <p>fail [1] 45/5</p> <p>failed [1] 35/7</p> <p>failings [1] 77/8</p> <p>fairly [1] 47/13</p> <p>fairness [1] 10/22</p> <p>fall [1] 24/24</p> <p>fall-out [1] 24/24</p> <p>falls [1] 47/20</p> <p>false [1] 63/1</p> <p>falsely [1] 62/14</p> <p>families [35] 8/3 8/6 10/23 11/1 11/16 11/24 15/3 15/18 16/12 19/23 20/10 20/13 20/16 20/17 22/12 23/9 23/23 24/24 25/9 25/23 26/6 26/20 27/4 29/9 30/11 31/2 52/17 52/19 53/14 53/16 62/3 63/3 63/11 81/1 84/6</p> <p>families' [2] 29/19 30/19</p> <p>family [14] 7/8 9/22 10/18 12/19 17/25 34/20 34/24 39/7 39/9 53/23 73/10 73/21 75/15 75/19</p> <p>family's [2] 22/15 26/12</p> <p>far [9] 9/19 19/22 34/13 35/24 36/9 46/19 61/17 75/2 84/5</p> <p>fatally [1] 44/1</p> <p>feasible [1] 25/12</p> <p>feature [3] 40/19 41/10 73/5</p> <p>features [7] 9/11 37/19 41/5 48/21 50/7 51/23 63/7</p> <p>feel [2] 73/7 84/14</p> <p>fell [1] 49/10</p>	<p>felt [1] 1/14</p> <p>Feven [2] 68/15 72/18</p> <p>few [3] 63/5 76/9 78/3</p> <p>filmed [1] 59/18</p> <p>final [2] 24/21 63/15</p> <p>finally [2] 73/13 81/25</p> <p>find [5] 3/4 34/23 47/9 53/3 64/6</p> <p>findings [2] 50/1 79/10</p> <p>fine [1] 28/15</p> <p>first [13] 15/17 15/22 22/3 38/8 54/5 65/12 68/14 74/24 75/2 84/2 84/16 84/17 84/17</p> <p>firstly [3] 50/8 54/25 55/4</p> <p>fit [1] 78/13</p> <p>fits [1] 66/22</p> <p>fixture [1] 81/4</p> <p>fixtures [1] 23/6</p> <p>flat [3] 65/20 66/10 66/15</p> <p>flatmate [5] 13/25 39/20 39/21 39/25 66/12</p> <p>flatmates [5] 65/23 66/15 67/2 67/3 67/10</p> <p>floor [1] 38/9</p> <p>FLOs [1] 26/2</p> <p>focus [4] 29/7 29/10 51/8 69/3</p> <p>focused [2] 15/21 81/13</p> <p>focusing [3] 7/22 16/2 50/19</p> <p>follow [4] 34/15 34/23 43/6 49/6</p> <p>followed [2] 27/6 42/23</p> <p>following [3] 35/5 68/9 86/9</p> <p>footage [6] 2/24 13/1 13/4 13/9 13/9 39/21</p> <p>force [1] 48/14</p> <p>forced [3] 36/1 68/16 72/17</p> <p>forces [1] 48/11</p> <p>forevermore [1] 33/14</p> <p>forgotten [1] 11/7</p> <p>form [4] 27/24 29/19 62/4 78/19</p> <p>formalities [1] 32/20</p> <p>format [1] 84/19</p> <p>formed [2] 42/19 82/20</p> <p>forthcoming [1] 20/1</p> <p>forward [1] 20/20</p> <p>forwards [1] 72/7</p> <p>found [1] 12/18</p> <p>four [2] 7/17 14/3</p> <p>four years [1] 14/3</p>
--	--	---	--	--

<p>F</p> <p>fourth [3] 24/25 25/4 25/7</p> <p>fractured [2] 68/17 72/19</p> <p>fractures [1] 68/19</p> <p>free [1] 36/2</p> <p>frequently [1] 49/3</p> <p>Friday [2] 28/19 28/23</p> <p>front [2] 11/10 11/23</p> <p>fruitless [1] 15/1</p> <p>full [4] 22/16 68/21 73/3 84/7</p> <p>fully [2] 14/22 43/9</p> <p>fundamentally [1] 38/2</p> <p>further [19] 11/4 18/12 21/20 21/22 22/10 24/20 26/5 26/7 26/22 31/19 35/6 46/8 52/5 52/7 62/22 64/23 67/16 81/18 85/10</p> <p>furthermore [1] 25/20</p>	<p>8/23 15/19 16/17 18/4 18/10 25/23 27/21 29/4 29/10 31/5 34/3 34/7 38/20 44/16 51/25 55/6 57/23 59/6 65/3 77/18 77/20 83/14</p> <p>gone [4] 14/23 19/21 57/7 76/14</p> <p>good [6] 35/3 53/7 53/21 58/23 65/9 85/16</p> <p>got [8] 6/13 30/6 62/1 63/5 71/11 71/11 71/12 77/7</p> <p>governs [1] 47/19</p> <p>Grace [7] 43/17 66/3 67/4 67/14 67/18 71/7 72/4</p> <p>Grace's [1] 33/21</p> <p>grammar [1] 59/15</p> <p>graphic [1] 12/20</p> <p>gravity [3] 33/23 34/1 43/25</p> <p>great [1] 63/10</p> <p>grieving [1] 63/11</p> <p>grievous [2] 68/19 69/6</p> <p>ground [1] 22/6</p> <p>guessing [1] 19/15</p> <p>guidelines [1] 51/8</p>	<p>51/8 51/12 55/4 56/25 57/9 57/14 57/15 59/4 59/13 59/25 67/5 67/19 68/4 73/8 78/14 79/4 83/5</p> <p>hasn't [2] 15/10 41/3</p> <p>have [141]</p> <p>having [15] 2/11 4/15 17/25 21/19 51/21 54/25 56/13 59/5 62/15 62/17 64/21 71/22 71/23 77/11 85/15</p> <p>he [144]</p> <p>he'd [15] 2/8 4/19 12/23 14/21 17/5 27/12 29/5 44/1 59/1 63/5 65/22 69/15 71/11 71/11 71/12</p> <p>he's [11] 3/25 4/21 5/8 5/9 5/9 6/22 17/4 40/18 41/21 47/9 78/12</p> <p>he/she [1] 25/7</p> <p>head [1] 20/18</p> <p>headlock [1] 39/22</p> <p>health [10] 2/12 7/16 7/18 12/19 13/11 13/24 39/8 68/10 69/25 83/12</p> <p>hear [4] 7/7 11/8 13/18 22/20</p> <p>heard [4] 13/16 38/7 45/10 70/19</p> <p>hearing [13] 3/8 21/12 24/15 27/6 29/2 37/9 60/17 73/25 74/5 74/9 74/19 74/22 86/9</p> <p>held [1] 39/22</p> <p>Hello [1] 4/4</p> <p>help [3] 12/4 46/19 76/24</p> <p>helped [1] 35/4</p> <p>helpful [3] 22/2 83/23 85/21</p> <p>helps [1] 56/22</p> <p>Hendy [4] 14/6 20/9 21/4 21/6</p> <p>her [11] 33/23 36/11 36/15 37/11 38/9 38/11 38/11 68/16 68/17 72/19 85/3</p> <p>here [11] 8/5 15/11 18/11 31/8 33/8 39/11 48/15 49/3 68/24 69/3 73/4</p> <p>Here's [1] 22/3</p> <p>hesitated [2] 82/22 82/24</p> <p>Hi [1] 61/16</p> <p>hidden [1] 45/6</p> <p>hide [2] 42/19 69/17</p> <p>hiding [1] 42/15</p> <p>high [3] 35/25 47/20 49/12</p> <p>Highbury [1] 68/12</p>	<p>higher [2] 41/15 44/3</p> <p>highest [1] 34/5</p> <p>highlight [1] 80/2</p> <p>highlighted [2] 44/8 44/18</p> <p>highly [2] 58/10 69/19</p> <p>him [51] 2/13 3/13 4/13 4/15 4/17 5/14 17/20 17/20 18/5 18/20 20/19 21/1 21/12 21/16 28/23 29/5 29/8 29/11 30/18 30/23 30/23 34/19 34/19 35/1 35/8 36/8 38/5 39/8 39/14 39/23 42/21 47/1 47/5 47/6 48/23 54/11 54/11 54/12 58/5 59/4 59/6 59/22 60/15 69/2 70/3 70/7 71/22 75/14 79/8 80/15 80/18</p> <p>himself [6] 17/23 18/16 18/17 27/20 43/6 70/13</p> <p>his [87] 1/15 1/17 2/4 2/4 3/15 3/18 5/13 6/8 7/5 7/8 7/14 12/18 12/19 13/9 13/25 17/6 17/12 17/16 17/18 18/5 18/13 18/14 18/24 19/7 19/8 24/18 24/22 27/14 29/24 30/20 32/8 33/4 34/20 34/21 35/9 39/7 39/9 39/13 40/25 41/4 41/7 41/11 41/13 41/21 42/1 42/7 42/13 42/19 44/2 44/22 45/5 45/6 45/20 46/23 47/1 47/3 47/8 47/8 47/14 47/21 47/22 50/1 55/19 55/20 56/9 56/9 56/11 58/1 59/5 59/5 60/13 62/18 65/23 65/23 67/2 68/16 69/1 69/5 69/14 69/21 70/14 71/5 71/21 71/24 72/17 73/18 78/7</p> <p>history [4] 50/10 67/23 68/2 69/14</p> <p>HMCP0000352 [1] 25/25</p> <p>HMCP0000576 [2] 49/21 82/1</p> <p>HMCP0000581 [1] 46/14</p> <p>HMCPsi [4] 35/11 49/20 82/2 82/14</p> <p>Hodgson [1] 34/9</p> <p>home [2] 33/22 36/11</p> <p>honestly [1] 2/15</p> <p>hope [4] 36/7 62/1 75/15 82/1</p> <p>hoped [1] 20/3</p> <p>hoping [1] 10/15</p>	<p>hospital [8] 29/15 35/13 35/25 36/6 41/23 65/25 68/12 75/8</p> <p>hostage [1] 39/24</p> <p>hour [3] 11/18 19/17 20/24</p> <p>hours [2] 9/6 71/6</p> <p>housemate [1] 13/25</p> <p>how [22] 7/1 11/15 12/2 18/3 18/17 19/14 19/15 21/13 26/20 27/10 33/22 40/18 48/8 50/5 50/6 52/20 53/3 53/11 55/23 57/20 58/20 69/13</p> <p>however [3] 25/17 26/19 45/2</p> <p>huge [1] 12/13</p> <p>hugely [1] 75/23</p> <p>hybrid [11] 9/13 9/17 9/21 10/2 29/10 29/17 41/16 60/2 75/7 79/12 80/11</p>
<p>G</p> <p>gave [2] 7/15 76/18</p> <p>generally [2] 50/6 83/21</p> <p>gentleman [1] 75/11</p> <p>gently [1] 44/11</p> <p>genuine [1] 26/25</p> <p>Genuinely [1] 26/25</p> <p>get [7] 10/21 20/10 20/13 26/11 31/4 36/5 50/17</p> <p>getting [2] 21/21 85/12</p> <p>ghastliness [1] 33/12</p> <p>give [3] 58/9 69/14 85/23</p> <p>given [11] 2/21 3/21 6/22 8/13 20/21 21/7 43/24 51/18 55/9 68/2 78/25</p> <p>gives [3] 6/4 47/1 67/16</p> <p>giving [1] 17/4</p> <p>go [45] 2/20 5/4 11/21 11/22 14/5 15/19 15/20 17/9 19/2 20/20 21/18 22/1 23/11 23/20 24/9 24/25 25/25 27/2 29/4 31/8 32/1 36/2 37/17 37/18 37/20 38/20 39/25 44/11 46/12 46/14 46/15 47/2 47/8 51/10 55/6 56/16 63/14 64/13 65/12 67/25 68/5 74/22 76/20 78/6 83/22</p> <p>goes [1] 17/25</p> <p>going [25] 5/4 5/4 7/9</p>	<p>H</p> <p>had [112]</p> <p>hadn't [10] 11/11 12/24 13/1 13/11 13/13 13/16 13/23 27/17 57/6 69/24</p> <p>hair [2] 16/14 16/17</p> <p>hairs [1] 16/17</p> <p>half [3] 11/18 19/17 20/24</p> <p>halfway [1] 82/5</p> <p>hallmarks [1] 40/25</p> <p>halt [2] 18/3 18/3</p> <p>handed [2] 3/23 65/23</p> <p>handing [1] 17/22</p> <p>handling [1] 40/18</p> <p>hands [1] 18/16</p> <p>hang [1] 21/3</p> <p>happen [2] 73/6 83/8</p> <p>happened [10] 4/10 6/10 7/2 7/21 33/13 66/11 68/14 71/8 75/6 84/7</p> <p>happening [1] 31/2</p> <p>happens [1] 41/23</p> <p>happy [1] 2/15</p> <p>hard [2] 9/6 20/15</p> <p>harm [3] 68/19 69/7 69/20</p> <p>has [30] 1/18 2/23 3/16 11/23 14/19 22/6 32/17 32/24 38/7 46/17 49/3 49/6 50/20</p>	<p>heard [4] 13/16 38/7 45/10 70/19</p> <p>hearing [13] 3/8 21/12 24/15 27/6 29/2 37/9 60/17 73/25 74/5 74/9 74/19 74/22 86/9</p> <p>held [1] 39/22</p> <p>Hello [1] 4/4</p> <p>help [3] 12/4 46/19 76/24</p> <p>helped [1] 35/4</p> <p>helpful [3] 22/2 83/23 85/21</p> <p>helps [1] 56/22</p> <p>Hendy [4] 14/6 20/9 21/4 21/6</p> <p>her [11] 33/23 36/11 36/15 37/11 38/9 38/11 38/11 68/16 68/17 72/19 85/3</p> <p>here [11] 8/5 15/11 18/11 31/8 33/8 39/11 48/15 49/3 68/24 69/3 73/4</p> <p>Here's [1] 22/3</p> <p>hesitated [2] 82/22 82/24</p> <p>Hi [1] 61/16</p> <p>hidden [1] 45/6</p> <p>hide [2] 42/19 69/17</p> <p>hiding [1] 42/15</p> <p>high [3] 35/25 47/20 49/12</p> <p>Highbury [1] 68/12</p>	<p>himself [6] 17/23 18/16 18/17 27/20 43/6 70/13</p> <p>his [87] 1/15 1/17 2/4 2/4 3/15 3/18 5/13 6/8 7/5 7/8 7/14 12/18 12/19 13/9 13/25 17/6 17/12 17/16 17/18 18/5 18/13 18/14 18/24 19/7 19/8 24/18 24/22 27/14 29/24 30/20 32/8 33/4 34/20 34/21 35/9 39/7 39/9 39/13 40/25 41/4 41/7 41/11 41/13 41/21 42/1 42/7 42/13 42/19 44/2 44/22 45/5 45/6 45/20 46/23 47/1 47/3 47/8 47/8 47/14 47/21 47/22 50/1 55/19 55/20 56/9 56/9 56/11 58/1 59/5 59/5 60/13 62/18 65/23 65/23 67/2 68/16 69/1 69/5 69/14 69/21 70/14 71/5 71/21 71/24 72/17 73/18 78/7</p> <p>history [4] 50/10 67/23 68/2 69/14</p> <p>HMCP0000352 [1] 25/25</p> <p>HMCP0000576 [2] 49/21 82/1</p> <p>HMCP0000581 [1] 46/14</p> <p>HMCPsi [4] 35/11 49/20 82/2 82/14</p> <p>Hodgson [1] 34/9</p> <p>home [2] 33/22 36/11</p> <p>honestly [1] 2/15</p> <p>hope [4] 36/7 62/1 75/15 82/1</p> <p>hoped [1] 20/3</p> <p>hoping [1] 10/15</p>	<p>I</p> <p>I absolutely [1] 16/7</p> <p>I act [1] 76/10</p> <p>I addressed [1] 35/2</p> <p>I agree [3] 57/19 60/22 79/16</p> <p>I am [4] 21/3 61/8 61/17 62/3</p> <p>I anticipate [2] 4/18 56/16</p> <p>I appreciate [1] 39/11</p> <p>I ask [5] 63/16 66/6 70/10 72/13 81/25</p> <p>I asked [2] 11/7 30/1</p> <p>I attended [1] 74/25</p> <p>I can [3] 3/21 20/21 26/11</p> <p>I can't [4] 8/25 21/16 27/12 54/17</p> <p>I certainly [1] 79/18</p> <p>I could [5] 10/2 11/5 19/23 34/22 35/10</p> <p>I did [13] 3/2 20/23 29/5 30/18 35/10 40/4 54/17 60/22 63/4 71/2 72/24 85/2 85/3</p> <p>I didn't [9] 11/10 15/16 46/1 53/15 53/23 69/12 72/11 73/2 76/18</p> <p>I directed [1] 55/22</p> <p>I don't [21] 1/16 2/6 4/12 13/13 13/21 16/16 20/18 28/7 32/17 36/18 48/24 54/17 55/22 56/11 56/20 56/23 64/20 66/5 67/18 84/24 85/16</p> <p>I entirely [1] 61/17</p>

<p>I</p> <p>I felt [1] 1/14</p> <p>I find [1] 53/3</p> <p>I first [1] 65/12</p> <p>I for [1] 81/15</p> <p>I had [5] 12/2 15/1 60/24 79/17 84/8</p> <p>I hadn't [1] 11/11</p> <p>I have [1] 77/10</p> <p>I honestly [1] 2/15</p> <p>I hope [1] 62/1</p> <p>I hoped [1] 20/3</p> <p>I initially [1] 4/7</p> <p>I invited [1] 35/2</p> <p>I just [7] 19/21 56/5 75/1 76/21 80/6 82/8 83/3</p> <p>I knew [3] 14/21 15/20 47/3</p> <p>I know [8] 2/13 12/5 16/16 33/15 36/4 55/23 60/24 81/16</p> <p>I left [1] 11/19</p> <p>I made [1] 71/18</p> <p>I mean [2] 22/22 69/13</p> <p>I mentioned [1] 38/15</p> <p>I met [1] 30/23</p> <p>I only [1] 30/22</p> <p>I read [1] 18/17</p> <p>I realise [1] 54/14</p> <p>I realised [1] 20/7</p> <p>I recall [3] 2/7 74/19 84/12</p> <p>I remained [1] 75/22</p> <p>I remember [1] 73/8</p> <p>I said [2] 34/1 53/14</p> <p>I saw [2] 11/13 30/5</p> <p>I say [2] 15/5 58/11</p> <p>I see [1] 4/13</p> <p>I should [1] 14/22</p> <p>I spoke [2] 34/21 49/23</p> <p>I start [1] 76/12</p> <p>I suggest [1] 58/6</p> <p>I then [3] 67/21 69/4 72/2</p> <p>I think [42] 9/4 10/22 10/24 11/7 11/18 11/19 18/19 20/25 28/15 28/22 29/3 30/16 30/22 35/11 38/15 39/5 39/13 40/4 40/15 40/15 45/10 59/21 63/4 70/15 72/15 72/20 72/22 72/24 73/21 73/23 73/24 75/6 75/12 83/4 83/7 83/18 83/23 84/2 84/5 84/9 84/11 85/20</p> <p>I thought [1] 19/4</p> <p>I understood [5] 9/20 9/22 34/20 39/5 75/17</p> <p>I want [2] 54/24 67/6</p>	<p>I wanted [4] 11/5 29/11 49/25 51/24</p> <p>I was [42] 9/19 9/19 9/22 10/2 10/15 10/25 11/10 11/12 11/18 12/5 14/25 15/2 15/15 15/15 15/23 18/19 18/22 29/3 29/13 29/17 31/6 34/19 34/22 34/25 35/23 38/17 42/24 43/7 51/19 54/8 59/21 68/24 69/13 71/19 72/11 72/22 73/2 75/16 80/24 81/21 84/22 84/23</p> <p>I wasn't [3] 28/11 69/17 74/15</p> <p>I went [1] 41/17</p> <p>I would [10] 8/9 11/12 21/6 30/6 37/10 46/23 50/8 69/9 74/17 74/22</p> <p>I wouldn't [3] 37/12 64/3 64/8</p> <p>I'd [7] 11/7 15/17 19/18 28/7 69/25 74/16 80/8</p> <p>I'm [23] 2/15 3/2 7/18 15/25 16/21 18/9 19/10 20/20 21/8 34/3 34/7 37/6 49/9 49/18 54/8 55/5 56/23 56/24 58/19 67/8 67/13 69/9 85/9</p> <p>I've [10] 2/25 36/2 36/7 41/24 50/15 54/8 62/13 67/8 77/8 85/11</p> <p>I, [1] 11/19</p> <p>I, when [1] 11/19</p> <p>Ian [2] 27/5 31/3</p> <p>idea [4] 6/13 31/3 71/22 85/16</p> <p>identifiable [1] 7/16</p> <p>identified [1] 17/3</p> <p>identify [1] 37/18</p> <p>ie [1] 12/23</p> <p>if [103]</p> <p>ignored [1] 50/22</p> <p>ii [1] 24/18</p> <p>iii [3] 3/11 24/14 24/22</p> <p>Ilkeston [1] 72/7</p> <p>Ilkeston Road [1] 72/7</p> <p>ill [3] 7/16 7/18 69/25</p> <p>ill health [3] 7/16 7/18 69/25</p> <p>illicit [3] 50/12 50/17 51/7</p> <p>illness [8] 3/15 47/23 48/4 48/14 50/24 51/6 77/3 78/14</p> <p>images [1] 32/3</p> <p>immediately [2] 71/7 72/3</p>	<p>immense [1] 11/3</p> <p>impact [2] 19/15 33/5</p> <p>implies [1] 49/15</p> <p>importance [4] 23/22 29/18 33/9 69/18</p> <p>important [3] 16/10 33/22 64/1</p> <p>importantly [1] 63/6</p> <p>imposition [2] 29/14 29/16</p> <p>imprisonment [1] 46/6</p> <p>inadvertently [1] 6/9</p> <p>incident [8] 68/3 68/7 68/15 68/21 69/6 69/22 69/22 70/14</p> <p>incidents [3] 67/24 68/4 68/23</p> <p>include [3] 22/17 38/13 69/10</p> <p>included [6] 39/8 55/25 68/3 68/22 70/3 73/8</p> <p>including [1] 27/4</p> <p>inconsistent [2] 2/10 7/14</p> <p>increase [2] 40/25 41/15</p> <p>increased [1] 48/21</p> <p>indeed [2] 38/6 54/15</p> <p>independent [5] 5/17 23/24 53/6 53/20 54/1</p> <p>index [1] 13/19</p> <p>indicative [1] 16/25</p> <p>individual [2] 72/18 85/12</p> <p>individually [2] 81/13 81/17</p> <p>induced [2] 14/14 15/12</p> <p>inelegantly [1] 16/7</p> <p>inevitably [1] 34/23</p> <p>inflicting [1] 42/11</p> <p>inform [2] 24/18 24/23</p> <p>information [11] 1/14 12/13 19/13 19/14 19/17 21/15 41/12 67/16 68/23 69/11 76/2</p> <p>informed [1] 19/10</p> <p>initially [2] 4/7 77/16</p> <p>injured [1] 39/4</p> <p>injuries [4] 34/21 38/10 40/12 69/7</p> <p>injuring [1] 38/9</p> <p>injury [4] 3/17 34/15 69/23 75/12</p> <p>inpatient [1] 68/11</p> <p>Inquiry [5] 14/2 38/7 68/4 79/4 84/5</p> <p>insanity [1] 43/20</p> <p>inserted [1] 73/5</p> <p>insertion [1] 55/25</p> <p>insight [3] 3/20 3/24 4/16</p>	<p>insofar [2] 10/2 11/5</p> <p>instances [1] 63/5</p> <p>instruct [5] 21/24 22/4 53/5 53/20 77/12</p> <p>instructed [8] 24/2 25/16 27/13 30/3 30/4 54/3 77/5 77/11</p> <p>instructing [4] 53/25 72/25 74/16 84/9</p> <p>instruction [1] 78/3</p> <p>instructions [1] 22/7</p> <p>intelligence [1] 1/23</p> <p>intend [1] 79/25</p> <p>intended [1] 17/21</p> <p>interactions [1] 28/4</p> <p>interest [1] 64/1</p> <p>interested [3] 4/20 8/18 8/20</p> <p>internal [6] 1/7 7/25 8/1 10/24 64/4 64/7</p> <p>Internet [1] 14/7</p> <p>interview [4] 22/17 49/21 59/11 82/2</p> <p>interviewers [1] 35/11</p> <p>interviewing [1] 77/13</p> <p>interviews [1] 39/14</p> <p>intimate [1] 14/21</p> <p>into [15] 4/16 18/12 32/3 33/14 36/14 36/24 41/17 48/2 68/4 68/16 72/18 74/22 76/15 83/9 83/13</p> <p>introduced [2] 18/11 34/19</p> <p>investigated [1] 68/5</p> <p>investigating [3] 8/14 10/5 70/20</p> <p>investigation [1] 14/25</p> <p>Investigatory [1] 7/6</p> <p>invited [2] 27/21 35/2</p> <p>invites [1] 64/15</p> <p>inviting [1] 26/22</p> <p>involved [13] 16/19 19/24 23/3 23/4 23/9 39/19 48/10 63/11 66/9 67/3 69/6 69/21 70/13</p> <p>involving [2] 68/15 71/8</p> <p>is [134]</p> <p>isn't [19] 4/24 5/7 5/17 9/2 10/21 12/14 16/17 16/19 17/1 23/12 33/8 45/15 47/25 49/1 49/2 53/22 57/12 64/19 83/24</p> <p>issue [6] 9/3 16/10 20/18 49/24 60/1 79/19</p> <p>issues [6] 9/4 9/8 26/23 27/7 50/1 50/4</p> <p>it [252]</p> <p>It'll [1] 77/16</p>	<p>it's [49] 4/14 4/14 5/8 5/16 5/19 5/20 7/13 7/21 8/12 8/23 9/1 12/2 12/13 15/10 15/11 15/11 16/7 17/1 20/23 26/20 28/16 31/16 31/17 32/25 35/20 39/23 47/12 48/1 48/16 48/25 49/2 49/4 49/7 49/14 51/14 53/10 53/21 57/14 61/2 64/4 65/16 73/6 73/12 73/16 73/23 75/11 77/18 77/19 83/24</p> <p>its [2] 20/4 46/17</p> <p>itself [2] 37/9 78/25</p> <p>iv [1] 25/1</p> <hr/> <p>J</p> <p>James [1] 27/5</p> <p>January [6] 31/1 39/19 49/24 60/5 61/2 66/9</p> <p>job [1] 77/7</p> <p>joint [1] 29/6</p> <p>judge [24] 10/13 22/24 30/10 30/16 31/21 32/16 33/4 38/16 40/23 41/1 41/13 42/24 43/5 43/24 46/10 48/3 48/16 49/5 49/14 50/19 68/25 69/14 69/19 79/12</p> <p>judge's [1] 48/19</p> <p>judgement [6] 3/23 4/16 27/24 49/1 49/2 49/7</p> <p>judgment' [1] 3/20</p> <p>jumped [3] 38/8 39/2 68/16</p> <p>June [1] 7/22</p> <p>junior [4] 21/19 24/12 61/14 61/14</p> <p>junior's [1] 24/10</p> <p>just [63] 5/8 6/13 9/17 10/10 12/22 16/2 17/16 18/7 18/16 18/25 19/21 21/23 22/12 22/19 23/10 23/21 28/14 29/24 30/13 31/4 31/13 32/20 40/19 41/24 42/6 43/1 43/14 43/16 44/8 44/11 46/12 49/18 50/4 52/19 52/21 53/18 54/22 54/24 55/10 56/5 56/14 56/24 58/19 60/20 60/25 61/4 63/13 65/18 71/14 72/24 75/1 76/9 76/21 78/3 80/1 80/6 82/3 82/8 83/3 83/17 84/1 84/21 85/13</p>
--	--	--	---	---

<p>J</p> <p>justice [1] 20/11 justifies [1] 65/2 justify [3] 55/19 56/9 58/1 justifying [1] 64/1</p>	<p>L</p> <p>lack [1] 3/20 lackwood [1] 49/23 land [1] 19/15 Langdale [5] 1/3 55/4 59/13 59/25 73/14 large [2] 28/16 43/1 largely [1] 11/9 last [7] 1/15 23/21 29/5 58/12 62/1 65/17 71/21 lasted [1] 54/22 late [1] 51/21 later [10] 4/14 9/7 21/9 21/10 23/10 33/16 35/8 61/13 76/3 77/19 Latham [8] 21/24 54/2 54/15 54/19 62/17 79/17 82/20 83/7 Latham's [2] 27/10 54/5 law [5] 8/22 20/4 21/8 49/3 49/5 Lawrence [1] 44/12 lawyers [2] 6/24 20/12 layperson [1] 41/8 lead [5] 11/12 20/3 28/20 62/25 85/10 leading [3] 47/5 62/6 78/5 least [4] 7/17 10/23 68/20 85/21 leave [2] 20/22 65/24 leavers [1] 59/15 leaving [2] 20/23 36/11 led [3] 36/8 68/3 79/1 left [1] 11/19 legal [5] 47/25 49/2 49/6 62/24 80/22 legally [1] 49/17 Leigh [1] 61/19 Leigh's [1] 61/18 less [3] 3/12 84/19 84/19 lesser [3] 47/20 47/21 47/22 let [3] 5/3 40/2 64/11 let's [4] 2/17 2/17 22/15 77/3 lets [1] 39/24 letter [3] 7/5 26/2 26/8 letting [1] 36/8 level [17] 1/23 7/21 25/14 25/15 28/5 35/9 40/25 41/13 41/14 44/2 44/3 46/18 47/13 48/5 49/16 71/14 86/2 levels [1] 47/19 liaise [1] 24/16 liaising [1] 28/9</p>	<p>liaison [2] 37/10 83/14 liar [2] 45/12 45/23 lie [3] 45/8 45/17 45/20 lied [2] 45/6 46/1 lies [2] 16/23 17/1 life [3] 1/15 35/12 46/6 lifestyle [1] 17/1 light [2] 47/10 81/18 like [12] 4/7 8/4 10/7 16/4 17/13 17/16 17/23 33/17 35/16 55/25 62/22 80/8 liked [1] 74/7 likely [5] 43/18 77/1 77/17 77/20 85/20 limit [2] 22/7 33/19 limited [1] 22/14 limits [2] 22/19 22/22 line [1] 77/17 list [1] 67/12 listed [1] 23/12 listened [1] 84/25 live [1] 6/9 living [1] 67/20 location [1] 72/9 locations [1] 72/3 London [3] 70/8 71/8 83/8 lone [5] 55/12 55/15 56/2 56/6 57/1 long [9] 11/15 15/6 15/6 52/20 53/3 53/11 69/13 75/22 75/24 longer [1] 16/25 longstanding [1] 50/10 look [24] 2/17 2/17 3/3 5/20 5/20 6/23 7/23 8/4 9/9 17/9 20/9 21/9 21/10 22/3 23/17 35/15 41/8 42/12 60/25 61/12 63/13 67/23 70/5 82/8 looked [4] 16/4 56/6 70/22 79/4 looking [5] 6/24 7/4 16/12 53/5 69/21 looks [1] 51/11 lot [2] 7/7 10/20 lower [3] 41/14 46/24 49/11 lucidity [2] 36/5 82/7 lying [1] 16/22</p>	<p>65/20 66/4 make [9] 11/9 19/25 30/1 32/17 43/16 46/9 50/23 60/25 78/20 makes [3] 28/14 64/6 79/9 making [9] 10/7 17/8 24/3 41/25 45/25 49/8 69/20 77/8 81/24 males [1] 66/12 malign [1] 5/25 man [3] 43/24 47/15 71/5 manage [1] 36/20 management [1] 30/18 manner [1] 35/8 manslaughter [4] 9/24 12/1 80/1 81/7 many [9] 9/4 47/11 57/20 57/25 58/17 58/17 58/21 69/13 85/11 March [1] 55/11 marked [1] 64/12 marking [1] 20/23 masking [1] 45/9 mass [1] 13/20 master's [1] 2/6 masters [1] 1/16 mate [1] 66/10 material [36] 8/12 13/20 14/4 21/22 22/8 25/12 30/9 31/21 33/9 33/13 33/16 43/3 44/3 55/1 55/4 55/7 55/23 57/11 57/15 57/18 58/10 59/13 63/17 64/2 69/16 71/4 71/6 73/3 73/9 75/20 81/15 81/18 84/15 84/20 84/21 85/5 materials [4] 10/6 10/12 51/22 85/12 matter [6] 21/8 21/11 32/20 46/10 49/14 70/20 matters [2] 5/21 80/6 maximum [3] 42/22 74/2 75/11 maximum 15 [1] 75/11 may [19] 20/14 30/19 38/4 38/23 39/16 51/14 55/14 56/5 57/8 59/18 62/3 68/3 68/5 72/11 76/14 78/10 78/25 80/3 83/23 May 14 [1] 55/14 McSweeney [3] 6/11 12/22 78/12 McSweeney's [2] 77/23 78/4 me [30] 4/5 6/10 6/12 7/11 11/10 11/11 13/13 18/18 19/17</p>	<p>19/20 20/3 20/21 20/23 35/3 35/4 35/4 35/6 36/18 41/22 41/23 56/22 60/22 64/11 67/8 72/25 74/15 74/17 74/17 74/20 76/9 mean [3] 22/22 69/13 80/17 means [1] 56/22 meant [2] 48/18 75/8 measures [2] 37/2 37/5 media [3] 32/22 33/1 33/17 medical [2] 39/24 50/22 medication [7] 36/1 45/5 45/6 45/20 50/12 50/15 50/18 medics [2] 15/15 50/16 medium [3] 41/15 47/20 49/11 meet [2] 63/19 74/6 meeting [37] 1/6 1/7 5/22 9/9 9/15 10/18 11/15 11/21 11/24 12/3 15/4 15/16 15/23 16/6 20/22 21/5 21/20 27/3 27/11 31/1 31/4 31/7 34/8 74/8 74/13 75/5 75/10 75/18 meetings [3] 28/7 80/25 85/7 member [3] 1/11 69/7 69/23 members [9] 9/23 12/19 34/20 34/24 39/9 42/9 73/21 75/15 75/19 mental [17] 2/11 2/12 7/16 7/18 12/18 13/10 13/24 39/8 47/21 47/23 48/8 48/14 68/10 69/24 77/3 78/13 83/12 mention [1] 38/23 mentioned [2] 38/15 52/16 mentioning [1] 14/15 merely [1] 48/25 message [2] 46/1 62/1 met [2] 15/17 30/23 metal [1] 71/24 MG6D [1] 63/17 mid [2] 39/19 66/9 mid-January [2] 39/19 66/9 middle [1] 22/6 Middleton [2] 72/8 72/8</p>
--	--	---	---	--

<p>M</p> <p>might [19] 4/10 13/5 19/15 20/16 22/6 23/11 33/6 40/25 52/6 57/24 57/25 58/5 58/11 58/16 63/3 78/19 80/11 83/18 85/10</p> <p>mind [12] 7/7 24/3 24/4 44/4 51/19 51/25 55/25 56/18 58/6 60/8 66/19 72/11</p> <p>minded [1] 22/4</p> <p>mindset [3] 57/11 57/17 58/10</p> <p>mine [1] 79/18</p> <p>minimise [1] 3/18</p> <p>minimising [1] 7/1</p> <p>minor [1] 17/5</p> <p>minute [2] 21/23 71/21</p> <p>minutes [6] 4/3 72/15 72/16 73/24 74/2 75/11</p> <p>Mirvis [1] 45/11</p> <p>misleading [1] 63/9</p> <p>missing [1] 73/8</p> <p>mistaken [1] 15/25</p> <p>misunderstanding [3] 62/23 83/5 85/10</p> <p>misunderstandings [1] 79/1</p> <p>misunderstood [1] 67/8</p> <p>Moloney [3] 52/12 52/14 87/3</p> <p>moment [3] 5/5 67/23 82/24</p> <p>Monday [1] 1/1</p> <p>monopoly [1] 73/3</p> <p>Monteiro [2] 70/10 70/12</p> <p>Monteiro's [1] 71/9</p> <p>months [3] 4/6 23/11 58/17</p> <p>moral [4] 47/25 48/25 49/2 49/7</p> <p>morally [1] 49/17</p> <p>morals [1] 49/4</p> <p>morbidity [1] 52/2</p> <p>more [15] 8/22 14/22 19/14 19/21 23/22 25/13 28/9 30/12 42/12 49/15 51/22 58/16 63/5 76/2 81/15</p> <p>morning [1] 85/1</p> <p>mosques [1] 55/11</p> <p>most [2] 46/5 83/21</p> <p>mother [1] 33/21</p> <p>motivated [1] 56/18</p> <p>motivation [1] 67/17</p> <p>motivator [1] 58/7</p> <p>motive [1] 18/13</p> <p>movement [1] 40/20</p> <p>movements [1]</p>	<p>41/19</p> <p>Mr [37] 1/6 1/21 7/19 10/17 14/6 19/3 20/9 21/4 21/6 24/12 52/12 52/14 52/15 53/15 54/11 56/24 57/18 60/5 60/9 61/1 61/9 61/13 61/15 63/15 65/5 65/9 70/10 70/19 73/18 75/13 76/9 76/24 79/15 79/21 82/2 83/3 87/3</p> <p>Mr Beddoe [1] 79/15</p> <p>Mr Beddoe's [1] 79/21</p> <p>Mr Birkett [1] 73/18</p> <p>Mr Birkett's [1] 75/13</p> <p>Mr Hendy [4] 14/6 20/9 21/4 21/6</p> <p>Mr Khalil [15] 1/6 7/19 10/17 52/15 53/15 56/24 57/18 60/5 60/9 65/5 65/9 76/9 76/24 82/2 83/3</p> <p>Mr Moloney [3] 52/12 52/14 87/3</p> <p>Mr Monteiro [1] 70/10</p> <p>Mr Murphy [5] 1/21 54/11 61/1 61/9 70/19</p> <p>Mr Murphy's [3] 61/13 61/15 63/15</p> <p>Mr Ratliff [1] 24/12</p> <p>Mr Webber [1] 19/3</p> <p>Ms [11] 1/3 55/4 59/13 59/25 65/7 65/8 73/14 76/7 76/8 87/4 87/5</p> <p>Ms Carey [3] 76/7 76/8 87/5</p> <p>Ms Cartwright [3] 65/7 65/8 87/4</p> <p>Ms Langdale [5] 1/3 55/4 59/13 59/25 73/14</p> <p>much [15] 4/14 8/20 12/2 19/14 21/13 22/16 26/9 65/5 71/4 71/6 73/12 76/5 77/9 77/21 82/25</p> <p>multiple [3] 45/4 56/2 56/5</p> <p>murder [5] 9/23 28/1 82/10 82/12 82/23</p> <p>murdered [1] 55/15</p> <p>Murphy [9] 1/21 30/1 30/15 54/11 61/1 61/9 64/5 70/19 81/16</p> <p>Murphy's [3] 61/13 61/15 63/15</p> <p>must [1] 4/24</p> <p>my [16] 14/7 15/23 28/8 29/7 34/1 34/19 51/19 51/25 53/16 62/14 63/18 75/15 76/5 81/16 84/17</p>	<p>84/23</p> <p>N</p> <p>names [5] 66/14 67/2 67/6 67/12 67/19</p> <p>nature [9] 13/18 18/8 43/15 43/20 48/4 56/3 57/10 85/6 85/6</p> <p>necessarily [7] 4/12 22/17 37/7 38/16 45/24 58/3 59/24</p> <p>necessary [7] 5/16 15/10 15/11 37/11 64/14 75/20 78/9</p> <p>need [10] 9/11 9/17 23/7 25/6 26/5 33/11 45/5 60/12 78/10 81/3</p> <p>needed [8] 12/10 15/3 15/22 56/8 56/11 60/10 60/12 78/5</p> <p>negotiate [1] 5/13</p> <p>neighbour [2] 70/14 71/9</p> <p>neither [2] 13/4 64/23</p> <p>never [4] 9/1 18/10 32/22 81/15</p> <p>new [1] 81/23</p> <p>news [1] 32/10</p> <p>Newton [1] 27/4</p> <p>next [5] 5/10 22/21 31/2 47/17 68/6</p> <p>NGPF0007677 [2] 3/22 3/25</p> <p>night [8] 6/4 6/21 12/21 60/20 66/18 67/14 67/22 72/1</p> <p>no [61] 4/16 5/7 6/8 8/17 8/20 12/9 14/1 14/13 15/9 15/12 16/5 16/7 17/23 17/25 19/1 21/9 22/22 26/19 33/25 40/6 40/12 45/19 48/3 48/25 50/1 52/5 53/12 54/21 55/9 56/12 56/24 56/24 57/22 58/3 58/6 58/8 58/14 58/22 58/25 59/3 59/4 59/24 66/25 67/1 67/2 67/11 67/13 71/2 74/10 74/12 74/12 78/8 78/10 78/16 78/20 79/7 80/20 81/5 81/9 81/11 81/13</p> <p>nobody [2] 17/14 18/13</p> <p>nodded [1] 76/17</p> <p>non [2] 64/9 64/12</p> <p>non-disclosure [1] 64/9</p> <p>non-sensitive [1] 64/12</p> <p>nonetheless [2] 48/18 48/21</p> <p>nor [1] 64/24</p>	<p>normally [1] 13/16</p> <p>not [118]</p> <p>note [18] 12/3 28/24 34/2 34/3 34/4 37/15 38/19 44/5 45/1 65/12 65/13 66/13 66/17 66/21 67/2 67/5 73/16 84/10</p> <p>notes [2] 11/21 39/24</p> <p>Nothing [1] 48/14</p> <p>notify [1] 24/21</p> <p>notion [1] 57/25</p> <p>Nottingham [5] 36/14 36/20 65/20 70/8 71/1</p> <p>November [7] 1/6 10/18 53/7 53/20 80/25 81/2 84/3</p> <p>now [21] 2/15 4/7 4/21 16/3 28/25 29/3 40/5 56/20 56/21 56/23 57/9 61/4 65/16 66/17 68/5 71/17 73/17 77/9 77/12 85/11 86/6</p> <p>nowhere [2] 15/19 15/20</p> <p>number [11] 26/11 36/15 42/25 43/1 50/15 52/1 55/5 57/3 58/15 72/15 80/7</p> <p>number 1 [1] 36/15</p> <p>O</p> <p>O'Malley [4] 26/3 32/1 33/5 81/1</p> <p>O'Malley-Kumar [1] 26/3</p> <p>O'Malley-Kumars [1] 81/1</p> <p>object [2] 31/14 31/20</p> <p>objecting [2] 31/21 31/23</p> <p>observations [1] 1/18</p> <p>observe [1] 45/2</p> <p>obtain [1] 9/21</p> <p>obtained [3] 1/15 1/22 13/23</p> <p>obtaining [2] 23/23 25/3</p> <p>obvious [3] 32/2 60/8 70/1</p> <p>obviously [7] 11/3 11/13 13/23 25/6 27/12 73/17 77/15</p> <p>occasion [4] 23/2 27/5 74/16 76/19</p> <p>occasioned [2] 52/16 70/2</p> <p>occasions [2] 45/4 77/6</p> <p>occurred [3] 3/17 66/16 69/23</p> <p>October [2] 77/22 78/5</p>	<p>off [4] 36/8 42/13 42/15 71/22</p> <p>offence [2] 57/14 57/16</p> <p>offences [5] 13/19 33/23 34/1 42/11 43/25</p> <p>offending [1] 34/6</p> <p>offered [3] 3/25 4/5 4/19</p> <p>officer [8] 2/23 3/14 13/10 14/23 17/19 37/11 72/10 76/1</p> <p>officers [3] 10/5 18/6 28/9</p> <p>often [6] 49/6 50/10 50/13 57/10 57/14 57/17</p> <p>oh [2] 21/3 29/4</p> <p>okay [3] 11/23 38/21 56/21</p> <p>omissions [1] 44/21</p> <p>on [106]</p> <p>once [2] 57/23 58/16</p> <p>one [51] 4/1 5/21 6/20 9/22 10/8 10/23 11/17 16/5 17/23 22/1 22/3 22/14 23/13 23/21 23/22 26/2 26/15 27/5 28/9 30/12 30/13 30/22 36/10 38/23 39/25 40/22 41/3 43/19 43/22 44/7 44/7 48/1 48/10 48/12 49/3 49/20 51/8 51/11 51/12 56/16 57/23 63/6 64/9 64/20 66/12 68/13 75/24 77/12 78/14 83/4 85/15</p> <p>ongoing [1] 3/5</p> <p>only [3] 30/22 37/1 53/12</p> <p>onto [1] 8/2</p> <p>open [5] 20/11 32/6 46/4 46/8 47/1</p> <p>opening [10] 34/2 37/14 37/18 38/14 65/19 66/18 68/8 70/9 72/6 73/10</p> <p>openly [1] 47/13</p> <p>opinion [7] 25/3 32/15 47/2 47/3 47/8 49/11 61/25</p> <p>opinions [1] 54/1</p> <p>opportunity [1] 21/14</p> <p>opposed [1] 56/14</p> <p>option [3] 4/5 24/25 25/1</p> <p>options [1] 24/14</p> <p>or [92]</p> <p>orally [2] 30/8 48/23</p> <p>order [17] 9/13 9/18 9/21 10/2 22/5 29/10 29/15 29/17 41/16 46/9 56/9 58/1 75/8 75/8 79/13 80/11</p>
--	--	--	---	--

<p>O</p> <p>order... [1] 80/11</p> <p>orders [1] 36/4</p> <p>other [32] 6/9 10/12 15/19 16/4 16/16 20/16 29/13 33/15 36/10 38/15 39/16 42/9 48/20 51/4 51/22 51/23 53/15 55/20 56/16 57/3 57/7 59/13 64/8 65/18 67/19 71/12 72/2 73/21 75/19 78/19 80/6 84/21</p> <p>others [10] 20/22 29/25 36/3 36/22 37/12 56/10 58/2 73/7 81/17 85/9</p> <p>otherwise [2] 37/3 37/22</p> <p>ought [4] 21/14 22/15 51/23 73/4</p> <p>our [7] 18/5 24/3 29/11 29/12 34/5 48/22 81/19</p> <p>ourselves [1] 24/6</p> <p>out [30] 1/21 5/5 5/13 9/10 14/7 14/9 20/4 24/14 24/24 25/1 26/3 26/12 36/5 38/8 39/2 39/25 41/18 44/12 44/20 46/4 47/19 48/22 59/19 61/22 62/8 68/16 69/16 72/14 79/11 84/10</p> <p>outlets [1] 33/1</p> <p>outset [1] 81/14</p> <p>outside [1] 8/13</p> <p>over [10] 3/9 7/16 17/19 17/23 30/13 44/14 44/20 50/22 55/6 84/18</p> <p>overall [1] 81/19</p> <p>overspeaking [6] 1/9 6/21 12/11 23/7 23/19 85/22</p> <p>overstating [1] 75/4</p> <p>overwhelmed [1] 2/8</p> <p>overwhelming [1] 20/8</p> <p>own [7] 8/7 45/24 46/17 51/25 53/6 53/21 55/20</p>	<p>38/4 41/18 44/6 44/7 44/14 44/14 44/20 45/1 46/14 47/9 49/21 63/14 65/17 66/7 67/25 70/6 82/1 82/5 87/2</p> <p>page 1 [8] 1/5 3/22 3/25 21/18 26/8 27/3 30/15 34/8</p> <p>page 10 [5] 8/2 19/3 32/1 38/4 67/25</p> <p>page 12 [2] 20/25 66/7</p> <p>page 13 [2] 9/9 20/9</p> <p>page 15 [3] 41/18 44/6 44/7</p> <p>page 16 [1] 44/14</p> <p>page 17 [1] 46/14</p> <p>page 2 [6] 10/17 24/25 25/25 31/8 49/21 65/17</p> <p>page 21 [1] 45/1</p> <p>page 3 [7] 1/9 11/22 12/16 17/9 17/9 24/10 82/1</p> <p>page 30 [1] 47/9</p> <p>page 4 [3] 5/24 63/14 70/6</p> <p>page 5 [2] 2/20 14/5</p> <p>page 6 [1] 37/21</p> <p>pages [2] 7/23 69/13</p> <p>pages 10 [1] 7/23</p> <p>PAGR0000016 [1] 2/20</p> <p>papers [3] 12/20 12/23 24/1</p> <p>paragraph [27] 8/3 12/17 14/5 17/10 23/21 29/5 31/9 37/21 38/3 38/18 39/6 39/18 40/7 40/17 42/12 43/10 43/13 44/7 44/20 45/1 63/15 65/17 66/8 67/25 68/6 70/5 71/18</p> <p>paragraph 100 [1] 42/12</p> <p>paragraph 114 [1] 43/10</p> <p>paragraph 116 [1] 43/13</p> <p>paragraph 22 [1] 70/5</p> <p>paragraph 40 [1] 37/21</p> <p>paragraph 6 [1] 65/17</p> <p>paragraph 66 [1] 44/20</p> <p>paragraph 67 [1] 67/25</p> <p>Paragraph 68 [1] 38/3</p> <p>paragraph 71 [1] 45/1</p> <p>Paragraph 73 [2]</p>	<p>38/18 39/6</p> <p>paragraph 77 [2] 39/18 66/8</p> <p>paragraph 83 [1] 40/7</p> <p>Paragraph 92 [1] 40/17</p> <p>paragraphs [3] 9/11 42/25 43/2</p> <p>parameters [1] 51/10</p> <p>paramount [1] 19/22</p> <p>paranoid [4] 14/10 50/3 50/7 50/11</p> <p>parcel [1] 51/5</p> <p>Pardon [1] 72/21</p> <p>park [2] 17/16 66/6</p> <p>parked [2] 17/12 18/13</p> <p>part [15] 2/20 14/3 16/23 18/15 24/3 30/7 48/6 51/5 61/9 66/22 69/10 70/18 70/23 71/25 81/16</p> <p>partial [6] 27/20 77/2 78/15 78/18 80/19 82/21</p> <p>participation [3] 1/17 37/2 37/8</p> <p>particular [9] 15/17 24/5 48/6 50/24 55/22 57/15 57/16 77/2 77/21</p> <p>particularly [3] 7/22 31/17 63/11</p> <p>parties [4] 8/13 8/16 8/20 24/21</p> <p>partly [2] 24/7 51/16</p> <p>partner [1] 73/18</p> <p>parts [1] 37/17</p> <p>party [2] 37/12 65/19</p> <p>passage [1] 43/6</p> <p>passing [4] 33/8 33/9 41/16 77/9</p> <p>passively [1] 17/22</p> <p>past [2] 4/3 83/7</p> <p>pathway [1] 49/6</p> <p>patient [2] 20/14 45/11</p> <p>patients [1] 45/17</p> <p>pattern [4] 50/18 51/4 68/25 69/2</p> <p>pausing [1] 65/18</p> <p>PC [3] 4/4 5/9 13/5</p> <p>PC Collins [1] 4/4</p> <p>PC Pritchard [2] 5/9 13/5</p> <p>pedestrian [1] 42/17</p> <p>peer [1] 80/15</p> <p>peer-reviewed [1] 80/15</p> <p>penal [1] 9/25</p> <p>people [20] 18/8 18/20 18/22 21/13 36/1 40/13 45/12 48/9 49/4 55/11 55/15 57/3 57/4 57/7 59/19 67/19</p>	<p>75/10 85/4 85/11 85/17</p> <p>perceived [1] 62/9</p> <p>perception [1] 35/19</p> <p>perfectly [2] 17/4 35/3</p> <p>perhaps [10] 21/12 24/20 44/6 45/15 59/11 67/24 73/8 75/3 75/4 83/5</p> <p>period [4] 7/17 50/23 59/20 72/6</p> <p>periods [2] 36/4 82/6</p> <p>person [7] 18/6 25/15 33/9 48/6 51/12 84/18 84/18</p> <p>personal [1] 6/8</p> <p>personality [6] 50/2 50/5 51/11 51/14 51/15 52/2</p> <p>personnel [1] 8/14</p> <p>perspective [3] 48/19 80/13 81/3</p> <p>perspectives [1] 29/19</p> <p>persuade [1] 79/12</p> <p>phone [8] 30/13 41/21 43/13 55/1 55/4 56/9 56/11 59/5</p> <p>photographs [1] 59/14</p> <p>phrased [1] 16/7</p> <p>physical [1] 3/15</p> <p>picks [1] 19/3</p> <p>picture [1] 81/20</p> <p>piece [1] 67/13</p> <p>pieces [1] 40/22</p> <p>place [6] 3/9 6/9 10/12 40/9 73/18 74/3</p> <p>placed [1] 63/16</p> <p>plain [2] 29/23 71/18</p> <p>plainly [2] 63/18 63/20</p> <p>plan [1] 42/19</p> <p>planned [3] 5/5 80/14 80/17</p> <p>planning [16] 5/5 5/7 7/21 9/18 10/7 37/22 37/25 40/20 40/24 66/23 67/9 71/10 80/6 80/8 80/9 80/10</p> <p>plates [1] 68/20</p> <p>play [2] 48/15 48/25</p> <p>played [8] 31/17 31/20 31/22 31/24 32/6 32/13 32/21 32/24</p> <p>Player [1] 72/14</p> <p>playing [2] 31/11 35/21</p> <p>plea [3] 12/1 24/18 26/9</p> <p>plead [1] 78/13</p> <p>pleas [10] 9/16 24/22 24/23 25/24 26/4 28/3 61/23 62/9 80/9 81/7</p>	<p>please [51] 1/5 1/9 3/22 7/23 9/9 10/16 11/21 11/22 14/5 17/9 21/17 21/18 27/2 28/12 28/13 29/1 30/25 31/8 34/7 37/17 37/19 37/21 42/12 44/6 44/9 44/11 44/16 44/20 45/1 46/12 46/14 46/20 47/8 60/25 63/14 65/14 65/16 67/8 67/21 67/25 67/25 68/6 70/5 70/6 76/24 78/21 78/24 80/8 81/25 82/8 84/13</p> <p>pleased [1] 35/21</p> <p>plus [1] 25/9</p> <p>pm [4] 1/2 52/9 52/11 86/8</p> <p>point [13] 23/21 26/11 27/25 34/16 40/4 41/24 48/17 58/24 61/24 69/25 74/5 79/18 83/18</p> <p>points [6] 1/21 44/14 44/17 44/18 44/25 79/16</p> <p>police [20] 2/23 3/14 4/18 13/10 13/15 16/12 19/4 28/4 40/16 61/22 62/2 62/8 64/25 72/10 72/25 76/15 77/19 83/9 83/11 84/9</p> <p>pontificate [1] 1/19</p> <p>pool [1] 35/21</p> <p>poor [2] 3/23 4/15</p> <p>position [11] 5/18 8/24 10/13 26/5 29/12 38/11 46/3 60/13 70/21 76/14 82/16</p> <p>possession [1] 55/7</p> <p>possibilities [1] 23/15</p> <p>possibility [5] 11/25 33/19 41/15 51/20 85/20</p> <p>possible [4] 4/8 32/20 43/19 61/24</p> <p>possibly [1] 5/13</p> <p>post [1] 80/2</p> <p>postulated [1] 43/19</p> <p>potential [6] 20/1 36/1 48/11 55/18 77/2 81/14</p> <p>potentially [9] 9/4 17/2 35/19 58/10 63/7 70/24 76/20 80/10 85/21</p> <p>Powers [1] 7/6</p> <p>practitioners [2] 50/22 62/25</p> <p>pre [1] 66/24</p> <p>pre-attack [1] 66/24</p> <p>preceding [1] 77/3</p> <p>precise [1] 16/20</p>
---	--	--	---	---

<p>P</p> <p>precisely [1] 6/22</p> <p>predecessors [1] 27/14</p> <p>prejudice [1] 64/1</p> <p>preliminary [1] 27/6</p> <p>premature [1] 78/17</p> <p>premeditated [1] 42/20</p> <p>preparation [2] 77/5 78/1</p> <p>prepare [3] 25/17 29/6 60/17</p> <p>prepared [4] 33/21 37/14 38/16 53/19</p> <p>preparing [2] 3/1 28/20</p> <p>prescribed [3] 50/11 50/15 51/7</p> <p>present [5] 32/21 32/22 73/21 74/1 75/15</p> <p>presented [1] 32/9</p> <p>presenting [1] 66/23</p> <p>pressure [1] 74/21</p> <p>presuming [1] 15/25</p> <p>pretend [1] 73/3</p> <p>pretty [1] 3/2</p> <p>preventing [1] 8/10</p> <p>prevention [1] 9/2</p> <p>prevents [1] 8/22</p> <p>previous [8] 10/24 12/3 19/19 28/3 30/20 45/3 67/24 68/23</p> <p>previously [1] 4/1</p> <p>primary [3] 53/8 53/17 53/22</p> <p>principle [3] 9/8 32/24 50/6</p> <p>prior [2] 17/6 69/5</p> <p>Pritchard [2] 5/9 13/5</p> <p>privy [1] 28/11</p> <p>probably [4] 44/1 57/6 59/10 77/11</p> <p>problem [1] 9/7</p> <p>problems [1] 4/17</p> <p>procedure [1] 73/6</p> <p>proceed [1] 27/24</p> <p>proceeding [1] 23/6</p> <p>proceedings [6] 7/8 22/23 34/18 52/17 52/21 53/18</p> <p>process [8] 14/24 19/24 36/16 46/13 64/13 64/16 73/12 77/12</p> <p>processes [1] 17/8</p> <p>produce [1] 29/4</p> <p>produced [1] 32/25</p> <p>professional [1] 26/22</p> <p>Professor [9] 6/15 30/13 46/15 51/20 58/24 59/1 60/1 78/16 78/18</p>	<p>Professor</p> <p>Blackwood [8] 6/15 30/13 51/20 58/24 59/1 60/1 78/16 78/18</p> <p>prompted [1] 11/7</p> <p>promulgated [1] 33/20</p> <p>proper [4] 46/16 48/16 52/21 53/18</p> <p>properly [7] 9/21 24/16 53/1 53/2 53/9 53/10 81/12</p> <p>proportion [1] 48/11</p> <p>prosecuted [3] 82/10 82/12 82/23</p> <p>prosecuting [3] 9/20 33/18 76/25</p> <p>prosecution [14] 1/11 12/20 12/23 13/17 24/16 25/23 28/20 37/14 37/19 45/2 46/3 54/12 70/21 76/10</p> <p>protect [3] 32/7 32/9 32/12</p> <p>provide [4] 14/21 16/18 42/21 49/10</p> <p>provided [7] 13/22 31/13 64/23 70/7 85/4 85/4 85/13</p> <p>providing [3] 62/21 81/21 84/14</p> <p>psychiatric [10] 8/3 8/7 20/10 21/7 26/7 35/13 48/17 68/11 69/1 69/15</p> <p>psychiatrist [14] 6/23 8/19 45/10 48/1 48/8 49/10 50/9 51/16 59/4 59/7 59/23 78/11 83/6 83/6</p> <p>psychiatrist's [2] 25/13 49/11</p> <p>psychiatrists [18] 5/21 10/4 12/18 13/12 29/14 39/14 39/15 43/19 45/8 45/16 46/13 48/13 48/25 50/25 54/2 70/1 76/15 80/14</p> <p>psychosis [8] 9/14 14/14 15/13 41/6 41/10 51/13 52/2 70/3</p> <p>psychotic [1] 1/25</p> <p>PTPH [1] 81/2</p> <p>public [16] 9/25 31/22 31/24 32/3 32/7 32/13 33/6 33/8 33/10 33/14 33/15 42/9 44/22 64/1 69/8 69/23</p> <p>pure [1] 56/14</p> <p>purpose [10] 27/10 27/22 44/4 62/7 62/12 62/13 63/8 71/11 71/12 71/13</p> <p>purposes [5] 8/15</p>	<p>45/18 60/11 60/12 79/11</p> <p>pursue [1] 24/5</p> <p>pursuing [1] 77/1</p> <p>pushed [1] 23/2</p> <p>pushes [1] 9/13</p> <p>put [8] 30/9 37/12 43/5 64/5 64/11 64/21 67/8 79/2</p> <p>putting [4] 33/13 38/12 64/2 71/15</p> <hr/> <p>Q</p> <p>qualify [2] 50/2 50/7</p> <p>question [13] 5/7 6/19 14/18 26/19 33/25 47/1 47/17 47/25 49/9 49/20 60/8 80/2 84/1</p> <p>Questioned [8] 52/14 65/8 76/8 83/2 87/3 87/4 87/5 87/6</p> <p>questions [10] 35/2 35/4 52/5 52/7 55/5 76/6 76/9 80/7 83/4 85/25</p> <p>quite [5] 15/6 15/6 15/23 35/22 76/18</p> <p>quoted [1] 79/19</p> <hr/> <p>R</p> <p>raise [2] 26/16 44/19</p> <p>raised [7] 20/19 22/21 26/23 26/25 60/5 79/16 85/25</p> <p>raises [1] 20/18</p> <p>raising [1] 33/5</p> <p>Raleigh [1] 66/6</p> <p>rang [1] 54/11</p> <p>rather [3] 19/14 21/25 50/14</p> <p>rational [6] 2/4 9/12 41/9 61/7 79/11 82/7</p> <p>Ratliff [1] 24/12</p> <p>re [3] 14/16 23/12 68/10</p> <p>re-listed [1] 23/12</p> <p>reach [1] 52/21</p> <p>reached [1] 53/18</p> <p>reaction [1] 54/5</p> <p>reactions [2] 85/12 85/13</p> <p>read [11] 6/17 8/7 15/1 18/17 25/13 25/18 51/21 51/22 61/18 85/17 85/19</p> <p>readership [1] 62/23</p> <p>readily [2] 69/25 75/16</p> <p>reading [1] 16/3</p> <p>real [4] 27/22 62/21 63/25 64/18</p> <p>realise [2] 35/4 54/14</p> <p>realised [3] 20/7 23/24 37/24</p>	<p>realistic [1] 23/16</p> <p>reality [1] 35/24</p> <p>really [8] 5/16 15/3 15/20 15/23 23/12 41/24 74/24 74/25</p> <p>reason [6] 8/11 9/24 12/9 55/18 66/6 81/7</p> <p>reasonable [6] 21/1 21/1 21/4 21/4 26/15 26/15</p> <p>reasons [5] 16/22 31/13 32/2 46/4 59/5</p> <p>reassessing [1] 81/18</p> <p>reassure [2] 22/5 35/23</p> <p>reassured [3] 34/24 35/6 75/18</p> <p>recall [10] 2/7 8/25 16/16 55/22 56/20 56/21 56/23 59/17 74/19 84/12</p> <p>receive [1] 60/19</p> <p>received [1] 68/20</p> <p>recognised [1] 33/24</p> <p>recognises [1] 21/12</p> <p>recognising [1] 34/1</p> <p>recollection [1] 74/1</p> <p>reconsider [1] 4/7</p> <p>record [1] 13/1</p> <p>recorded [1] 73/24</p> <p>records [1] 12/19</p> <p>recovery [1] 3/9</p> <p>reduce [1] 32/7</p> <p>refer [6] 28/18 31/8 39/6 39/18 43/13 53/15</p> <p>reference [17] 28/14 30/14 30/14 40/7 42/12 43/2 55/20 56/10 58/1 65/22 66/7 66/17 68/6 70/6 70/7 79/9 79/18</p> <p>referenced [2] 43/4 73/23</p> <p>references [3] 40/17 43/3 72/6</p> <p>referencing [2] 65/19 70/13</p> <p>referred [7] 37/15 38/7 39/23 43/10 43/15 56/18 79/22</p> <p>refers [2] 28/23 38/4</p> <p>reflected [1] 10/22</p> <p>refused [1] 4/7</p> <p>regard [2] 4/18 57/10</p> <p>regarding [1] 14/8</p> <p>regime [1] 29/16</p> <p>regularly [2] 7/16 29/14</p> <p>rejected [1] 43/20</p> <p>relate [1] 43/7</p> <p>related [3] 4/12 14/10 68/5</p> <p>relating [3] 40/16 55/7 71/4</p>	<p>relation [8] 4/1 6/3 7/1 13/19 34/18 56/14 83/4 83/17</p> <p>relationship [1] 45/11</p> <p>released [3] 32/3 35/18 68/7</p> <p>relevance [6] 56/13 58/23 67/16 70/24 80/9 80/10</p> <p>relevant [13] 16/24 17/1 18/9 44/13 57/16 58/10 58/16 66/20 67/13 68/22 69/10 69/19 70/23</p> <p>relief [1] 50/13</p> <p>remained [1] 75/22</p> <p>remains [1] 64/7</p> <p>remember [8] 2/15 11/15 12/2 13/7 28/25 40/14 55/21 73/8</p> <p>remind [2] 11/11 49/4</p> <p>remit [1] 59/11</p> <p>remove [1] 73/9</p> <p>removing [1] 41/3</p> <p>repeatedly [3] 50/16 58/4 58/9</p> <p>report [29] 10/8 25/14 29/4 29/6 29/6 30/17 45/22 47/4 47/8 48/23 54/6 55/2 59/25 60/8 60/19 60/20 61/4 61/6 62/7 62/18 77/23 78/1 78/4 78/11 78/16 78/22 78/25 79/5 79/17</p> <p>reportable [1] 32/8</p> <p>reported [1] 32/13</p> <p>reports [16] 1/14 1/19 6/2 8/4 8/7 14/8 20/10 20/14 21/7 22/8 40/16 45/18 51/22 69/16 77/5 80/1</p> <p>represent [1] 5/11</p> <p>represented [3] 7/13 36/3 40/20</p> <p>representing [1] 31/10</p> <p>request [4] 21/1 21/4 73/9 84/23</p> <p>requested [1] 74/18</p> <p>require [3] 3/14 24/16 24/20</p> <p>required [2] 4/11 77/7</p> <p>requiring [1] 38/9</p> <p>research [1] 56/14</p> <p>reservations [1] 29/16</p> <p>residual [3] 48/22 49/24 50/20</p> <p>resist [1] 6/17</p> <p>resisted [2] 19/5 19/9</p> <p>respect [1] 2/13</p> <p>respectful [1] 26/22</p>
--	---	--	--	---

<p>R</p> <p>respond [2] 21/25 29/21</p> <p>response [5] 15/24 30/6 61/10 61/15 61/18</p> <p>responsibility [31] 9/24 12/6 12/7 12/11 12/12 20/11 27/7 28/3 41/1 41/14 42/5 43/23 44/2 44/19 46/18 46/24 47/14 47/22 48/5 48/22 49/16 49/25 50/21 62/19 66/21 70/25 78/15 79/20 80/4 80/18 81/8</p> <p>responsible [5] 3/6 37/4 49/17 51/2 51/3</p> <p>restraint [1] 3/15</p> <p>restriction [1] 29/15</p> <p>restrictions [1] 74/21</p> <p>restrictive [1] 36/6</p> <p>rests [1] 48/6</p> <p>result [3] 50/14 65/23 69/24</p> <p>resulted [1] 3/16</p> <p>retained [13] 41/1 41/13 42/5 44/2 44/19 46/18 46/23 47/13 48/5 49/16 66/21 70/25 77/16</p> <p>revealing [1] 70/24</p> <p>reverse [1] 17/19</p> <p>review [4] 22/7 27/10 27/13 79/21</p> <p>reviewed [1] 80/15</p> <p>right [15] 13/2 18/24 28/21 28/22 35/14 38/21 43/25 54/18 56/1 60/6 67/9 76/23 77/14 83/10 84/4</p> <p>rightly [1] 46/10</p> <p>risk [5] 44/22 44/25 62/21 63/25 80/4</p> <p>Road [3] 59/19 65/19 72/7</p> <p>robust [2] 27/19 27/23</p> <p>role [2] 46/12 48/25</p> <p>room [4] 9/5 31/11 33/4 36/24</p> <p>roughly [1] 11/15</p> <p>routine [1] 73/6</p> <p>rule [2] 14/9 85/15</p> <p>rules [1] 8/10</p> <p>run [1] 77/25</p> <p>run-up [1] 77/25</p> <p>rushed [2] 81/8 81/23</p>	<p>79/24 82/7 82/14</p> <p>Samantha [1] 84/25</p> <p>same [9] 4/14 6/19 7/5 30/7 33/5 41/4 41/24 51/10 83/19</p> <p>samples [2] 14/21 14/24</p> <p>Sanders [1] 61/19</p> <p>sat [1] 41/6</p> <p>satisfactory [1] 23/13</p> <p>satisfied [2] 80/21 80/23</p> <p>save [1] 43/19</p> <p>saw [3] 3/1 11/13 30/5</p> <p>say [34] 4/25 10/13 11/6 12/16 14/12 14/18 15/5 17/11 19/11 21/11 25/5 25/21 27/19 29/21 36/23 37/21 40/19 41/13 42/18 43/14 45/1 46/3 46/10 49/14 49/21 51/4 53/2 53/11 54/6 58/11 61/25 62/13 77/3 82/9</p> <p>say: [1] 19/13</p> <p>say: what [1] 19/13</p> <p>saying [16] 5/18 7/4 7/6 7/12 8/19 16/4 30/6 34/25 41/21 43/8 43/24 45/25 46/16 55/21 75/16 76/1</p> <p>says [6] 1/13 6/7 6/15 19/3 32/2 79/15</p> <p>schedule [9] 63/17 63/23 64/2 64/3 64/6 64/12 64/21 64/22 65/3</p> <p>scheduled [2] 54/15 54/20</p> <p>schizophrenia [3] 14/10 50/3 50/7</p> <p>schizophrenics [1] 50/11</p> <p>school [2] 59/15 59/15</p> <p>school-leavers [1] 59/15</p> <p>scintilla [1] 82/11</p> <p>scope [1] 44/8</p> <p>screen [7] 3/22 5/23 28/15 43/5 43/8 78/24 81/25</p> <p>Sebastian [2] 13/16 72/10</p> <p>second [9] 3/15 14/18 17/9 19/15 31/9 49/22 68/7 68/15 69/5</p> <p>second-guessing [1] 19/15</p> <p>secondly [1] 55/1</p> <p>section [4] 46/9 64/13 64/15 65/24</p> <p>section 17 [1] 65/24</p>	<p>section 45A [1] 46/9</p> <p>secure [1] 27/16</p> <p>security [1] 35/25</p> <p>see [48] 1/9 2/23 3/25 4/12 4/13 5/23 8/18 10/20 13/21 19/23 20/13 20/20 20/21 21/20 21/25 22/10 23/19 23/23 24/25 26/8 26/8 27/22 28/24 33/10 33/11 36/15 40/7 41/23 43/10 44/12 45/22 51/11 54/12 57/24 61/1 63/14 65/16 65/18 66/7 66/17 67/18 67/23 68/6 70/10 73/23 78/18 79/8 82/3</p> <p>seeing [5] 8/3 31/21 33/4 36/24 36/25</p> <p>seek [4] 9/20 24/15 33/18 55/19</p> <p>seeking [9] 29/9 29/9 29/17 42/6 44/4 63/7 66/20 69/17 74/11</p> <p>seem [1] 84/22</p> <p>seemed [1] 23/15</p> <p>seemingly [1] 79/10</p> <p>seems [2] 17/13 18/14</p> <p>seen [12] 2/25 6/2 12/22 12/23 13/1 13/11 39/21 47/11 54/9 60/7 62/13 77/25</p> <p>sees [1] 6/15</p> <p>send [2] 72/24 78/17</p> <p>sending [1] 26/2</p> <p>senior [3] 1/10 14/23 24/12</p> <p>sense [3] 23/25 64/6 78/20</p> <p>sensible [2] 11/14 35/3</p> <p>sensitive [10] 63/17 63/18 63/23 64/2 64/8 64/12 64/19 64/24 65/3 84/20</p> <p>sent [4] 2/13 25/19 28/18 61/10</p> <p>sentence [16] 5/4 10/14 19/2 33/8 33/10 34/10 38/15 41/2 46/5 46/6 49/7 60/2 60/19 60/24 62/1 74/13</p> <p>sentencing [22] 10/1 10/13 20/6 29/2 29/7 29/20 30/10 36/16 38/19 44/5 51/8 60/10 60/12 60/17 60/21 65/13 69/11 73/25 74/4 79/12 80/4 80/10</p> <p>separate [1] 51/12</p> <p>September [6] 2/13 2/21 4/2 5/12 74/11 79/8</p>	<p>September 2021 [2] 2/13 5/12</p> <p>series [2] 44/25 69/15</p> <p>serious [4] 34/15 37/25 38/10 63/25</p> <p>seriously [2] 3/14 39/4</p> <p>seriousness [2] 71/14 80/4</p> <p>served [2] 25/11 77/22</p> <p>service [3] 1/11 76/10 78/4</p> <p>services [2] 68/11 69/1</p> <p>set [18] 5/5 9/9 20/3 20/4 22/23 41/18 43/23 44/12 44/20 46/4 47/19 48/22 61/22 62/8 63/7 69/16 77/5 79/11</p> <p>Sets [1] 25/1</p> <p>setting [4] 24/14 26/3 26/12 84/10</p> <p>severe [1] 3/13</p> <p>shadowed [1] 42/17</p> <p>Shaffiulla [1] 6/7</p> <p>Shall [1] 23/17</p> <p>Shallow [1] 84/25</p> <p>share [1] 62/6</p> <p>shared [3] 13/25 63/3 70/12</p> <p>sharing [1] 62/2</p> <p>Sharon [1] 36/10</p> <p>she [7] 25/7 36/11 36/16 39/2 68/16 68/20 77/15</p> <p>shed [1] 81/18</p> <p>shocked [1] 33/6</p> <p>shocking [1] 84/15</p> <p>shootings [6] 55/8 55/8 55/10 55/14 56/7 56/9</p> <p>short [8] 3/9 15/5 15/23 29/4 29/6 30/6 52/10 75/4</p> <p>shortcomings [1] 73/1</p> <p>shorter [1] 22/16</p> <p>shortly [4] 3/8 14/13 15/5 26/11</p> <p>should [20] 9/14 10/17 14/22 16/13 22/25 24/5 27/15 29/8 32/12 41/14 44/2 48/1 51/3 60/2 64/21 70/22 73/5 73/6 77/12 77/12</p> <p>shouldn't [2] 64/16 64/22</p> <p>showed [1] 41/7</p> <p>showing [1] 55/23</p> <p>shy [1] 46/1</p> <p>sidetracked [1] 15/18</p> <p>sight [3] 13/4 40/5</p>	<p>72/14</p> <p>significance [3] 19/24 37/22 37/23</p> <p>significant [5] 3/16 10/20 45/12 68/13 69/22</p> <p>signs [1] 78/12</p> <p>SIM [5] 40/17 40/18 40/20 41/3 71/12</p> <p>similar [2] 10/9 36/4</p> <p>simple [2] 25/13 85/5</p> <p>simply [7] 23/9 23/24 31/6 35/20 62/21 63/5 77/7</p> <p>simultaneously [1] 41/7</p> <p>since [2] 1/22 1/25</p> <p>Sinead [1] 26/3</p> <p>sit [1] 71/22</p> <p>sitting [2] 9/5 41/9</p> <p>situation [2] 37/4 39/24</p> <p>six [1] 72/16</p> <p>slot [1] 23/9</p> <p>slowly [2] 34/21 75/14</p> <p>snooker [1] 35/21</p> <p>so [112]</p> <p>social [1] 33/17</p> <p>sole [1] 48/13</p> <p>solicitors [1] 84/9</p> <p>some [22] 9/11 11/19 17/5 25/14 27/3 27/6 35/3 36/9 37/17 38/15 40/4 48/9 63/4 68/2 71/13 73/9 78/18 84/8 85/5 85/9 85/25 86/2</p> <p>somebody [7] 5/18 9/5 11/11 17/22 57/14 59/6 59/10</p> <p>someone [8] 3/16 25/19 35/12 73/4 76/1 76/20 83/13 83/22</p> <p>something [19] 11/8 11/12 16/1 18/15 19/11 23/13 30/20 31/15 32/21 32/24 35/7 36/17 37/25 69/12 69/17 71/8 73/7 76/12 81/22</p> <p>sometimes [3] 5/25 50/25 83/8</p> <p>somewhat [1] 3/18</p> <p>somewhere [5] 29/25 45/22 72/15 74/2 84/10</p> <p>sons [2] 27/5 31/3</p> <p>sophisticated [1] 4/9</p> <p>sorry [11] 11/16 11/23 13/8 16/11 21/23 25/3 31/20 43/14 49/18 56/23 67/8</p> <p>sort [4] 33/19 50/18 77/4 85/5</p> <p>sorts [1] 10/6</p>
(34) respond - sorts				

S	50/17 substances [1] 14/9 substitute [1] 50/12 substitution [1] 51/6 succeed [1] 2/4 successfully [1] 1/18 such [7] 3/9 13/20 24/1 32/17 36/1 69/22 78/14 suffering [1] 3/16 sufficiently [5] 2/3 3/13 8/18 27/18 27/23 suggest [1] 58/6 suggested [2] 62/11 80/1 suggesting [9] 37/3 37/6 49/9 51/21 58/18 67/9 67/13 76/22 77/25 suggestion [2] 14/14 15/12 suggests [1] 3/20 suitable [2] 42/20 46/5 suite [1] 13/2 suited [1] 35/9 summary [4] 12/24 82/2 82/14 82/16 Superintendent [1] 61/20 support [1] 21/5 suppose [2] 14/23 15/8 supremacists [1] 58/8 sure [9] 3/2 11/9 16/21 20/20 30/1 51/24 54/8 60/25 85/9 surgery [2] 38/9 68/20 surprise [1] 42/22 surprising [1] 53/4 surrounding [2] 27/7 29/16 survivors [1] 27/25 suspect [2] 76/21 77/13 sustained [1] 69/23 switching [1] 42/13 sword [1] 70/8 symptoms [4] 3/5 6/1 45/9 50/14	taking [10] 9/6 18/20 41/8 47/5 50/11 50/12 50/14 50/17 51/7 71/19 talk [2] 22/15 45/8 talked [1] 85/7 talking [1] 42/5 tasered [1] 19/12 Teams [5] 36/14 36/22 84/2 84/11 84/18 telephone [2] 42/13 49/23 tell [10] 13/13 18/18 19/20 21/20 25/1 27/12 28/24 40/19 60/22 78/6 telling [2] 39/8 45/12 tells [1] 6/11 ten [4] 44/17 55/15 74/2 75/11 ten minutes [1] 75/11 term [1] 16/25 terms [13] 5/21 10/14 20/5 21/21 22/21 22/22 37/22 42/4 48/1 56/1 66/1 67/21 75/10 Tesco [1] 59/19 test [4] 13/6 62/20 63/20 80/22 test' [1] 79/20 testing [7] 14/16 14/17 14/19 15/9 16/5 16/14 16/17 tests [1] 64/9 th [1] 49/23 than [13] 3/12 4/14 19/15 20/22 22/16 23/12 25/13 30/12 49/16 50/14 58/16 64/8 65/19 thank [42] 1/4 5/15 10/19 14/14 22/2 22/9 26/1 26/18 28/12 28/17 34/12 38/3 43/1 49/19 52/5 52/8 52/13 57/20 60/23 61/4 61/14 65/5 65/6 65/16 66/8 68/1 68/6 71/18 73/17 73/22 76/5 76/7 77/21 78/21 79/7 79/7 80/5 82/25 83/1 86/5 86/6 86/7 that [537] that I [14] 2/16 10/3 10/12 11/5 16/16 19/18 20/4 36/7 38/16 55/23 70/15 71/20 73/6 84/20 that's [29] 4/24 5/10 6/22 8/22 8/22 10/15 10/20 11/8 15/23 18/17 18/17 18/22 20/2 25/4 25/19 26/2 28/15 28/22 30/22	35/14 40/19 41/17 41/24 45/13 47/8 68/8 75/1 77/15 84/4 their [24] 8/7 11/6 26/5 29/15 32/9 32/12 36/2 45/24 50/11 50/13 50/17 50/24 51/15 53/6 53/8 53/17 53/21 53/22 53/25 56/18 59/11 67/6 77/8 85/13 them [35] 3/18 3/19 8/9 8/9 13/4 13/6 15/18 17/21 18/7 21/5 21/25 24/2 24/7 26/15 28/8 28/9 35/2 35/23 36/7 36/8 37/19 40/3 41/22 43/2 43/18 54/2 55/6 58/15 58/16 59/6 63/1 70/4 74/23 84/17 85/13 Themes [1] 39/8 themselves [1] 53/6 then [51] 2/8 3/11 3/25 11/19 11/21 12/3 12/10 13/13 15/8 15/13 17/11 17/12 17/14 18/13 18/20 19/20 20/6 21/21 21/25 22/3 23/11 26/8 27/19 30/23 32/25 50/19 51/16 54/11 57/15 57/17 58/12 59/12 60/17 60/22 61/23 66/11 67/21 68/14 69/4 70/5 70/18 72/2 72/4 72/13 73/13 74/22 75/25 77/10 77/18 79/15 84/1 there [99] there's [22] 5/7 8/1 8/25 9/3 10/20 13/20 19/6 20/23 22/3 23/21 29/25 30/13 38/23 48/9 50/18 54/24 56/22 64/10 64/18 67/13 71/4 84/10 thereafter [1] 66/11 therefore [2] 41/13 41/15 these [19] 1/19 3/17 15/17 22/12 24/5 26/20 28/2 28/4 31/16 33/23 34/1 41/5 41/12 42/11 43/9 47/19 51/23 52/20 78/12 they [90] they're [8] 6/18 7/12 8/20 21/11 31/25 45/17 45/25 51/1 they've [1] 16/5 thing [1] 77/4 things [11] 11/1 28/4 41/21 47/19 53/1 53/8 53/10 54/24 63/5 66/1 68/14	think [61] 9/3 9/4 10/22 10/24 11/7 11/18 11/19 18/19 20/25 28/7 28/15 28/22 29/3 30/1 30/16 30/22 32/17 35/11 36/20 38/15 39/5 39/13 40/4 40/15 40/15 45/10 54/17 58/4 59/21 63/4 64/20 66/5 68/3 68/24 69/3 70/15 72/15 72/20 72/22 72/23 72/24 73/21 73/23 73/24 75/6 75/12 78/5 78/9 82/21 83/4 83/7 83/18 83/23 84/2 84/5 84/9 84/11 84/24 85/7 85/16 85/20 thinking [3] 5/8 5/9 7/9 third [1] 53/24 this [123] those [55] 6/25 7/11 8/13 8/15 9/20 13/21 20/1 23/2 23/4 24/23 26/4 28/6 31/10 32/21 33/12 37/5 40/12 40/13 43/3 48/1 48/12 50/4 50/7 50/25 51/9 51/10 55/22 55/24 56/1 56/3 56/9 56/14 56/17 57/21 57/24 58/4 58/7 58/9 58/12 58/20 58/23 59/2 59/5 59/23 63/4 68/19 69/6 72/24 74/1 74/16 75/22 77/1 77/6 77/10 77/13 though [3] 16/1 18/15 49/5 thought [5] 9/12 14/17 19/4 37/10 55/25 thoughts [1] 6/17 threaten [1] 42/9 threatened [1] 70/7 threats [2] 7/8 70/2 three [8] 3/12 18/8 23/19 43/22 50/4 66/15 67/10 71/23 through [19] 1/18 2/10 7/12 9/12 10/21 14/24 25/13 31/2 33/1 37/12 37/18 44/8 44/11 59/14 64/13 65/13 76/1 81/23 85/7 Thursday [1] 4/2 time [43] 1/19 1/24 2/14 3/1 3/15 5/1 6/15 6/25 8/7 11/19 13/10 13/12 15/17 20/23 22/19 22/22 24/16 24/20 25/9 25/14 26/5 26/10 28/6 35/10 36/2 36/12 38/12 42/6
----------	--	--	---	---

<p>T</p> <p>time... [15] 50/23 52/6 54/7 54/8 63/10 74/21 74/21 74/24 75/2 77/9 81/15 81/21 84/16 84/17 84/17</p> <p>timeframe [5] 22/16 22/19 22/20 23/1 25/6</p> <p>times [8] 7/14 11/23 57/20 57/25 58/15 58/21 76/14 80/25</p> <p>timescale [1] 3/10</p> <p>timetable [1] 22/23</p> <p>Timetables [1] 77/4</p> <p>timings [1] 73/24</p> <p>today [2] 76/13 80/7</p> <p>today's [2] 3/6 3/8</p> <p>together [1] 38/12</p> <p>told [21] 10/25 11/1 12/2 17/25 19/5 19/8 19/10 25/9 25/23 28/10 28/11 31/6 35/11 45/4 50/16 54/11 74/5 83/7 84/5 84/6 84/12</p> <p>tomorrow [2] 26/4 86/7</p> <p>too [3] 8/23 39/16 77/9</p> <p>took [6] 14/8 18/12 19/17 52/21 73/18 74/3</p> <p>top [3] 3/3 8/2 14/5</p> <p>topic [3] 8/5 73/13 78/21</p> <p>towards [2] 10/25 72/14</p> <p>toxicological [1] 16/18</p> <p>toxicology [4] 14/8 16/2 16/9 16/13</p> <p>trace [1] 7/11</p> <p>Tracey [4] 34/9 73/19 74/5 75/7</p> <p>trauma [1] 23/8</p> <p>travelling [1] 70/8</p> <p>treated [1] 69/2</p> <p>treatment [1] 69/3</p> <p>trial [10] 22/24 22/25 24/20 28/3 54/16 54/20 54/21 54/23 81/4 83/18</p> <p>trials [1] 57/11</p> <p>tribunal [8] 2/12 2/21 3/3 3/6 4/10 4/12 7/2 7/6</p> <p>tried [4] 17/19 18/8 57/3 77/4</p> <p>true [2] 5/19 45/13</p> <p>try [7] 30/8 33/18 36/5 40/23 44/19 57/7 75/5</p> <p>trying [10] 4/13 4/17 5/12 19/25 24/5 32/9 32/11 48/10 69/13</p>	<p>79/12</p> <p>Tuesday [2] 24/15 24/22</p> <p>tutor's [1] 1/17</p> <p>Twelve [1] 44/18</p> <p>two [12] 15/15 40/3 40/10 40/12 51/9 54/22 54/24 55/22 55/24 56/1 68/4 80/6</p> <p>two days [1] 54/22</p> <p>type [1] 41/2</p> <hr/> <p>U</p> <p>ugliness [1] 32/8</p> <p>ultimate [1] 81/6</p> <p>unable [1] 2/7</p> <p>unaccompanied [1] 65/24</p> <p>Unclear [1] 65/11</p> <p>uncomfortable [1] 49/5</p> <p>unconcerned [5] 52/20 52/24 52/25 53/3 53/11</p> <p>under [6] 22/23 35/25 46/9 59/11 64/9 68/10</p> <p>undermine [1] 57/25</p> <p>undermined [1] 64/23</p> <p>undermining [1] 82/18</p> <p>understand [24] 1/10 3/24 5/18 12/10 15/22 20/5 20/16 21/14 28/5 29/8 29/12 33/10 33/12 34/25 46/17 47/12 48/4 61/23 69/5 69/8 69/25 75/16 75/24 77/19</p> <p>understand it [1] 33/10</p> <p>understanding [13] 4/9 8/6 28/8 29/24 35/9 38/1 42/7 55/20 56/10 58/1 69/14 75/8 86/3</p> <p>understands [1] 77/17</p> <p>understood [18] 9/20 9/22 15/9 19/23 20/7 23/22 29/18 29/23 34/20 39/5 43/9 48/17 48/18 63/12 68/25 74/24 75/2 75/17</p> <p>undertaken [1] 66/24</p> <p>undoubtedly [1] 33/4</p> <p>unequivocal [1] 50/1</p> <p>unfair [2] 18/17 18/19</p> <p>unfit [1] 77/4</p> <p>University [2] 1/22 1/24</p> <p>unknown [1] 18/20</p> <p>unless [1] 13/18</p> <p>unlikely [1] 3/9</p>	<p>unravel [1] 63/10</p> <p>until [3] 3/8 77/22 86/9</p> <p>untrue [1] 17/5</p> <p>unused [4] 12/23 25/11 63/17 64/2</p> <p>unusual [7] 1/23 2/1 2/2 2/3 6/12 13/20 18/23</p> <p>up [12] 17/12 17/16 18/13 18/17 19/3 20/3 21/10 43/5 77/25 78/24 80/8 81/25</p> <p>upon [10] 15/21 17/5 24/1 24/6 27/20 27/24 33/17 51/8 62/16 81/14</p> <p>upset [1] 21/13</p> <p>us [15] 5/3 9/13 9/20 21/21 23/16 25/1 26/9 27/23 28/24 28/25 40/19 46/19 71/19 76/24 83/7</p> <p>use [5] 16/25 17/21 49/15 75/10 79/1</p> <p>used [3] 12/23 45/8 66/18</p> <p>using [3] 18/20 18/21 41/3</p> <p>usual [1] 30/24</p> <p>usually [1] 77/15</p> <hr/> <p>V</p> <p>van [3] 19/4 19/12 36/10</p> <p>varied [1] 85/13</p> <p>various [4] 1/21 37/19 44/14 78/12</p> <p>vary [1] 85/14</p> <p>VC [36] 3/5 3/17 4/5 31/23 39/22 45/20 54/12 55/19 56/25 57/20 58/4 59/1 66/2 66/9 66/23 67/22 68/7 68/15 68/23 69/5 69/21 70/7 70/13 71/1 71/9 72/3 72/7 72/9 72/13 72/17 77/25 78/7 80/13 80/17 82/7 82/23</p> <p>VC's [15] 3/12 5/18 13/1 13/6 28/3 55/1 55/4 55/6 55/15 61/9 65/17 66/14 66/22 67/14 68/14</p> <p>vehicle [4] 17/18 18/3 18/12 18/21</p> <p>verbatim [1] 27/12</p> <p>versions [1] 6/5</p> <p>very [37] 1/10 4/9 6/18 8/20 15/5 15/22 16/9 26/20 31/25 32/2 34/5 34/23 35/24 37/25 38/10 40/17 50/10 50/13 61/4 62/3 63/13 65/5 71/25</p>	<p>73/12 73/13 75/18 76/5 77/21 81/14 82/25 83/18 83/23 84/13 84/20 84/23 85/5 85/14</p> <p>victims [14] 8/15 18/12 22/5 24/17 26/6 28/1 28/6 36/10 37/8 42/20 52/17 53/12 53/15 85/4</p> <p>video [4] 13/1 13/4 39/21 59/18</p> <p>videos [13] 56/8 56/11 56/13 57/9 57/21 57/24 58/4 58/9 58/13 58/20 58/24 59/2 59/5</p> <p>view [14] 25/2 47/18 48/7 48/17 49/10 61/22 62/2 62/7 62/8 63/18 63/25 77/9 82/21 83/18</p> <p>viewed [2] 8/16 33/16</p> <p>views [2] 63/2 81/19</p> <p>violence [4] 45/4 70/2 70/2 71/11</p> <p>visible [1] 43/8</p> <p>visit [1] 70/9</p> <p>voices [4] 7/4 7/7 7/11 39/8</p> <p>volunteers [1] 18/16</p> <p>vulnerable [3] 64/16 64/17 64/17</p> <hr/> <p>W</p> <p>wait [1] 42/19</p> <p>walkway [1] 42/17</p> <p>want [17] 11/2 11/4 11/8 15/16 19/14 19/20 21/15 30/16 32/3 32/10 36/25 53/2 54/24 60/7 67/6 73/10 76/21</p> <p>wanted [17] 10/23 11/5 15/20 23/19 29/11 36/16 49/25 51/24 53/1 53/8 53/10 74/15 74/17 75/1 75/3 75/22 83/3</p> <p>wanting [2] 32/6 54/2</p> <p>ward [1] 35/25</p> <p>Warehouse [1] 40/8</p> <p>warn [1] 29/5</p> <p>warrant [1] 13/11</p> <p>was [280]</p> <p>was a [1] 48/13</p> <p>was wrong [1] 73/5</p> <p>wasn't [24] 1/23 4/19 5/1 9/23 17/16 17/22 18/4 28/11 36/11 36/18 48/19 54/12 54/15 54/19 61/22 64/17 64/17 64/20 69/17 71/14 74/15 77/22 81/23 83/14</p>	<p>watch [2] 32/11 57/10</p> <p>watched [9] 17/15 32/17 56/25 57/9 57/15 57/21 58/4 58/12 58/20</p> <p>watching [5] 57/23 57/24 58/8 58/15 58/16</p> <p>way [22] 5/13 7/5 7/13 19/25 20/6 20/7 20/25 22/23 23/11 29/21 30/24 36/7 45/15 45/24 55/25 62/11 65/20 68/16 72/17 75/25 81/12 81/23</p> <p>Wayne [4] 34/9 34/14 74/6 75/7</p> <p>ways [1] 37/1</p> <p>we [162]</p> <p>we'd [2] 19/21 54/21</p> <p>we'll [8] 5/23 20/20 21/12 34/3 37/18 67/23 86/6 86/6</p> <p>we're [4] 7/22 12/22 38/20 49/3</p> <p>we've [4] 2/13 6/2 60/7 70/18</p> <p>weapon [1] 18/21</p> <p>weapons [1] 71/21</p> <p>Webber [1] 19/3</p> <p>Webbers [1] 81/2</p> <p>week [1] 31/2</p> <p>weeks [3] 3/12 23/10 24/20</p> <p>well [39] 2/17 4/19 10/10 15/8 18/2 18/11 18/19 19/6 19/7 21/20 23/5 27/12 27/21 29/2 29/23 29/23 34/19 37/24 38/20 43/17 47/3 53/5 56/7 60/10 62/11 64/3 64/10 64/11 64/15 64/17 69/24 74/10 75/11 76/2 77/16 83/18 83/23 85/23 86/6</p> <p>went [12] 1/16 25/16 33/14 37/25 38/1 41/17 63/23 67/22 70/9 72/4 72/14 76/15</p> <p>were [112]</p> <p>weren't [5] 13/23 31/3 51/24 52/22 84/12</p> <p>what [87] 2/2 4/10 4/10 5/10 5/18 5/20 6/22 6/23 7/2 7/4 7/6 7/12 7/21 8/18 9/16 10/15 12/6 12/7 12/10 13/8 13/22 15/6 15/8 15/16 16/21 18/22 19/13 19/22 21/21 22/21 22/24 25/1 25/4 28/5 28/11 28/25</p>
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<p>W</p> <p>what... [51] 29/21 32/14 34/13 34/15 34/23 34/25 35/5 35/10 35/15 36/18 37/21 38/1 38/7 39/10 39/13 40/20 42/4 42/4 42/7 43/7 43/8 43/15 44/12 44/12 45/23 47/3 48/5 48/17 51/2 51/6 53/22 57/11 57/23 60/13 63/25 64/18 64/19 66/11 66/22 67/13 69/5 71/25 75/6 75/8 75/16 76/22 78/13 79/4 82/14 82/16 84/7</p> <p>what's [6] 1/25 8/5 8/11 8/23 31/2 33/13</p> <p>WhatsApp [1] 70/12</p> <p>WhatsApps [1] 71/14</p> <p>when [23] 7/11 11/19 16/11 17/10 20/19 23/2 36/3 40/5 41/1 45/17 47/9 58/5 58/12 58/20 66/15 69/19 72/11 74/19 76/25 77/6 77/15 77/17 77/19</p> <p>whenever [1] 74/18</p> <p>where [30] 5/3 19/21 21/15 23/7 25/3 30/1 39/24 48/13 48/24 49/10 50/15 51/25 52/1 59/18 66/2 67/22 68/15 69/6 69/22 70/12 72/3 72/4 72/9 72/17 75/12 76/14 76/20 77/17 77/19 79/8</p> <p>whether [26] 5/19 5/24 8/6 14/8 14/19 16/12 16/18 21/24 24/4 27/22 27/25 30/8 35/18 50/21 51/20 55/24 56/17 60/2 62/4 66/1 70/21 76/1 80/11 81/18 84/24 85/3</p> <p>which [57] 3/20 4/15 5/22 7/15 10/5 10/14 10/22 11/8 12/20 13/5 15/1 15/3 15/16 15/19 15/21 22/17 24/1 24/7 25/6 25/16 27/22 28/10 30/10 33/12 35/4 38/3 41/5 41/8 41/12 43/20 43/21 45/25 48/21 48/22 49/15 49/21 50/8 51/17 57/16 62/9 62/24 64/16 65/13 66/14 66/14 67/15 68/2 69/15 69/16 71/25 76/18 79/1 79/10 80/3 82/17</p>	<p>83/11 85/25</p> <p>whilst [8] 3/5 3/17 9/15 11/10 24/19 42/24 42/24 65/24</p> <p>white [1] 58/7</p> <p>who [18] 1/10 17/19 18/6 25/19 31/5 31/6 34/14 34/25 36/3 37/4 37/7 38/8 43/19 72/18 75/19 80/14 83/13 83/19</p> <p>whoever [1] 37/11</p> <p>whole [2] 28/15 34/18</p> <p>wholly [2] 63/9 78/17</p> <p>whom [2] 28/19 67/19</p> <p>whose [1] 67/12</p> <p>why [28] 6/3 6/19 6/20 8/10 11/9 15/13 15/23 18/3 20/2 21/8 24/7 25/16 25/19 31/3 31/23 40/19 41/17 43/14 44/2 53/19 56/8 60/7 64/11 68/21 71/3 75/1 75/24 78/9</p> <p>wide [1] 8/23</p> <p>widely [2] 85/13 85/14</p> <p>wider [1] 62/23</p> <p>will [18] 12/3 20/14 23/14 24/19 25/6 26/4 26/5 26/5 26/9 30/16 32/11 32/17 45/24 50/23 51/16 57/17 62/4 63/18</p> <p>willing [3] 4/21 5/1 30/19</p> <p>willingly [1] 23/13</p> <p>window [3] 38/9 39/2 68/17</p> <p>wish [7] 9/25 10/1 23/3 24/1 31/10 33/6 36/2</p> <p>wished [4] 9/20 74/6 74/14 74/20</p> <p>within [12] 23/1 25/6 29/24 36/17 41/9 47/21 48/4 51/7 64/25 67/15 69/1 70/6</p> <p>without [1] 36/24</p> <p>Witness [1] 76/17</p> <p>woman [1] 38/8</p> <p>won't [1] 57/18</p> <p>word [2] 45/8 49/15</p> <p>words [4] 6/9 16/4 32/16 53/16</p> <p>work [3] 23/10 27/13 27/17</p> <p>worked [1] 54/21</p> <p>working [1] 2/9</p> <p>worn [2] 13/9 43/11</p> <p>worse [3] 5/13 23/12 50/24</p> <p>would [106]</p> <p>would -- it [1] 59/10</p>	<p>wouldn't [11] 16/24 17/7 21/7 24/2 37/12 38/14 54/22 57/7 64/3 64/8 82/24</p> <p>writing [2] 30/8 79/17</p> <p>writings [1] 30/20</p> <p>written [4] 79/6 81/21 85/5 85/12</p> <p>wrong [5] 38/2 44/1 63/5 63/9 73/5</p> <p>wrote [1] 61/6</p> <hr/> <p>Y</p> <p>yeah [10] 4/22 4/23 5/2 13/3 21/3 39/3 39/17 52/19 60/7 60/12</p> <p>year [2] 7/17 55/14</p> <p>years [3] 1/15 14/3 33/16</p> <p>yes [162]</p> <p>you [308]</p> <p>you'd [3] 60/12 74/14 79/10</p> <p>You'll [1] 38/22</p> <p>you're [12] 9/8 17/10 20/25 40/17 45/12 47/5 51/13 61/6 66/19 67/9 82/5 82/6</p> <p>you've [11] 18/11 43/10 43/15 52/16 55/6 65/12 66/13 78/21 78/25 80/7 84/5</p> <p>your [46] 1/6 5/23 8/5 9/15 10/17 21/19 24/10 24/12 24/25 25/1 25/1 30/14 31/1 32/15 33/2 34/3 34/3 39/10 44/5 45/15 46/19 46/20 47/10 47/10 47/12 47/18 49/20 52/15 61/14 62/1 63/25 65/13 66/18 68/8 70/5 70/9 70/20 72/6 75/12 78/3 80/13 81/3 82/2 82/5 83/20 85/8</p> <p>yours [1] 37/6</p> <p>yourself [3] 30/15 41/22 74/6</p> <hr/> <p>Z</p> <p>zombie [1] 70/8</p>		
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