

THE HIGH COURT

COMMERCIAL

Case No. 2016/4809P

THE DATA PROTECTION COMMISSIONER

PLAINTIFF

and

FACEBOOK IRELAND LTD.

AND

DEFENDANTS

MAXIMILLIAN SCHREMS

HEARING HEARD BEFORE BY MS. JUSTICE COSTELLO

ON FRIDAY, 10th FEBRUARY 2017 - DAY 4

Gwen Malone Stenography  
Services certify the  
following to be a  
verbatim transcript of  
their stenographic notes  
in the above-named  
action.

4

---

---

GWEN MALONE STENOGRAPHY  
SERVICES

APPEARANCES

For the PLAINTIFF: MR. MICHAEL COLLINS SC  
MR. BRIAN MURRAY SC  
MS. C. DONNELLY BL

Instructed by: MR. DAMIEN YOUNG  
PHILIP LEE SOLICITORS  
7/8 WILTON TERRACE  
DUBLIN 2

For the 1ST DEFENDANT: MR. PAUL GALLAGHER SC  
MS. NIAMH HYLAND SC  
MR. FRANCIS KIERAN BL

Instructed by: MASON HAYES & CURRAN  
SOUTH BANK HOUSE  
BARROW STREET  
DUBLIN 4

FOR THE 2ND DEFENDANT: MR. EOIN McCULLOUGH SC  
MR. JAMES DOHERTY SC  
MR. SEAN O'SULLIVAN BL

Instructed by: AHERN RUDDEN QUIGLEY  
5 CLARE STREET  
DUBLIN 2

FOR UNITED STATES OF AMERICA: MS. EILEEN BARRINGTON SC  
MS. SUZANNE KINGSTON BL

Instructed by: MCCANN FITZGERALD  
RIVERSIDE ONE  
37-42 SIR JOHN  
ROGERSON'S QUAY  
DUBLIN 2

FOR BSA The Software Alliance: MR. MAURICE COLLINS SC  
MS. KELLEY SMITH BL

Instructed by: WILLIAM FRY SOLICITORS  
2 GRAND CANAL SQUARE  
DUBLIN 2

FOR DIGITAL EUROPE:

MR. MICHAEL CUSH SC  
MS. NESSA CAHILL BL

Instructed by:

A&L GOODBODY  
28 NORTH WALL QUAY  
NORTH WALL  
DUBLIN 1

FOR ELECTRONIC PRIVACY  
INFORMATION CENTER:

MR. COLM O'DWYER SC  
MS. GRAINNE GILMORE BL

Instructed by:

MCGRATH MCGRANE  
SUITE 323  
THE CAPEL BUILDING  
MARY'S ABBEY  
DUBLIN 7

**COPYRIGHT:** Transcripts are the work of Gwen Malone Stenography Services and they must not be photocopied or reproduced in any manner or supplied or loaned by an appellant to a respondent or to any other party without written permission of Gwen Malone Stenography Services

INDEX

| <u>PROCEEDING</u>        | <u>PAGE</u> |
|--------------------------|-------------|
| <u>MS. ASHLEY GORSKI</u> |             |
| DIRECT - MR. DOHERTY     | 5 - 33      |
| CROSS - MR. GALLAGHER    | 34 - 180    |
| RE-DIRECT - MR. DOHERTY  | 180 - 188   |

1 THE HEARING RESUMED AS FOLLOWS ON FRIDAY, 10TH FEBRUARY  
2 2017

3  
4 **MS. JUSTICE COSTELLO:** Good morning.

5 **REGISTRAR:** In the matter of Data Protection 10:44  
6 Commissioner -v- Facebook Ireland Ltd. and another.

7 **MR. DOHERTY:** Yes, Judge. Ms. Gorski is already in the  
8 witness box.

9 **MS. JUSTICE COSTELLO:** Thank you.  
10 10:44

11 MS. ASHLEY GORSKI, HAVING BEEN AFFIRMED, WAS EXAMINED  
12 BY MR. DOHERTY AS FOLLOWS

13  
14 1 Q. **MR. DOHERTY:** Ms. Gorski, if you could just be handed a  
15 booklet with your report in it, which I think is Book 10:44  
16 6, if you have that (SAME HANDED TO THE WITNESS).  
17 Certainly in my book it's behind Tab 2 of Book 6 is  
18 your report itself appended to the affidavit you swore  
19 in these proceedings.

20 10:45  
21 If I can ask you, just before we touch on the report  
22 briefly, to turn to paragraph 24 which is the appendix  
23 to the report where you set out your background and  
24 your experience, and this has already been opened to  
25 the court by Mr. Collins yesterday, but could you 10:45  
26 perhaps just, if you might, give some colour or  
27 background to your experience and your ability to give  
28 evidence before the court today.

29 A. Of course. I graduated from Yale University and

1 received my Juris Doctor degree from Harvard Law  
2 School. I am of the Bar of the State of New York and  
3 I am admitted to practice in several federal courts.  
4 After law school I worked at a New York law firm, Davis  
5 Polk & Wardwell, and, following my work with the firm, 10:45  
6 I clerked for two federal judges, The Honourable Miriam  
7 Goldman Cedarbaum in the Southern District of New York  
8 and The Honourable Jon O. Newman in the Second Circuit  
9 Court of Appeals. Following my clerkship I began  
10 employment with the American Civil Liberties Union, the 10:46  
11 National Security Project within the ACLU. I have been  
12 working at the ACLU for the past three and a half years  
13 where I have focussed on US surveillance law.

14 2 Q. And if you could just direct any answers to the judge  
15 that would be helpful, Ms. Gorski. 10:46

16 A. Of course.

17 3 Q. And in the context of the report that you prepared,  
18 I think before coming here today you have had an  
19 opportunity to review the report?

20 A. Yes. Before coming here today I have reviewed the 10:46  
21 report.

22 4 Q. And we'll come on to it in a moment. I know that there  
23 have been some developments in US law that are touched  
24 on in the joint memo prepared by the experts, but is  
25 there anything in the context of the report that's 10:46  
26 exhibited to your affidavit that you wish to clarify or  
27 correct?

28 A. Yes. In paragraph 44 of the report on page 17 I refer  
29 in passing to PPD-28's limitations on bulk collection.

1 5 Q. Yes.

2 A. PPD-28 does not limit bulk collection per se. It sets  
3 forth six limitations on the government's use of  
4 information that has been collected in bulk. That is a  
5 point that I have clarified in the expert chart that 10:47  
6 was separately submitted and it's a point that is made  
7 elsewhere in the report, but I just wanted to clarify  
8 that in paragraph 48 I am speaking specifically about  
9 limitations on the use of information that has been  
10 collected in bulk. 10:47

11 6 Q. Okay. And apart from that correction and any other  
12 matter that we'll come to in a moment in terms of the  
13 memorandum prepared by the experts, is there anything  
14 else in the report, are you happy to adopt its contents  
15 as reflecting your views for the purposes of the 10:47  
16 evidence today?

17 A. Its contents reflect my views for the purposes of the  
18 evidence today.

19 7 Q. If I can ask you then just to be handed a copy of the  
20 memorandum prepared by the experts and I think, Judge, 10:48  
21 you had said that you would put it into your  
22 submissions booklet yesterday?

23 **MS. JUSTICE COSTELLO:** Yes.

24 A. I was handed a copy earlier.

25 8 Q. **MR. DOHERTY:** Okay. Just in terms of this memorandum, 10:48  
26 I think it explains that the experts met by video  
27 conference on 3rd February last and I think that was  
28 quite a lengthy engagement, was it?

29 A. Yes. I believe we spoke for at least four and a

1 half hours or four hours and 45 minutes.

2 9 Q. And, while this is a lengthy document I think running  
3 to some 38 pages, it necessarily reflects a somewhat  
4 distilled view of perhaps different views expressed by  
5 the parties to that conference call over that time? 10:49

6 A. Yes, that's correct.

7 10 Q. I just want to ask you a few questions about it, if  
8 I may, dealing firstly at the bottom of this page 1 of  
9 the documents, "*Developments in US law and practice*  
10 *since filing of experts report*". At the bottom of this 10:49  
11 page we see reference to the "*designation of the EU and*  
12 *Member States under the Judicial Redress Act*" and over  
13 the page the reference to 17th January designation of  
14 the EU Member States as covered countries, I just to  
15 ask you just a slightly different question: Are you 10:49  
16 aware of any designation of designated agencies for the  
17 purposes of this Act?

18 A. I do not have direct knowledge of which agencies have  
19 been designated for the purposes of the Judicial  
20 Redress Act at this stage. I would note, however, that 10:49  
21 the Judicial Redress Act is in many respects a  
22 significantly flawed remedy for EU persons because it  
23 is designed to extend the remedies available in the  
24 *Privacy Act*. And the *Privacy Act* contains several  
25 significant exemptions, including an exemption for 10:50  
26 information in systems of records that has been  
27 classified pursuant to executive order. And when we're  
28 talking about foreign intelligence service and NSA  
29 surveillance, invariably intelligence files are



1 classified by the NSA and this is something that is  
2 touched on in Prof. Vladeck's affidavit as well,  
3 I believe paragraphs 64, in the 60s, he addresses this.  
4 The NSA effectively has exempted itself from the most  
5 significant protections afforded to individuals in the 10:50  
6 Privacy Act.

7  
8 So because the NSA is exempt from the Privacy Act in  
9 the most important respects, the Judicial Redress Act  
10 doesn't, it doesn't have the force that it may, that 10:50  
11 the court may believe that it has based on some of the  
12 expert declarations. And I would separately note that  
13 the Judicial Redress Act doesn't extend all the causes  
14 of action that are available in the Privacy Act.

15 11 Q. Okay. Within the same section on page 3 there's a 10:51  
16 reference to the decision of District Court decision  
17 I think in Valdez -v- National Security Agency at No.  
18 6, and I think this touches on something that is dealt  
19 with in other parts of this expert report and we have  
20 heard about over the last number of days about the 10:51  
21 doctrine of standing in the context of challenges to  
22 surveillance, could you perhaps just explain your view  
23 in relation to that by reference to the Valdez decision  
24 or any other material in the memo?

25 A. Yes, it's very important to understand that within the 10:51  
26 US system plaintiffs have the burden of establishing  
27 standing at various stages of the case. The two most  
28 recent decisions addressing standing in challenges to  
29 NSA surveillance, this Valdez decision and then the

1 Schuchardt decision which I believe has been referred  
2 to already in those proceedings. Both of those  
3 decisions involve a court assessing whether a  
4 plaintiff's allegations at the outset of the case are  
5 plausible. At the beginning of the case a defendant 10:52  
6 may bring a motion to dismiss and that motion to  
7 dismiss can proceed in one of two ways: It can be a  
8 facial challenge to the plausibility of the allegations  
9 in the complaint or it can be a factual challenge.

10 10:52  
11 These two cases dealt with facial challenges. So they  
12 were considering whether, under an extraordinarily low  
13 and permissive standard, plaintiffs had sufficiently  
14 and plausibly alleged that they had standing to  
15 proceed. Notably in a case that I have worked on 10:52  
16 directly wikimedia -v- NSA, where we represent  
17 wikimedia which is owner and operator of one of the  
18 most visited, ten most visited websites on earth, the  
19 District Court in that opinion held that we had not  
20 plausibly alleged that our communications, that my 10:52  
21 client's communications were subject to Upstream  
22 surveillance. So even with that very low standing  
23 threshold we were still unable to meet it in the  
24 District Court's view. That case is currently pending  
25 appeal. 10:53

26  
27 So in connection with Valdez I would also just note  
28 that on page --

29 12 Q. Perhaps page 34 paragraph 8?

1 A. Page 34 paragraph 8.

2 13 Q. You had some comment there?

3 A. Yes. So in paragraph 8 the experts stated that the

4 standing doctrine is to a large degree indeterminate.

5 In the last sentence we explain that this phenomenon of 10:53

6 indeterminacy is reflected in lower court decisions, in

7 post Clapper, post Snowden suits challenging US foreign

8 intelligence surveillance programmes, some of which

9 have found Article III standing and others of which

10 have not. 10:53

11

12 Insofar as this sentence is referring to Schuchardt and

13 Valdez, the courts there did not technically find

14 Article III standing. So assuming makes it past a

15 motion to dismiss or past a facial challenge then the 10:54

16 plaintiff has to establish the elements of standing by

17 a preponderance of the evidence which is a much higher

18 burden. These two cases did not involve factual

19 findings by the court that the plaintiff had

20 established standing by a preponderance of the 10:54

21 evidence.

22

23 The one foreign intelligence case post Clapper, post

24 Snowden is really the exception that proves the rule,

25 the rule that standing is an extraordinarily difficult 10:54

26 hurdle in the foreign intelligence context, and that's

27 the ACLU -v- Clapper decision. And that's the case in

28 which the ACLU, based on a document that was leaked by

29 Edward Snowden, learned that the Foreign Intelligence

1 Surveillance Court was ordering Verizon business to  
2 turn over the telephony metadata of Verizon business  
3 customers. And, because we had that leaked order, we  
4 were able to go to the court and the Second Circuit  
5 found that we had standing. 10:55

6  
7 But in that case we had actually received notice of the  
8 fact that we were surveilled. A theme in my report and  
9 just generally is that without notice in the American  
10 system it's extraordinarily difficult to establish 10:55  
11 standing. ACLU -v- Clapper is really an exception to  
12 the rule.

13 14 Q. Yes. Just turning back to the report, from page 5 the  
14 experts address the question of US government's  
15 surveillance authority and I just want to ask you a 10:55  
16 couple of things in terms of areas of disagreement  
17 there.

18  
19 At paragraphs 1 and 2 I think there's a discussion in  
20 terms of the scope of Section 702 targeting and the 10:55  
21 effectiveness of protections contained in Section 702,  
22 the minimisation procedures. The reconciled position,  
23 I think as Mr. Collins noted yesterday, is not a  
24 reconciled position in fact because you disagree about  
25 how much constraint exists in practice for targeting 10:55  
26 under Section 702 and you disagree, for minimisation  
27 under Section 702, how strong the protections and how  
28 large the exceptions are in practice, and could you  
29 perhaps just elaborate on the reasons for your

1           disagreement there?

2           A.   Of course.  With respect to the targeting procedures,  
3           under Section 702 the government is permitted to target  
4           any non-US person who is located abroad who the  
5           government reasonably believes is a non-US person           10:56  
6           located abroad and so long as the significant purpose  
7           of the acquisition is to obtain foreign intelligence  
8           information.  Critically foreign intelligence  
9           information is defined extraordinarily broadly in FISA  
10          to include arguably any information bearing on the           10:56  
11          foreign affairs of the United States.  So, given that  
12          extraordinarily broad targeting standard, I think it's  
13          fair to say that the targeting standards are weak.

14

15          In addition, the Privacy and Civil Liberties Oversight           10:56  
16          Board had recommended that the government, that the  
17          executive branch implement some reforms to its  
18          targeting procedures.  The procedures themselves have  
19          not been officially acknowledged by the government.  
20          There is a version, however, from 2009 that has been           10:57  
21          publically released.  And, based on the targeting  
22          procedures that have been publically released, the  
23          procedures themselves do not impose meaningful  
24          constraints on the government's targeting decisions and  
25          the Privacy and Civil Liberties Board recognised that           10:57  
26          and specifically recommended that the government  
27          incorporate into its targeting procedures more specific  
28          criteria defining what constitutes a foreign  
29          intelligence purpose for the purposes of the

1 acquisition, and that recommendation was only partially  
2 implemented. The board was not satisfied with the  
3 government's implementation of that recommendation.  
4

5 with respect to the minimisation procedures, I think 10:57  
6 the most significant exception is that the government  
7 can retain communications indefinitely if they are  
8 found to contain foreign intelligence information.  
9 And, given the broad definition of foreign intelligence  
10 information, I don't believe that the minimisation 10:57  
11 procedures impose meaningful constraints on the  
12 government's surveillance apparatus under Section 702.

13 15 Q. And I think, just in terms of section 702, this goes on  
14 to deal with the two programmes that we know about  
15 under section 702, PRISM and Upstream; isn't that 10:58  
16 correct?

17 A. Yes.

18 16 Q. At paragraphs 3 and 4 on page 7 I think we're dealing  
19 primarily with, well PRISM and Upstream in 3, but PRISM  
20 at paragraph 4 and the agreed position, I think there 10:58  
21 was some debate between yourself and Prof. Swire about  
22 the concept of direct access to information held by  
23 service providers?

24 A. Mm hmm.

25 17 Q. And the agreed position seems to record: "*The precise 10:58*  
26 *technological means by which the government transmits*  
27 *selectors to providers and providers send data to the*  
28 *government, to the best of the experts' knowledge, has*  
29 *not been made public*". And do you have any comment

1 around that?

2 A. My impression from reading Prof. Swire's report is that  
3 he was describing the process by which directives are  
4 served as a highly legalistic one as if -- well  
5 directives are served in a legalistic manner, but the 10:59  
6 process by which the targeted selectors, the search  
7 terms, the targeted accounts, the information that the  
8 government wants to obtain from the internet companies,  
9 that information presumably is changing rapidly. It's  
10 not as if the government says on January 1st 'we know 10:59  
11 all the accounts that we want to target for all of  
12 2017'. And, given that that information is changing  
13 rapidly and also given the volume of the information  
14 that the government is obtaining under PRISM, which is,  
15 as of 2011, more than 200 million communications a 10:59  
16 year, it's clear that there is some kind of  
17 technological means by which the government is  
18 providing the selectors to the internet companies and  
19 the internet companies are in turn providing data back  
20 to the government. Those precise technological means 10:59  
21 are unknown, have not yet been made public.

22 18 Q. Can I ask you then to turn to page 9 in paragraph 6  
23 where the topic under discussion was the relevance of  
24 Executive Order 12333. Perhaps before we get to that,  
25 but keeping that tab open, if you could turn to page 12 11:00  
26 and item 12. There was some discussion, I think, about  
27 the use of Executive Order 12333 for collection within  
28 the US and in the middle column Prof. Vladeck is  
29 recorded as stating that:

1 "Executive Order 12333 simply does not apply to EU  
2 citizen data held by US companies within the United  
3 States."  
4

5 And there is an agreed position referring to the 11:00  
6 Transit Authority in the United States, that may be an  
7 exception to that, but could you just explain your view  
8 on Prof. Vladeck's statement.

9 A. Sure. I'll just begin by talking about the relevance  
10 of EO 12333 to the proceedings as I understand them. 11:00  
11 I interpreted the Court of Justice's decision in  
12 Schrems as asking Court of Justice's whether the US  
13 ensures or a third party country ensures an adequate  
14 level of protection for EU citizen data that is  
15 transferred to the third party country. And so the 11:01  
16 inquiry is not simply whether, once the communications  
17 hit US soil, whether the US ensures an adequate level  
18 of protection, but whether the US is in any way  
19 interfering with EU citizens' rights as those  
20 communications are in transit. 11:01  
21

22 And EO 12333 is potentially relevant in two respects,  
23 One the government uses the EO 12333 to conduct bulk  
24 surveillance broad, including on the trans-Atlantic  
25 cables from the EU to the US, and this was something 11:01  
26 that was acknowledged in the European Commission's  
27 adequacy decision around Privacy Shield. So given that  
28 the European Commission thought that this was a  
29 relevant fact, I think it is potentially relevant to



1 these proceedings as well. If the government is  
2 collect EU citizens data in bulk as it is transiting  
3 the undersea cables but is just doing that right  
4 offshore, right off US soil, under EO 12333 that seems  
5 pertinent.

11:02

6  
7 Secondly, with respect to transit authority,  
8 Prof. Vladeck and Prof. Swire in their reports stated  
9 that EO 12333 has no application to surveillance in the  
10 US, and that is incorrect and they have, since we have 11:02  
11 conversed, have acknowledged that EO 12333 does apply  
12 to surveillance, some surveillance conducted in the US  
13 in limited circumstances, including an authority known  
14 as Transit Authority. And under Transit Authority the  
15 US government is intercepting communications in transit 11:02  
16 that are foreign to foreign, that are not designed to  
17 land in the US per se but as they are transiting across  
18 the US the government is intercepting them on US soil  
19 pursuant to Executive Order 12333.

20 19 Q. And then if I may just, going back to Section 702 11:02  
21 targeting procedures, can I ask you to look at page 14  
22 at item 15. The experts were discussing the FISA court  
23 role in approving Section 702 targeting procedures  
24 there and an agreed position is reached that: "*Under*  
25 *Section 702, the FISC does not approve agency analysts'* 11:03  
26 *individual targeting decisions.*"

27  
28 And could you just perhaps explain what the experts  
29 meant by that or what your understanding of the

1 agreement is?

2 A. My impression was that Prof. Swire's report suggested,  
3 implied, potentially overstated the Foreign  
4 Intelligence Surveillance Court's role in approving  
5 targeting decisions. Very importantly under 11:03  
6 Section 702, the Foreign Intelligence Surveillance  
7 Court bears no role to the court's involvement under  
8 traditional FISA, traditional FISA orders or like a  
9 judicial warrant procedure. There is no ex ante review  
10 of targeting decisions. Instead on an annual basis the 11:04  
11 Director of National Intelligence and the Attorney  
12 General go to the FISC and they say 'we are seeking  
13 these certifications, we'd like to conduct acquisitions  
14 under Section 702, here are our targeting and  
15 minimisation procedures', which prescribe at a very 11:04  
16 high level of generality how they intend to target and  
17 minimise the data and communications that are  
18 collected.

19

20 The individual targeting decisions are made by the 11:04  
21 executive branch with no judicial input, no judicial  
22 review.

23 20 Q. Just touching on something that's perhaps in the same  
24 vein on page 16, paragraph 19, there is reference to  
25 the experts discussing Section 702 and the acquisition 11:04  
26 of communications of *ordinary* citizens and if we could  
27 start perhaps with Prof. Swire's view in the middle to  
28 which you respond, he states that:  
29

1           *"In 2015 there were 94,368 targets under Section 702*  
2           *programmes, many of whom were targeted due to evidence*  
3           *linking them to terrorism."*

4  
5           He says: *"That's a tiny fraction of US, European or* 11:05  
6           *global internet users and it demonstrates the low*  
7           *likelihood of the communications being acquired for*  
8           *ordinary citizens."*

9  
10          And you disagree, I think, with that and you have 11:05  
11          explained in the first column in summary form why you  
12          disagree, could you perhaps just elaborate on that?

13         A.   Of course. So given the government's targeting  
14          criteria under Section 702, the target merely needs to  
15          be a non-US person located abroad, and the significant 11:05  
16          purposes of the targeting is to obtain foreign  
17          intelligence information. The government is invariably  
18          targeting individuals who are "ordinary citizens". Its  
19          targets need not have any connection to criminal  
20          activity, any connection to terrorism and need not be 11:05  
21          foreign powers or agents of a foreign power.

22  
23          And, separately, targets, regardless of whether one  
24          would characterise them as ordinary citizens,  
25          invariably communicate with individuals who are 11:06  
26          ordinary citizens; and, third, the government likely  
27          surveils several selectors or accounts for each of  
28          these targets and each of those accounts likely  
29          communicates with dozens or hundreds of people. So

1 very quickly you have kind of a force multiplier in  
2 terms of how many communications of ordinary citizens  
3 happen to be acquired under section 702.

4  
5 And again, as of 2011, under Section 702, as reported 11:06  
6 by an opinion of the Foreign Intelligence Surveillance  
7 Court, the government had acquired more than  
8 250 million internet communications.

9  
10 I would also note, and this is actually the most 11:06  
11 important point with respect to 702 surveillance of  
12 ordinary citizens, that through Upstream surveillance  
13 in section 702 the government engages in what could be  
14 characterised as bulk searching of communications. So  
15 even though it's only acquiring, you know, the 11:06  
16 communications to, from and about its targets, with  
17 some exception because some unrelated communications  
18 are often bundled with the targets communications in  
19 transit, but, setting aside those exceptions, in order  
20 to acquire the communications about its targets, the 11:07  
21 government must first search through a far greater  
22 quantity of communications. And when it is conducting  
23 the searching, it's not just looking at the envelope,  
24 it's not just looking at the metadata, it's having to  
25 do with what's called a deep packet inspection because 11:07  
26 it is interested in communications that are simply  
27 *about* the target as well, it's a much broader search.  
28 And so with that kind of bulk searching the government  
29 has access to and is searching through the contents of

1 vast quantities of internet communications that are  
2 entering and leaving the United States.

3 21 Q. Can I then ask you to turn to page 19 and item 25 where  
4 the experts discuss the scope of application of the  
5 Fourth Amendment and I think ultimately reach an agreed 11:07  
6 position as set out in the final column. There's just  
7 one matter here which may or may not be an error but  
8 just to ask you to clarify the position: The  
9 reconciled position is:

10  
11 *"Swire concurs with his previous conclusion of the*  
12 *Fourth Amendment applying for searches within the US*  
13 *where the non-citizen has substantial voluntary*  
14 *connections to the US such as physical presence in the*  
15 *country. By contrast, Swire agrees with Vladeck that 11:08*  
16 *the Supreme Court has not addressed wither the Fourth*  
17 *Amendment apply to searches of non-citizens data where*  
18 *the data is located within the US but there has been no*  
19 *substantial voluntary connection to the US."*

20  
21 And then it records: *"To the extent Vladeck's earlier*  
22 *testimony stated the Fourth Amendment applies in such*  
23 *circumstances"*, I think you thought that may be a  
24 reference to Prof. Swire instead of Prof. Vladeck?

25 A. I think that may be a reference to Prof. Swire. 11:08  
26 Because my impression is that there was some evolution  
27 in Prof. Swire's position. In his report he stated  
28 that the Fourth Amendment applies to searches and  
29 seizures that take place within the US and in his

1 reconciled position, he says he concurs, but really he  
2 is saying the Fourth Amendment applies to searches  
3 within the US where the non-citizen has substantial  
4 voluntary connections to the US. That's the caveat.  
5 So there was an evolution in Prof. Swire's position and 11:09  
6 I can't say definitively to the extent Vladeck's  
7 earlier stated, should say Prof. Swire, but that would  
8 be my assumption.

9 22 Q. And then the final agreement on that is that the  
10 experts agree the Supreme Court just hasn't considered 11:09  
11 that issue in the context of EU citizens data but data  
12 generally being transferred to the US?

13 A. That is correct, that the Supreme Court has not  
14 considered that issue.

15 23 Q. Can I ask you then to turn to the second section of the 11:09  
16 report dealing with causes of action. You are,  
17 I think, less involved in terms of discussions about  
18 remedies, but if I can ask you to turn to page 21 and  
19 item 3 discussing individual remedies. And I think,  
20 again this has been opened by Mr. Collins but your view 11:09  
21 here in fact is that a response to Prof. Swire's view,  
22 and there may be not much in this, his view is  
23 expressed in, the penultimate column is:

24  
25 *"As discussed in chapter 8, I, therefore, believe that 11:10*  
26 *individual remedies for foreign intelligence issues are*  
27 *often ill-advised. They create a vector of attack for*  
28 *hostile actors to learn the details of top secret*  
29 *information."*

1           And you disagree with that?

2           A.    I do disagree with that.  I think Prof. Swire's  
3           statement sweeps quite broadly, to say that remedies  
4           themselves create a vector of attack for hostile  
5           actors.  I do understand that Prof. Swire objects to       11:10  
6           the provision of notice to individuals who have been  
7           subject to surveillance by the government and under the  
8           American system, as it stands, without notice it is  
9           extraordinarily difficult to establish standing to  
10          bring a claim of redress.                                       11:10

11       24   Q.    Yes.

12          A.    However, that said, delayed notice is certainly an  
13          option as it is in the criminal wire tap context within  
14          the US.  And, in any event, if delayed notice weren't  
15          feasible, the standing doctrine could shift to               11:11  
16          accommodate individual remedies.  But to say full stop  
17          that the remedies themselves are ill-advised is a  
18          statement that I disagree with quite strongly.

19       25   Q.    Just if I can ask you, turning to page 22, item 4, you  
20          don't express a view in terms of the debate that then       11:11  
21          is engaged between Mr. Serwin and Prof. Swire, but  
22          I think you do concur in any event with the agreed  
23          position in respect of federal rule -- procedure 11  
24          should I say?

25          A.    I do concur with the agreed position.  I think the       11:11  
26          inhibition is, in my personal experience, not a  
27          significant one, but I agree with the concurred  
28          position.

29       26   Q.    Over the page on paragraph - page 23 item 5 - reference

1 to the Totten bar which Mr. Gallagher helpfully  
2 explained for us yesterday. The experts agreed  
3 position I think is that the government may invoke the  
4 Totten bar which is, I think it's a, is it a state  
5 secret exclusion in respect of the entire subject 11:12  
6 matter of the proceedings, is that what it refers to?

7 A. Yes. The government may invoke the state secrets  
8 privilege in one of two ways. It can contend that the  
9 subject matter of the proceedings is itself a state  
10 secret and that is the Totten bar, or, under the 11:12  
11 Reynolds doctrine, the government can say that evidence  
12 that is essential to the proceeding is secret and  
13 accordingly the proceeding must be dismissed.

14  
15 vladeck makes a point about the Totten bar. We 11:12  
16 ultimately agree that if a litigant were to litigate a  
17 surveillance programme that had not yet been disclosed,  
18 so a surveillance programme that's not PRISM or not  
19 Upstream, it would be very unlikely that the government  
20 would invoke the Totten bar and say the subject matter 11:12  
21 of the proceeding is itself a secret. However, the  
22 government could still invoke the Reynolds privilege  
23 and the government has invoked the state secret  
24 privilege in the Jewel case in California, a case  
25 challenging Section 702 surveillance. 11:13

26 27 Q. Can I ask you then to turn to page 28 of the report and  
27 item 15 where there is a record of a discussion or  
28 views being expressed by yourself and Prof. Swire about  
29 FISA as a remedy. Prof. Swire is recorded as stating



1 that: "*FISA provides individual remedies for data*  
2 *subjects against unlawful acts of individual government*  
3 *officers.*"

4  
5 Your response is that more context is necessary and you 11:13  
6 go on to explain that. Could you just elaborate then  
7 on the answer you have given and why you disagree with  
8 Prof. Swire or take a slightly different view from  
9 Prof. Swire is I think more accurate?

10 A. Yes. Under FISA the vast majority of individuals who 11:13  
11 are subject to the government's surveillance will not  
12 receive notice of that fact. The exception is for a  
13 very small handful of criminal defendants and, without  
14 notice, it's extraordinarily difficult for plaintiffs  
15 to establish standing, especially by the preponderance 11:14  
16 of the evidence at the summary judgment stage of the  
17 proceedings which is necessary for a court to  
18 adjudicate the merits of the dispute.

19 28 Q. Yes. Just whilst we are on this, if you could turn to  
20 page 32 because you also express your view, sorry a 11:14  
21 view at item 23 here in respect of the Administrative  
22 Procedures Act and I think it touches on the same issue  
23 of notice; is that correct?

24 A. Yes, that's correct. The same issue is present under  
25 the Administrative Procedure Act. An individual may 11:14  
26 bring a claim but the individual still has to  
27 establish, if he or she or the organisation is  
28 challenging foreign intelligence surveillance, that  
29 they have standing to do so and for the vast majority

1 of people who are subject to the surveillance they  
2 won't have notice and without notice it would be  
3 extremely difficult to establish standing.

4 29 Q. Can I ask you to turn to page 36, and this is at the  
5 end of the section dealing with the standing doctrine, 11:15  
6 and towards the top of the page at item 3 there's a  
7 reference to a disagreement here:

8  
9 *"so finally, and perhaps most significantly, we*  
10 *disagree over the implications of our analysis for the* 11:15  
11 *DPC's conclusion that standing doctrine represents a*  
12 *general obstacle to data protection claims brought by*  
13 *EU citizens."*

14  
15 And you, I think, have already touched on that briefly, 11:15  
16 but perhaps if you could elaborate on the nature of  
17 *your* view as part of that disagreement?

18 A. Of course. The standing doctrine represents a general  
19 obstacle to data protection claims in the foreign  
20 intelligence context brought by EU citizens, American 11:15  
21 citizens, brought by anyone. It's an extraordinarily  
22 significant obstacle speaking from personal experience  
23 litigating surveillance cases.

24 30 Q. Yes. In fact, if you turn to the previous page,  
25 I think you have expressed a view at item 2 on page 35 11:16  
26 by reference to the wikimedia case that you have  
27 already touched on?

28 A. Yes.

29 31 Q. And you have already made your observations in relation

1 to that. Then just turning finally then, in the  
2 context of this report, to Privacy Shield, can I ask  
3 you to turn to page 37. You have expressed some views,  
4 which I don't think are the subject of any major  
5 disagreement, about the Privacy Shield Ombudsperson, 11:16  
6 the reporting capabilities and the authority of the  
7 Privacy Shield Ombudsperson at items 2, 3 and 5 over on  
8 page 38, could you perhaps just elaborate on your views  
9 in relation to that?

10 A. Yes. Importantly the Ombudsperson cannot provide the 11:16  
11 kind of remedy that, it cannot provide the equivalent  
12 of a judicial remedy. The Ombudsperson can neither  
13 confirm nor deny that a complainant was subject to the  
14 surveillance or even let the individual know the  
15 specific remedial action that was taken. Critically 11:17  
16 the Ombudsperson cannot bind an executive branch agency  
17 to implement a remedy.

18  
19 It is true that Privacy Shield is silent on whether  
20 investigations may go beyond compliance with the 11:17  
21 relevant regulations, for example if a Privacy Shield  
22 Ombudsperson could investigate a claim that the  
23 surveillance violated the Fourth Amendment. That said  
24 theirs no indication in the regulation that the  
25 Ombudsperson has the authority to investigate whether a 11:17  
26 form of surveillance violates the Fourth Amendment.

27 32 Q. Can I ask you then, just to touch briefly on one final  
28 matter, if I may, and unfortunately it requires a  
29 different book, if you could be handed Trial Booklet

1 12, I'm not sure if that is up there.

2 A. I don't believe that is there, no.

3 33 Q. I just wanted you to look very briefly at just one  
4 paragraph of written legal submissions filed on behalf  
5 of Facebook in these proceedings where some 11:18  
6 observations are made about the US régime in terms of  
7 surveillance.

8 A. Could you perhaps direct me to the tab.

9 34 Q. Of course. It's behind Tab 2 of that booklet and it  
10 starts at page 35 paragraph 139. So it's the paragraph 11:18  
11 that starts "*to date the DPC has failed to explain*  
12 *why*", do you have that paragraph?

13 A. Yes.

14 35 Q. And it goes on, obviously it is addressed to the DPC:  
15 11:18  
16 "*Her experts did not consider substantive US national*  
17 *security law being instructed to consider the question*  
18 *of remedies only. However, as ably demonstrated by the*  
19 *evidence of Swire, Vladeck, DeLong and Robertson and as*  
20 *emerges from and will be demonstrated by the detailed 11:19*  
21 *original of the position in the US which follows, US*  
22 *national security law does not violate Article 7 and 8*  
23 *of the Charter. Indeed, the US provides more privacy*  
24 *protections than Europe.*"

25 11:19

26 I'm not asking you to comment on any of that, but the  
27 following provisions, just to see if you have any  
28 observation in relation to it. It says:  
29

1           *"In short, in using the language of Article 52, the US*  
2           *régime is 1 - and I take that to be a reference to the*  
3           *US national security law régime - provided for by law.*  
4           *It is set out in the publically available statutes."*

11:19

6           Do you have any observation about that?

- 7           A.   Not all of the régime is set forth in statutory law.  
8           For example, Executive Order 12333 is an order issued  
9           by the executive branch that can be amended or revoked  
10          at will. Likewise Presidential Policy Directive 28 is  
11          a directive set forth by the executive branch that can  
12          be amended or revoked at will. Both of those  
13          authorities are public, however critical pieces of the  
14          surveillance régime are not. For example, as I noted  
15          earlier, the targeting procedures under section 702 of  
16          FISA have not been made public by the government, there  
17          is a version that is publically available, but the  
18          government has not officially acknowledged those  
19          targeting procedures.

11:20

11:20

11:20

21          I would also note that, just because a law is on the  
22          books, the government may have an extraordinary  
23          interpretation of the breadth of that law that is not  
24          publically available. The prime example of this is the  
25          bulk telephony metadata programme that the government  
26          was conducting under section 215 that it is no longer  
27          and that we challenged in ACLU -v- Clapper, the case  
28          I referred to earlier in which the Snowden had  
29          disclosed this order concerning the metadata of Verizon

11:20

1 business customers. There the government was relying  
2 on a statute that allowed the government to acquire  
3 records relevant to, I believe the language is "*of*  
4 *national security investigation*", and the government  
5 construe this somewhat narrow and pedestrian authority 11:21  
6 as allowing it to amass a database of telephony  
7 metadata for all calls, or virtually all calls,  
8 incoming and placed or received in the United States.  
9

10 So just because the law is set forth in a publically 11:21  
11 available statute, the government may have an untenable  
12 and extraordinarily broad interpretation of it.

13 36 Q. At item No. 2 it is suggested that the US régime is  
14 "*required to meet objectives of genuine interest or the*  
15 *rights and freedoms of others*" and it goes on to 11:21  
16 provide: "*The surveillance is designed to stop*  
17 *terrorism and protect national security, arguably the*  
18 *foremost duty of the state*"?

19 A. Certainly stopping terrorism and protecting national  
20 security are objectives that the government pursues 11:21  
21 through its foreign intelligence surveillance, but the  
22 foreign intelligence surveillance is much broader given  
23 the definition of foreign intelligence in FISA and also  
24 given the even broader definition of foreign  
25 intelligence in Executive Order 12333. Under the 11:22  
26 executive order, foreign intelligence is defined in  
27 such a way that virtually any communication made by a  
28 foreigner abroad could be deemed foreign intelligence.

29 37 Q. Item No. 3: "*Respects the essence of the rights to*

1 *privacy and data protection. The expert reports of*  
2 *DeLong, Swire and Vladeck place this matter beyond*  
3 *doubt"?*

4 A. I disagree firmly that the US foreign intelligence  
5 surveillance régime respects the essence of the rights 11:22  
6 to privacy and data protection. As discussed very  
7 briefly, Executive Order 12333 permits bulk  
8 surveillance, bulk acquisitions. Under Section 702 the  
9 government lacks objective criteria to limit its access  
10 to communications given the looseness of the targeting 11:23  
11 standard. We also know that under Upstream  
12 surveillance conducted under Section 702 the government  
13 engages in what might be termed a form of bulk  
14 searching of communications. It accesses and searches  
15 through vast quantities of communications. And, given 11:23  
16 that kind of access, given the scope of that  
17 surveillance, I don't think it's accurate to say that  
18 it respects the essence of the rights to privacy and  
19 data protection.

20 38 Q. In respect of item No. 4, the contention that it's 11:23  
21 necessary, you have already touched I think on the  
22 question of the national security purposes by reference  
23 to the definition of foreign intelligence?

24 A. Yes. Certainly some of the surveillance is intended to  
25 obtain information related to national security but the 11:23  
26 surveillance sweeps much broader than national security  
27 purposes as made clear on the face of the, by the face  
28 of the text of Section 702.

29 39 Q. And then item 5 suggests that: "*It is proportionate*

1           *that there are numerous safeguards and oversight*  
2           *measures in place to limit the privacy infringements*  
3           *that may result from online surveillance"?*

4           A.    I would note here that the oversight measures are  
5           inadequate. First of all, under Executive Order 12333 11:24  
6           the significant bulk surveillance programmes that are  
7           conducted under Executive Order 12333 have not been,  
8           their legality has not been reviewed by any court and  
9           Congress has made clear or at least the former head of  
10          the Senate Intelligence Committee has made clear that 11:24  
11          Congress is unable to sufficiently oversee EO 12333  
12          surveillance in part because it is so sweeping and  
13          there are so many programmes.

14  
15          And then separately with respect to Section 702, as 11:24  
16          discussed previously, there are significant limitations  
17          on litigating Section 702, significant hurdles and  
18          barriers to litigating Section 702 in an adversarial  
19          proceeding for civil plaintiffs.

20          40 Q.    Just whilst we are on the question of proportionality, 11:25  
21          it's something I didn't bring you to, but in the  
22          experts memo, if I may, and I don't think there is any  
23          need to open this, but at item 22 on page 17  
24          Prof. Swire expresses a view about language in PPD-28  
25          that: "*signals intelligence activities shall be as* 11:25  
26          *tailored as feasible.* "

27  
28          And his comment is that: "*Although this language does*  
29          *not refer to necessity or proportionality, it is an*



1           *example of a safeguard that addresses those concerns",*  
2           what's your view that opinion?

3           A.    I don't believe that that language imposes a meaningful  
4           constraint on the government. Feasibility is in no way  
5           defined, we don't know whether that's technological           11:25  
6           feasibility, operational feasibility, just says "as  
7           *feasible*" and, without any kind of more direct  
8           constraint on government surveillance, it's hard to see  
9           that as a significant limitation. It is true that  
10          PPD-28 says that the government should prioritise           11:26  
11          public sources of information over signals  
12          intelligence, but that's a very general statement. In  
13          any event we know that under Executive Order 12333 the  
14          government is engaged in bulk surveillance and we know  
15          that under Section 702 its surveillance is                   11:26  
16          extraordinarily broad.

17          **MR. DOHERTY:** Thank you very much. If you would answer  
18          any questions from my colleagues.

19  
20          **END OF DIRECT EXAMINATION OF MS. GORSKI BY MR. DOHERTY**   11:26

21  
22          **MR. MICHAEL COLLINS:** I have no questions.

23          **MS. JUSTICE COSTELLO:** Thank you. Mr. Gallagher?  
24  
25  
26  
27  
28  
29

11:26

1 MS. GORSKI WAS CROSS-EXAMINED BY MR. GALLAGHER AS  
2 FOLLOWS

3  
4 **MR. GALLAGHER:** Good morning, Ms. Gorski.

5 A. Good morning. 11:26

6 41 Q. I have a few questions for you. Just in relation to  
7 your report, if you would just be kind enough to go to  
8 that. And in paragraph 3 of that report on page 3 you  
9 identify --

10 **MS. JUSTICE COSTELLO:** Just a moment, I think -- 11:26

11 **MR. GALLAGHER:** Sorry, Judge.

12 **THE WITNESS:** Thank you.

13 **MR. GALLAGHER:** In fact it's paragraph 2 I want to ask  
14 you about.

15 **MS. JUSTICE COSTELLO:** On page? 11:27

16 **MR. GALLAGHER:** On page 3, sorry.

17 **MS. JUSTICE COSTELLO:** Thank you.

18 **MR. GALLAGHER:** Where you set out your qualifications  
19 and duty as an expert. You refer to being asked in  
20 paragraph 2 to provide an expert opinion on *certain* 11:27  
21 matters regarding the laws of the United States, and  
22 what were those matters, Ms. Gorski?

23 A. Those matters were the scope of US surveillance law, US  
24 surveillance practice, obstacles to redress and  
25 identifying particular remedies or remedies that were 11:27  
26 characterised as remedies by other parties in the case.

27 42 Q. And it was in those general terms; is that right?

28 A. Yes.

29 43 Q. Now so far as practice, US surveillance practice is

1 concerned, you have no background in relation to US  
2 surveillance practice; isn't that correct?

3 A. In the course of litigating cases challenging the  
4 government's surveillance, I have read and developed  
5 expertise in surveillance practice as discussed by 11:28  
6 official government acknowledgments and as disclosed by  
7 media reports, the Snowden disclosures and other  
8 sources. I have not worked for the executive branch of  
9 the United States government.

10 44 Q. So your knowledge with regard to practice is based, 11:28  
11 I think as you identify in your reports, on US  
12 government information; isn't that correct?

13 A. That is one source of my knowledge of the practice.

14 45 Q. And the other is media reports?

15 A. Yes. 11:28

16 46 Q. And you have no way of identifying or verifying whether  
17 the media reports are accurate; isn't that correct?

18 A. I have cited to sources and I put some faith in media  
19 reports by significant outlets with good reputations.

20 47 Q. Okay. Now you are also conscious of your duties as an 11:29  
21 expert, you tell us in paragraph 3, what's your  
22 understanding of the extent of your duty as an expert,  
23 Ms. Gorski?

24 A. My understanding of the duty is that I am to, I am here  
25 to assist the court in understanding US law and my duty 11:29  
26 is to answer all questions truthfully and to assist the  
27 court.

28 48 Q. Mm hmm. And you identify in paragraph 4 that you have  
29 no financial or economic interest in any business or

1 economic activity of the second Defendant; isn't that  
2 correct?

3 A. Yes.

4 49 Q. Yes. I think you are, in your position with the ACLU,  
5 an advocate in relation to reform of the law in this 11:30  
6 area; isn't that correct?

7 A. Yes.

8 50 Q. And you write publically on the type of changes that  
9 you think are appropriate; isn't that correct?

10 A. Yes. 11:30

11 51 Q. And you advocate positions and communicate positions  
12 with regard to your understanding of how the law  
13 operates and how the practice operates; isn't that  
14 correct?

15 A. Yes. 11:30

16 52 Q. And you've been an advocate since you joined the ACLU,  
17 if not before; is that correct?

18 A. Yes.

19 53 Q. And I take it you understand the importance of  
20 differentiating between your role as an advocate and 11:30  
21 your role as an expert witness?

22 A. I do understand the importance of differentiating  
23 between those roles. I would note that the ACLU takes  
24 these matters very seriously. We are not a direct  
25 services organisation, we develop and we have a theory 11:30  
26 of the law that we believe quite firmly and we are  
27 interested in bringing cases that will help to advance  
28 our understanding of the law. I would also say that  
29 nothing in my report would be different if I were

1 writing this report on behalf of any of the other  
2 parties in the case.

3 54 Q. Okay. You have a theory of the law or the ACLU has an  
4 a theory of the law and they also have a theory of the  
5 practice; isn't that correct? 11:31

6 A. I think that's accurate, yes.

7 55 Q. Yes. And I take it you have shared many platforms with  
8 Mr. Schrems on this issue; isn't that correct?

9 A. I actually have not shared many platforms with  
10 Mr. Schrems on this issue. Mr. Schrems came to the 11:31  
11 ACLU's offices in person once and other than that we  
12 have never been on a panel together.

13 56 Q. I see. Now in relation to your descriptions in your  
14 report, you identify US surveillance law and practice  
15 in paragraphs, I think, 7 to 9; isn't that correct? 11:32

16 A. Yes.

17 57 Q. And you say in paragraph 9 that: "*The United States*  
18 *government under section 702 and EO 12333 claims*  
19 *extraordinary access to private communications*" and  
20 then you give a description of how they operate; isn't 11:32  
21 that correct?

22 A. Yes.

23 58 Q. And you also give a more detailed description of  
24 section 702 in the next section of your report, pages  
25 13 to - sorry, paragraphs 13, excuse me, to paragraph 11:32  
26 18; isn't that correct?

27 A. Yes.

28 59 Q. And that description in those paragraphs to which  
29 I have referred is based on what you say is government

1 information and on media reports; isn't that correct?

2 A. I don't believe that any of the information in those

3 paragraphs - oh, hmm, yes, there's a reference to media

4 reports at the end of paragraph 18, yes.

5 60 Q. Yes. Well, apart from that reference, do you think 11:33

6 that what you say about the operation of Section 702 is

7 based on government statements?

8 A. I would say some of it is based on the text of the law

9 itself and not necessarily a government gloss on that

10 text, but certainly the citations to the Privacy and 11:34

11 Civil Liberties Oversight Board, the PCLOB, those are

12 government statements. The statement of a former

13 Foreign Intelligence Surveillance Court judge is a

14 government statement, yes of.

15 61 Q. Well the PCLOB is an independent body; isn't that 11:34

16 correct?

17 A. Yes. It is part of the government, it is an

18 independent body.

19 62 Q. But it is an independent body, Ms. Gorski; isn't that

20 right? 11:34

21 A. Yes.

22 63 Q. Yes. And it was set up to review the system of

23 operation of Section 702, and indeed other provisions

24 but Section 702 so far as we are concerned, and make

25 recommendations? 11:34

26 A. It was set up to review much more than Section 702,

27 but, yes.

28 64 Q. Yes.

29 A. Yes.

1 65 Q. So if we're looking for an explanation of how PRISM and  
2 Upstream operates, the first source that we would go to  
3 is the PCLOB report; isn't that correct?

4 A. The PCLOB report is certainly a very significant  
5 source. There are other sources that are also 11:35  
6 significant, other government sources, including the  
7 text of the statute itself, which is extremely  
8 permissive, and Foreign Intelligence Surveillance Court  
9 opinions and an array of documents that have been  
10 released by the Office of the Director of National 11:35  
11 Intelligence and other documents.

12 66 Q. Okay. So the primary sources, so far as the court is  
13 concerned, with regard to the operation of section 702  
14 is to be found in the documents that you have just  
15 identified there; is that correct? 11:35

16 A. I would hesitate to characterise that as primary only  
17 because I would not want to discount media reports and  
18 also information that has been released through the  
19 Snowden disclosures and reported on extensively.  
20 I think that that information is significant to 11:35  
21 understand the operation of Section 702.

22 67 Q. Well, what I'm asking you is do you agree that the  
23 documents you have identified are the primary source or  
24 do you put media reports at the same level as those?

25 A. For the purposes of these proceedings I'm not sure 11:36  
26 there is a hierarchy.

27 68 Q. There is not a hierarchy?

28 A. I --

29 69 Q. So far as you were concerned -- I am terribly sorry.

1 A. I'm not sure if there's a hierarchy, if this court  
2 values official government acknowledgements differently  
3 than it would value media reports about the operation  
4 of Section 702.

5 70 Q. I see. 11:36

6 A. I don't have that information.

7 71 Q. Well, PCLOB had access to classified material; isn't  
8 that correct?

9 A. Yes.

10 72 Q. About how these programmes worked? 11:36

11 A. Yes.

12 73 Q. And the FISC court has access to classified material  
13 about how the programmes worked?

14 A. Yes.

15 74 Q. And therefore in describing how the programmes worked 11:36  
16 I take it you would agree that the primary source or  
17 explanation is to be found in PCLOB, the FISC court and  
18 the various other sources that you identified a few  
19 moments ago?

20 A. Again I just hesitate to use the word "*primary*". 11:37

21 75 Q. Okay.

22 A. Certainly those are the most comprehensive sources and  
23 for just generally understanding the operation of the  
24 law those are perhaps the most significant sources.

25 76 Q. Mm hmm. 11:37

26 A. But I do think that there are also other very, other  
27 significant sources that are not reflected in those  
28 documents including various NSA PowerPoint  
29 presentations slides that have been released by Edward



1 Snowden and reported on extensively by the media.

2 77 Q. well, these are the slides that you say were published  
3 in the Washington report which the government hasn't  
4 acknowledged is a correct description of the operation;  
5 isn't that correct? 11:37

6 A. Those are not the only slides I am referring to. I am  
7 also referring to slides that were published in Glenn  
8 Greenwald's book No Place to Hide concerning the scope  
9 of Upstream surveillance. I am also referring to  
10 slides that have been published in the New York Times 11:38  
11 and reported on by Charlie Savage, Julia Angwin and  
12 others.

13 78 Q. And those were published initially in 2013; is that  
14 correct?

15 A. I can't offhand that all the slides I'm referring to 11:38  
16 have been published initially in 2013. The initial  
17 Snowden disclosures took place in the summer of 2013,  
18 but there have been other disclosures subsequent to  
19 that date.

20 79 Q. And, subsequent to those initial disclosures, the PCLOB 11:38  
21 investigated the matter and had access classified  
22 material; isn't that correct?

23 A. I think actually the, some of the slides that I'm  
24 referring to that have been published in the New York  
25 Times postdated the PCLOB's report in 2014. 11:38

26 **MR. GALLAGHER:** Yes.

27 80 Q. **MS. JUSTICE COSTELLO:** Might I just ask, what exactly  
28 is a slide?

29 A. Yes, of course. I am referring to, with PowerPoint

1 presentations each page that is displayed.

2 **MS. JUSTICE COSTELLO:** That's why I want to be sure.

3 So these are - well you tell me rather than I guess.

4 A. They are portions of PowerPoint presentations

5 typically, or they may be pages of a report, but 11:39

6 I refer to them collective as slides.

7 81 Q. **MS. JUSTICE COSTELLO:** But from whom?

8 A. From the National Security Agency, mostly from the NSA.

9 There may be slides from other agencies that are

10 relevant, but the slides I'm thinking of right now are 11:39

11 slides from the National Security Agency.

12 82 Q. **MS. JUSTICE COSTELLO:** From, that's what I was --

13 A. Yes.

14 83 Q. **MR. GALLAGHER:** I think to be precise about it,

15 Ms. Gorski, there are slides alleged to be from the 11:39

16 NSA; isn't that correct?

17 A. They are slides that have not been officially

18 acknowledged by the government.

19 84 Q. And subsequent to the initial publication of slides,

20 perhaps not all the slides, the question I asked you 11:39

21 was the PCLOB investigated the matter and had access to

22 classified materials with regard to the practice and

23 operation of Section 702; isn't that correct?

24 A. Yes.

25 85 Q. In your description or the description which you give 11:39

26 in your report, and I am only speaking in general terms

27 for the moment, of the operation of Section 702, you

28 don't describe the operation as it is set out in the

29 PCLOB report; isn't that correct?

1 A. I would disagree with that statement. I think that  
2 much of my discussion of section 702 is broadly  
3 consistent with the discussion of the operation of  
4 surveillance --

5 86 Q. Okay. 11:40

6 A. -- in the PCLOB report.

7 87 Q. Well, we'll look at whether it is broadly consistent or  
8 not. You don't use the description that is set out in  
9 the PCLOB report; isn't that correct?

10 A. My report certainly cites to the PCLOB report. It's a 11:40  
11 quite lengthy report and I don't include block  
12 quotations from the report. If there is a point of  
13 difference, I'm happy to discuss that, but speaking  
14 offhand I do rely on the PCLOB report in my report.

15 88 Q. Yes. You footnote it with media reports, but it 11:40  
16 actually contains a very clear description as to how,  
17 for example, PRISM operates; isn't that correct?

18 A. Yes, it is a clear description. I think it may also be  
19 an incomplete description. The PCLOB report is a  
20 public report and, accordingly, it does not contain 11:41  
21 information that the government would deem classified.  
22 There is, however, information in the slides or  
23 documents that have been released by Edward Snowden and  
24 that the government still does deem classified that  
25 I think also bears on the operation of section 702 in 11:41  
26 practice.

27 89 Q. And it contains a description of the Upstream  
28 programme; isn't that correct?

29 A. The PCLOB report also contains a description of the

1 Upstream programme, yes. Again I think there may be  
2 ways in which that description of the programme is  
3 incomplete given the fact that this is a public report.  
4 90 Q. Well, what you give is you give a different description  
5 of both Upstream in particular and PRISM; isn't that 11:41  
6 correct, than what's in the PCLOB?  
7 A. I would hesitate to characterise it as different,  
8 I think it is broadly consistent.  
9 91 Q. Okay.  
10 A. The fundamentals of my description are based on the 11:42  
11 PCLOB report. I think I have additional details that  
12 are not present in the PCLOB report.  
13 92 Q. And you are also aware, I take it, because what you  
14 have said indicates you have read it, the Commission  
15 adequacy decision in relation to the operation of these 11:42  
16 programmes; isn't that correct?  
17 A. I am aware of the decision.  
18 93 Q. Yes. And that decision was a decision arrived at by  
19 the Commission after interaction with the US government  
20 over a period of in excess of two years; isn't that 11:42  
21 correct?  
22 A. I can't speak to the precise timeframe.  
23 94 Q. A significant timeframe, it's quite obvious from the  
24 decision; isn't that correct, and recorded in it?  
25 A. I can't speak to a specific timeframe. 11:42  
26 95 Q. Okay. And it gives a description of PRISM and  
27 Upstream; isn't that correct?  
28 A. I believe so. It has been some time since I have  
29 reviewed the decision, so I can't say so definitively.

1 96 Q. And that was available to you when you were doing your  
2 report?

3 A. Yes. It may have been a draft decision at that point  
4 but a version of the decision was available to me.

5 97 Q. Well, the decision was in July of 2016, I think your 11:43  
6 report postdated that; is that correct?

7 A. Yes.

8 98 Q. And indeed you purport to rely on the report in respect  
9 of other matters; isn't that correct?

10 A. The Commission's report? 11:43

11 99 Q. Yes.

12 A. I would not say that I purport to rely on it, I do cite  
13 it for the proposition that Executive Order 12333 may  
14 be relevant to these proceedings.

15 100 Q. Yes. You refer to paragraph 75, I think, of the 11:43  
16 report; isn't that correct, of the decision; isn't that  
17 correct? That's your footnote, paragraph 75?

18 A. I'm sorry, could you please point me to the paragraph  
19 in my report that you're referring to?

20 101 Q. It's the paragraph dealing with EO 12333 and it's 11:44  
21 paragraph 36 and it is footnote 32 and you refer to  
22 paragraph 75.

23 A. Yes.

24 102 Q. Yes. So you did look and read that decision, I take  
25 it, before you did your report? 11:44

26 A. I did.

27 103 Q. Yes. And you choose to rely on it for some aspects;  
28 isn't that correct?

29 A. I hesitate to say aspects plural because I believe this

1 is the only citation to the report.

2 104 Q. Okay.

3 A. But I did cite the report for this proposition.

4 105 Q. For an aspect. But you also looked at it in the  
5 context of the Ombudsperson; isn't that correct? 11:44

6 A. Hmm, I know I looked at the Privacy Shield agreement in  
7 the context of the Ombudsperson and let me just confirm  
8 whether I also looked at the Commission decision.  
9 I don't see where I cited to the Commission decision  
10 again, it's possible. But I certainly cited to the 11:45  
11 Privacy Shield agreement itself.

12 106 Q. Okay. Now, if you go to paragraph 10 of your report,  
13 you refer to the FISC court in paragraph 10; isn't that  
14 correct?

15 A. Yes. 11:45

16 107 Q. And you describe it as a secret court?

17 A. Yes.

18 108 Q. Yes. And I take it you would expect that examination  
19 of classified materials which the FISC court does would  
20 be done in secret? 11:45

21 A. Yes.

22 109 Q. And do you know of any other country whose classified  
23 materials are vetted by a court in public?

24 A. I would note that there are aspects of the FISC  
25 proceeding that could be public or made more 11:46  
26 adversarial than they are, notwithstanding the fact  
27 that the FISC's focus is on classified information.  
28 I do not have knowledge about the practices of other  
29 countries.

1 110 Q. Yes. And it is the case that the FISC decisions are  
2 now, not in all cases, but increasingly made available  
3 with redactions; isn't that correct?

4 A. Increasingly, yes. I would note that the US government  
5 is currently contesting an argument made by a US civil 11:46  
6 society organisation that -- there's a statutory  
7 obligation in the USA Freedom Act to declassify to the  
8 extent possible and release significant FISC opinions  
9 and the US government is contending that that  
10 obligation does not apply retroactively, it doesn't 11:47  
11 apply to historical opinions, only from the date of the  
12 USA Freedom Act. But, yes, more significant. More  
13 FISC opinions have been released lately.

14 111 Q. And FISC court decisions on significant points of  
15 principle, points of law, are now required to be made 11:47  
16 available; isn't that correct?

17 A. Yes.

18 112 Q. And is that a matter you address in your report?

19 A. It's a matter addressed in the memorandum that the  
20 experts put together collectively. I don't believe 11:47  
21 that my report directly addresses FISC transparency at  
22 length.

23 113 Q. Is it fair to describe it as a secret court without  
24 explaining the aspects of it that are not secret?

25 A. The court's proceedings are in secret, accordingly 11:48  
26 I think it's fair to describe it as a secret court.  
27 Also, the definition of significant interpretations of  
28 law is something that the FISC has discretion around  
29 and I do think it's fair to characterise the court as a

1 secret court.

2 114 Q. One of the FISC decisions, that of Judge Bates on 3rd  
3 October 2011, held part of the government's  
4 certification unconstitutional; isn't that correct?

5 A. It was a proposed certification. 11:48

6 115 Q. Yes, proposed certification.

7 A. Yes.

8 116 Q. And what happens then when the FISC court, the  
9 certification is put to the court, the court examines  
10 that and forms a view as to its legality; isn't that 11:48  
11 correct?

12 A. Yes. The court also expressed frustration with the NSA  
13 for failing to disclose information that the court  
14 deemed pertinent to its assessment of the legality of  
15 the programme. 11:49

16 117 Q. Yes. That information was disclosed, was reviewed by  
17 the court and the court held that it was not prepared  
18 to approve that certification?

19 A. Yes, the court was concerned primarily with the NSA's  
20 collection of wholly domestic communications. 11:49

21 118 Q. Yes.

22 A. And specifically what are known as multi-communication  
23 transactions. So the NSA has targets and in the course  
24 of surveilling those targets and acquiring those  
25 communications it sometimes acquires for long-term use 11:49  
26 the communications that happen to be bundled with the  
27 targets communications in transit but don't bear any  
28 connection at all to the target. And with those  
29 bundles of communications the NSA was overcollecting,



1 it was acquiring wholly domestic communications and the  
2 court was concerned that the minimisation procedures  
3 did not do enough to protect wholly domestic  
4 communications.

5 119 Q. And the secret court, as you call it, is staffed by 11:50  
6 federal judges; isn't that correct?

7 A. Yes.

8 120 Q. Chosen by the chief justice?  
9 A. Yes.

10 121 Q. You then go on to describe the old section 702 and the 11:50  
11 changes that were made; isn't that correct, to it which  
12 you take issue with?

13 A. I wouldn't characterise it as the old section 702.  
14 Section 702 was --

15 122 Q. Or, sorry, traditional FISA. 11:50  
16 A. Yes.

17 123 Q. I am terribly sorry, Ms. Gorski, you are absolutely  
18 right.

19 A. Traditional -- yes, I discuss traditional FISA, yes.

20 124 Q. Yes. And traditional FISA required warrants as you 11:50  
21 describe; isn't that correct?

22 A. They are a form of warrant. Rather than the government  
23 having to establish that there was probable cause of  
24 some kind of criminal activity, the government had to  
25 establish that there was probable cause to believe that 11:51  
26 its targets were foreign powers or agents of a foreign  
27 power. It had to go to the court to obtain a FISA  
28 order with respect to that individual target before it  
29 began the targeting process; in contrast under

1           Section 702 the executive branch decides the  
2           individuals it is going to target without any court  
3           supervision.

4   125   Q.    Yes.

5           A.    Ex ante. 11:51

6   126   Q.    And the enactment of Section 702 in 2008 put the  
7           relevant legislative provisions in a modern context  
8           relative to the volume of communications that now take  
9           place on a daily basis, isn't that correct?

10          A.    Could you just repeat, did you say "modern context"? 11:52

11   127   Q.    Yes, in a modern context, to deal with the volume of  
12          communications that take place on a daily basis,  
13          electronic communications in particular?

14          A.    When pushing for this kind of reform, or what the  
15          government characterise as reform, the executive branch 11:52  
16          invoked various rationales, including modernisation. I  
17          don't recall offhand if there was a specific rationale  
18          related to the *volume* of communications - certainly  
19          they said that having to go to the FISC and apply for  
20          individualised orders was burdensome. Profs. Swire and 11:53  
21          Vladeck both referred to the Government's concern about  
22          acquiring foreign to foreign communications. However,  
23          as noted, notwithstanding Section 702, the government  
24          acquires certain foreign to foreign communications in  
25          transit wholly outside of Section 702. So insofar as 11:53  
26          this was a rationale for the law is, to some degree,  
27          questionable.

28   128   Q.    In paragraph 11 you give a definition in the footnote  
29          of what *you* mean by US persons, isn't that correct?

1 A. Yes.

2 129 Q. That's not the definition that's contained in FISA,  
3 isn't that correct?

4 A. The definition in FISA is lengthier. This is a  
5 shorthand. 11:53

6 130 Q. Well, it's more than lengthier, Ms. Gorski. It is  
7 broader, isn't that correct?

8 A. I would need to refer back to the statute. This is how  
9 I think of the definition in FISA. It is possible that  
10 the statute contains some provisions that broaden this 11:54  
11 definition.

12 131 Q. And the extent of the definition of US persons is, of  
13 course, relevant in the context in particular of the  
14 minimisation and targeting procedures, isn't that  
15 correct? 11:54

16 A. Yes.

17 132 Q. Now, if you go to paragraph 15 of your report, you  
18 refer to the traditional FISA being -- and then the  
19 Section 02 now being broader than that and the FISC's  
20 role being narrowly circumscribed to the statute -- or 11:54  
21 *by the statute*, is that correct?

22 A. Yes, quoting language from a FISC opinion.

23 133 Q. Yes. And it "*consists principally of reviewing the*  
24 *general procedures the government proposes to use in*  
25 *carrying out the surveillance of tens of thousands of* 11:55  
26 *targets*".

27 A. Yes.

28 134 Q. And the PCLOB report, as I think you acknowledged,  
29 *describes* the targeting procedures, isn't that correct?

1 A. It does describe the targeting procedures. I can't  
2 recall offhand the level of detail with which that  
3 particular document describes the targeting procedures,  
4 but it did refer to them and describe them.

5 135 Q. And describes the minimisation procedures as well. 11:55

6 A. Yes.

7 136 Q. If you go to paragraph 16, again you make the point  
8 that the surveillance is not predicated on probable  
9 cause and you say that Section 702 permits the  
10 government to target *any* non-US person located outside 11:56  
11 the US to obtain foreign intelligence information and  
12 Section 02 does not require the government to identify  
13 to the FISC the specific facilities, places, premises  
14 or properties at which its surveillance will be  
15 directed. And you conclude that paragraph by saying 11:56  
16 neither particularity nor probable cause, the  
17 government -- sorry, "*Section 702 requires neither*  
18 *particularity nor probable cause*" and "*the government*  
19 *can rely on a single FISC order to intercept the*  
20 *communications of countless individuals for up to a* 11:56  
21 *year at a time.*" I take it what you mean by a FISC  
22 order is the certification, is that correct?

23 A. The order approving the certification.

24 137 Q. Approving the certification. And then after the  
25 certification is approved, which sets out the 11:57  
26 framework, individual decisions are made with regard to  
27 targets, isn't that correct?

28 A. Individual decisions are made by executive branch --

29 138 Q. Yes.

1 A. -- analysts, agency analysts.

2 139 Q. But the order that you refer to there is just a  
3 framework order?

4 A. Yes, a framework order approving the certification.

5 140 Q. In paragraph 17 you say: "*The statute itself contains* 11:57  
6 *no protection for privacy of non-US persons located*  
7 *abroad.*" And you say that communications of US persons  
8 may be intercepted incidentally or inadvertently.

9 A. Yes.

10 141 Q. Now, I suggest to you that your description, 11:57  
11 particularly in paragraph 15, of the operation of  
12 Section 702 does not accord with the publicly available  
13 information that the government have produced and  
14 that's contained in the PCLOB report; isn't that  
15 correct? 11:58

16 A. No, I think that it does accord with the text of  
17 Section 702 and I don't see a way in which it is in  
18 tension with information in the PCLOB report.

19 142 Q. Well, it doesn't make clear or identify the multiple  
20 constraints that are contained in Section 702, does it? 11:58

21 A. This paragraph does not -- it speaks in the text of the  
22 Section 702 -- I think I would need to understand what  
23 specific constraints you are referring to.

24 143 Q. Okay. And it gives the impression that section 702  
25 surveillance is bulk surveillance, isn't that correct, 11:59  
26 or involves bulk collection?

27 A. This paragraph does not use the word "bulk collection".

28 144 Q. No.

29 A. The report as a whole certainly describes Section 702

1 surveillance as encompassing bulk searching, yes. And  
2 that is accurate.

3 145 Q. Well now, bulk searching or bulk collection?

4 A. The report does not describe Section 702 collection as  
5 bulk collection per se, because the government does use 11:59  
6 what are known as selectors, which, for the context of  
7 Section 702, the government has described as e-mail  
8 addresses or phone numbers, to -- it uses these  
9 selectors and under Prism it uses account identifiers  
10 in acquiring information. However, I do think it's 11:59  
11 accurate to characterise surveillance under Section 702  
12 as lacking objective criteria and also a form of mass  
13 surveillance given the volume of targets and the  
14 extraordinarily low targeting surveillance -- targeting  
15 standards, excuse me. However, I do not, in the 12:00  
16 report, characterise surveillance under Section 702 as  
17 bulk collection.

18 146 Q. Okay.

19 A. There *is* bulk searching under Upstream.

20 147 Q. Well, when you say bulk searching, just to understand 12:00  
21 what you mean, there's a body of data which, by  
22 definition, is bulk that is searched using targeted  
23 selectors, isn't that correct?

24 A. Through Upstream surveillance, yes, the buggery of data  
25 is quite vast and the government is searching the 12:00  
26 contents of that data for its selectors.

27 148 Q. And when a direction is given under the Prism, the  
28 direction is in the form of targeted selectors  
29 identifying the material that's required, isn't that

1 correct?

2 A. Yes.

3 149 Q. So it is always going to be searching bulk, because the  
4 whole purpose of having targeted selectors is that they  
5 are used to extract from what you call the bulk or the 12:01  
6 relevant data body the information that is required?

7 A. I would note that Prism and Upstream operate very  
8 differently, in that Upstream involves bulk searching  
9 by the NSA and the telecommunication companies that are  
10 compelled to assist the NSA of realtime surveillance on 12:01  
11 the internet backbone wire surveillance, so internet  
12 communications as they are flowing, for example, from  
13 the EU to the US in and out of the country. And the  
14 surveillance is conducted on US soil and involves bulk  
15 searching. 12:01

16  
17 Prism surveillance, by contrast, does *not* involve bulk  
18 searching, it involves the government providing the  
19 companies with the relevant accounts and then the  
20 companies, in turn, provide the information back. 12:01  
21 However, both programmes, under Section 702, lack  
22 objective criteria to limit the surveillance given the  
23 low targeting standards.

24 150 Q. Okay. Could I just ask you to go back and look at  
25 paragraph nine of your report? And paragraph nine, in 12:02  
26 the first sentence, refers to 702 and E012333, isn't  
27 that correct?

28 A. Yes.

29 151 Q. And it says, as I've drawn your attention, that the

1 government claims extraordinary access to the private  
2 communications and data of US and non-US persons around  
3 the world. Then you say:

4  
5 *"Although there are guidelines governing the* 12:02  
6 *collection, retention and use of the information, the*  
7 *US Government maintains that it is authorised to engage*  
8 *in what is known as 'bulk collection' when it is*  
9 *operating abroad".*

10 A. Yes. And that sentence specifically refers to 12:02  
11 surveillance under Executive Order 12333. So --

12 152 Q. I see.

13 A. -- in contrast, in 702, with Upstream there's a form of  
14 bulk searching at the outset, and that's conducted on  
15 US soil. Under Executive Order 12333, the government 12:02  
16 need not even employ selectors to acquire  
17 communications, it can just harvest communication in  
18 bulk. And this practice is ratified in fact by  
19 Presidential Policy Directive 28, which explicitly  
20 defines bulk collection and acknowledges that, under 12:03  
21 Executive Order 12333, the government is engaged in  
22 this practice abroad. So "bulk collection" in  
23 quotation marks there is entirely appropriate.

24 153 Q. It's entirely appropriate, you say. But it follows a  
25 sentence that doesn't distinguish between 12333 and 12:03  
26 Section 702, isn't that correct?

27 A. The first sentence refers to both --

28 154 Q. Yes.

29 A. -- Section 702 and E012333 and the second sentence --



1 155 Q. And there's nothing in -- I'm terribly sorry, excuse me  
2 Ms. Gorski.

3 A. And the second sentence refers to bulk collection. And  
4 that reference to bulk collection pertains solely to  
5 Executive Order 12333. I do think again, however, it's 12:03  
6 fair to characterise the surveillance under Section 702  
7 as mass surveillance.

8 156 Q. Okay. Well, the second sentence doesn't identify that  
9 it's referring *only* to 12333, sure it doesn't?

10 A. No, it's in general, it's a summation, it's a general 12:04  
11 sentence, it does not specify that it's ref -- it does  
12 cite to paragraph 31 *infra*, and that paragraph explains  
13 the difference between bulk collection -- or the  
14 paragraph explains the bulk collection and bulk  
15 searching, both of which are permitted under EO 12333. 12:04  
16 So I do think that the sense makes clear that the "bulk  
17 collection" is referring to EO 12333 because of the  
18 citation.

19 157 Q. Okay. And in paragraph 18, to move to that, you  
20 describe section 02 as effectively exposing every 12:04  
21 international communication, that is every  
22 communication between the individual -- between an  
23 individual in the US and non-US persons to potential  
24 surveillance.

25 A. Yes. 12:05

26 158 Q. Can I ask you just to shift for a moment to paragraph  
27 22? And in paragraph 22 you say:  
28  
29 *"official government disclosures show the government*

1           *uses Section 702 to conduct at least two types of*  
2           *surveillance, Prism and Upstream surveillance."*

3  
4           And what I want to ask you about is the phrase "at  
5           *least two types"*. 12:05

6           A.   Yes, I use the phrase "at least two types" for two  
7           reasons. One, the parameters of Section 702 are very  
8           broad and, as evidenced by the example that I cited  
9           earlier with respect to the bulk telephone meta-data  
10           programme under Section 215 that the government 12:05  
11           historically had, the government -- this statute, on  
12           its face, is quite broad; it's possible that the  
13           government is doing something under the statute that  
14           the public is unaware of.

15 12:06  
16           And I would also note that the PCLOB report discusses  
17           two programmes under Section 702, Prism and Upstream,  
18           but that report was issued in, I think, July 2014, so  
19           it's quite possible that there's another form of  
20           surveillance that's being conducted under Section 702 12:06  
21           about which we don't know.

22   159   Q.   The PCLOB report, and indeed the Commission Adequacy  
23           Decision in July 2016, refers to two programmes.

24           A.   I can't speak to the Commission Adequacy Decision, but  
25           I would note that the Commission Adequacy Decision 12:06  
26           would not disclose classified information and if  
27           there's a third or fourth or other classified programme  
28           under Section 702, that would not have been discussed  
29           in the Commission Adequacy Decision.

1 160 Q. Well, are you suggesting that the Commission would have  
2 ignored that when assessing the adequacy of US law?  
3 A. I can't speak to what the Commission would or would not  
4 have done. But if the programme is perhaps similar, I  
5 don't know that it would've been addressed in the 12:07  
6 opinion. And I also don't know whether there's an  
7 additional programme under Section 702 that would've  
8 been discussed with the Commission. I just don't have  
9 that knowledge.

10 161 Q. Well, so far as you're concerned, you're aware of only 12:07  
11 two programmes, Prism and Upstream, isn't that correct?  
12 A. Yes.

13 162 Q. Can I ask you, are you aware of the case, the decision  
14 in USA -v- Agron - I won't get the second name -  
15 Hasbajrami? 12:07  
16 A. Yes, I am aware of that decision. The ACLU filed an  
17 amicus brief in that case.

18 163 Q. **MS. JUSTICE COSTELLO:** Sorry, who filed?  
19 A. Oh, the American Civil Liberties Union, the  
20 organisation I'm employed by. 12:07

21 164 Q. **MR. GALLAGHER:** And were you personally involved  
22 in it?  
23 A. I was not personally involved with that particular  
24 amicus brief, no.

25 165 Q. But you're aware of it? 12:07  
26 A. Yes.

27 166 Q. And you've seen the brief in it?  
28 A. Yes.

29 167 Q. Can I ask you just to look at the decision for a

1 moment? I'll hand in a copy of it to you (Same Handed).  
2 This involves -- the ACLU is identified in (vii), which  
3 is about seven pages in, as having an interest, isn't  
4 that correct?

5 A. Yes. In the US, when you file an amicus brief it's 12:08  
6 standard to have a statement at the beginning  
7 explaining your interest in the case.

8 168 Q. Yeah. And this involved a criminal prosecution?  
9 A. Yes.

10 169 Q. And it related to a government intention to introduce 12:08  
11 evidence obtained from surveillance under FISA?  
12 A. Obtained or derived --

13 170 Q. Or derived, yeah.  
14 A. -- I don't recall which.

15 171 Q. And that obligation arises under section 1806, isn't 12:09  
16 that correct?  
17 A. Yes.

18 172 Q. If you go to page seven, the submissions are recorded  
19 by the court. And it says in the middle paragraph:  
20 12:09  
21 *"Public disclosure indicates that the government*  
22 *conducts two types of surveillance under the FAA, Prism*  
23 *and Upstream"*.

24 A. Yes.

25 173 Q. And no suggestion there that was put forward by ACLU or 12:09  
26 anybody else that there are at least two forms, isn't  
27 that correct?  
28 A. I would note that this amicus brief was filed in  
29 December of 2014, much closer to the PCLOB's report in

1 July of 2014 explaining that there are two programmes.  
2 I think given the lapse of time between the PCLOB  
3 report and today, it's fair to say there are at least  
4 two programmes under Section 702.

5 174 Q. Well, why do you say it's fair to say there are at 12:10  
6 least two programmes? You're not aware of any other  
7 programme.

8 A. I am not aware of any other programmes.

9 175 Q. And the basis for these statements in this is the PCLOB  
10 report, isn't that correct? 12:10

11 A. The amicus brief cites to the PCLOB report and the FISC  
12 opinion for the proposition that there are two methods  
13 of surveillance under Section 702.

14 176 Q. I just want to ask you if you'd be kind enough to just  
15 look at a few more paragraphs in this report. If you 12:10  
16 go back to page five you will see that the first  
17 paragraph says:

18

19 *"The FAA does not require the government to identify*  
20 *its surveillance targets to the FISC at all or even to 12:11*  
21 *identify specific facilities, places, premises or*  
22 *property at which the surveillance will be directed.*  
23 *This means the government can direct surveillance at*  
24 *various facilities without obtaining a separate*  
25 *authorisation for each one."* 12:11

26

27 Do you see that?

28 A. Yes.

29 177 Q. That's part of a submission to the court, isn't that

1 correct?

2 A. Yes.

3 178 Q. And if you look at paragraph 16 of your report, the  
4 same point that is made in this submission is  
5 essentially made, with slightly different language, but 12:11  
6 you say six lines down: "*Section 702 permits the United  
7 States to target any US person located outside the  
8 US*" --

9 **MS. JUSTICE COSTELLO:** "Non-US person".

10 179 Q. **MR. GALLAGHER:** "Non-US person", sorry, Judge. 12:11  
11 "*Further, Section 702 does not require the government  
12 to identify to the FISC the specific facilities, places  
13 and premises.*"

14

15 Do you see that? 12:12

16 A. Yes.

17 180 Q. Then the submission on page five in that paragraph  
18 refers to information being obtained at a gateway. And  
19 this section of your report refers to it being obtained  
20 at junctions, isn't that correct? 12:12

21 A. Yes.

22 181 Q. If you go to, skip a paragraph, and the paragraph  
23 beginning on page five of the submissions: "*To the  
24 extent the statute provides safeguards for US persons,  
25 these safeguards take the form of 'minimisation  
26 procedures'.*" And you refer to information being 12:12  
27 intercepted incidentally or inadvertently. And that is  
28 what's replicated in substance in paragraph 17 of your  
29 expert opinion, isn't that correct?

1 A. Yes.

2 182 Q. If you go to the last paragraph in that page: "*The*  
3 *FISC's oversight role in authorising and supervising*  
4 *[FAA surveillance] is 'narrowly circumscribed'.*" And  
5 you refer to vague parameters. And that is the 12:13  
6 substance of what you say in paragraph 15 of your  
7 report.

8 A. I certainly cite to the same opinion. And I refer to  
9 the language quoted from that opinion, the "narrowly  
10 circumscribed" language. I don't refer to the 12:13  
11 parameters. But it's consistent with what I say in  
12 paragraph 15, yes.

13 183 Q. In the next paragraph of the report, under "The  
14 Government's Implementation", that corresponds largely  
15 with what's in paragraph 19 of your report. (Short 12:13  
16 Pause) Is that correct?

17 A. Yes. The paragraph on page six cites different  
18 statistics because this was written in 2014. But yes,  
19 it includes some of the same information.

20 184 Q. Yes. well, even in terms of statistics, it's referring 12:14  
21 to the 250 million communications, isn't that correct,  
22 referred to in your report, isn't that correct?

23 A. Yes, that is the same data point, yes.

24 185 Q. And if you go to, over the page, at the top of the page  
25 you talk about "*By design, the targeting and* 12:14  
26 *minimisation roles that supposedly protect the privacy*  
27 *are weak and riddled with exceptions.*" And in  
28 paragraph 20 you make the point in the last sentence:  
29 "*By design, they give the government broad latitude to*

1           *analyse and disseminate both US and non-US*  
2           *communications.*" Do you see that?

3           A.    Yes.

4   186   Q.    Then if you go to paragraph 23 of your report, that  
5           corresponds with the next paragraph, under "Prism  
6           Surveillance":

12:15

7  
8           *"In what is known at Prism surveillance, the government*  
9           *obtains stored and realtime communications directly*  
10          *from on-line service providers like Google, Yahoo,*  
11          *Facebook and Microsoft."*

12:15

12  
13          Do you see that?

14          A.    Yes. There is actually a difference in the brief that  
15               we submitted - and this is a point that I should have  
16               made in my report. In the brief that we submitted, we  
17               noted that Prism surveillance also includes realtime  
18               surveillance, it's not just surveillance of stored  
19               communications. The Snowden disclosures make clear  
20               that Prism surveillance is primarily surveillance of  
21               stored communications, but that the NSA also receives  
22               some information in realtime from the companies, which  
23               again suggests that there's some kind of technological  
24               means by which the NSA receives access to the  
25               companies -- provides the companies with selectors and  
26               in turn receives access to the companies'  
27               communications.

12:15

12:15

12:15

28   187   Q.    And that was a submission being made to the court in  
29           that particular case?



1 A. This, the document that you handed me was a submission  
2 to the court, yes.

3 188 Q. Now, you've also, as you say, have spoken publicly on  
4 this matter and I just want to ask you about a few  
5 documents that you have authored in this connection. 12:16  
6 And I'll hand those in to you now (Same Handed).  
7 Firstly, as that's being handed in, it *is* the case that  
8 Section 702 comes up for review by Congress in the end  
9 of July 2017, or in July 2017, isn't that correct?

10 A. Well, the timing is somewhat unclear when Congress will 12:16  
11 actually review it. The loss is scheduled to sunset in  
12 December 2017 and it's uncertain when Congress will  
13 address it directly. There have already been some  
14 hearings related to re-authorisation.

15 189 Q. And the ACLU is engaged in a campaign to oppose its 12:17  
16 renewal, isn't that correct?

17 A. I don't know that I would characterise it as a campaign  
18 per se. But certainly advocating against its renewal,  
19 yes.

20 190 Q. Yes, but it's a public complain advocating against its 12:17  
21 renewal?

22 A. There are public advocacy AFERTs, yes, to advocate  
23 against its renewal.

24 191 Q. I think you describe it in the first document which  
25 I've handed in as "How the NSA's Mass Internet Spying 12:17  
26 Poisons Society".

27 A. This document refers specifically to Upstream  
28 surveillance under Section 702.

29 192 Q. And that's -- it contains a description of Upstream,

1            isn't that correct?

2            A.    Yes.

3    193    Q.    And it is a description that is similar to the  
4            description that is contained in general terms in your  
5            report to the court. 12:18

6            A.    Yes.

7    194    Q.    The next document I want to hand in to you is  
8            "Everyone's a Target to the NSA. Here's How the Courts  
9            Can Stop It" (Same Handed). And this refers to, in  
10            page two, of the Fourth Circuit of Appeal's hearing 12:18  
11            oral arguments in wikimedia a few days hence, isn't  
12            that correct?

13            A.    Yes.

14    195    Q.    And your case challenging Upstream surveillance?

15            A.    Yes. 12:19

16    196    Q.    And there's a particular ACLU position on this, isn't  
17            that correct?

18            A.    Yes.

19    197    Q.    And there's a particular description which ACLU uses of  
20            Upstream surveillance, isn't that correct? 12:19

21            A.    I wouldn't say there's a single particular description.  
22            We refer to Upstream surveillance in various documents.  
23            In public facing documents such as this that are more  
24            advocacy oriented, we sometimes simplify the  
25            surveillance that it's more understandable to a lay 12:19  
26            reader. So I would say the descriptions occasionally  
27            vary slightly, but the underlying substance is the  
28            same.

29    198    Q.    If you go to page three of that, you say one of the

1 most glaring problems with Upstream surveillance is  
2 that it's not targeted *at all*. Do you see that?

3 A. Yes.

4 199 Q. But I think we've agreed it *is* targeted, isn't that  
5 correct?

12:20

6 A. Upstream surveillance involves a bulk searching. And  
7 the process of that searching is indiscriminate. And  
8 that's what I refer to in the next sentence, the  
9 systematic examination of on-line communications in  
10 bulk, scanning their full contents. That scanning  
11 itself, that is -- I think it's fair to say that it's  
12 not a targeted scan, it's a very broad and  
13 indiscriminate scan. The end result of Upstream  
14 surveillance is targeted. But when the government  
15 calls a surveillance targeted, it's referring only to  
16 the end result and it's skipping over and obscuring  
17 what must precede that end result, which is bulk  
18 searching, or what the government says must precede the  
19 end result.

12:20

12:20

20 200 Q. Well, the targeting is used to extract from the data  
21 the communications that are then available for  
22 querying, as the technical term goes, I think, or for  
23 examination by content, isn't that correct?

12:20

24 A. The targeting is designed to acquire for longer term  
25 retention and use the communications that are to, from  
26 or about a selector.

12:21

27 201 Q. But when you talk about the scanning, documents are  
28 scanned by computers and what's obtained are those  
29 documents that respond to the target identifiers, isn't

1           that correct?

2           A.    Yes.  But, I mean, I wouldn't say documents.  Internet  
3           communications --

4  202  Q.    Communications.  Excuse me, I'm terribly sorry.

5           A.    -- are scanned by devices that are known as Narus           12:21  
6           devices or analogous devices that are incredibly  
7           powerful and can examine in bulk the communications  
8           flowing past these choke points on the major cables  
9           carrying the internet communications into and out of  
10          the United States.  So a computer or some kind of           12:22  
11          computerised device is conducting this scan.  But as I  
12          noted earlier, it's not just looking at the meta-data  
13          or what could be thought of as the envelope, it's  
14          actually looking at the contents of the communication  
15          and searching through the contents of all of the           12:22  
16          communications, or substantially all of the  
17          communications flowing past that are based, that are  
18          text based.

19  203  Q.    I think the distinction is this, Ms. Gorski: A computer  
20                  searches through the body of documents and it           12:22  
21                  searches - or documents, excuse me - communications and  
22                  it searches for communications that respond to the  
23                  targeted identifiers, isn't that correct?

24          A.    Yes.

25  204  Q.    And it's only the documents - sorry, communications -           12:22  
26                  that respond to the target identifiers that are then  
27                  provided to the NSA and are potentially the subject of  
28                  examination by the NSA, isn't that correct?

29          A.    I would say that's not correct in at least two

1 respects. One, I think that it is fair to say that the  
2 NSA examines the far broader body of communications,  
3 the vast quantity of communications that it is  
4 scanning. And two, the communications that it  
5 ultimately ingests or acquires for long-term retention 12:23  
6 or use do not include solely the communications to,  
7 from or about the selectors, there are also, as I  
8 mentioned earlier, the communications sometimes that  
9 happen to be bundled with those selected communications  
10 in transit, these multi communication transactions, 12:23  
11 because of the way they traverse the internet. The  
12 NSA's reach actually sweeps a little bit broader in  
13 terms of what it ingests for long term use.

14 205 Q. well, let's just break that down. when you say  
15 "examined by the NSA", what we're talking about, so 12:23  
16 there's no misunderstanding, is examined or searched by  
17 a computer, isn't that correct?

18 A. Yes.

19 206 Q. Yeah. what it then extracts is what I'll call the  
20 targeted communications? 12:24

21 A. I would not -- it extracts communications that are to,  
22 from or about --

23 207 Q. Yeah.

24 A. -- merely about the targets. And in addition to that,  
25 it extracts some communications that are unrelated but 12:24  
26 happen to be bundled with those communications in  
27 transit.

28 208 Q. well, okay. Those are the MCTs. But it's a limited --  
29 **MS. JUSTICE COSTELLO:** What's MCT?



1 term use, querying and further examination the  
2 communications that are to, from or about a selector  
3 and the multi communication transactions.

4 211 Q. well, I think we just need to be careful in what we  
5 mean by "examination". I think we're agreed that if 12:25  
6 you're using targeted collection, it is a targeted  
7 collection from a body of data, isn't that correct?

8 A. The NSA is *acquiring* communications that are to, from  
9 and about the targets from the body of data. But  
10 because it has such broad access to so much data in the 12:26  
11 course of this collection, I still hesitate to refer to  
12 any part of this process as targeted collection.

13 212 Q. well, I thought we were agreed that it *is* targeted  
14 non-bulk collection. And indeed in your report you do  
15 use the definition of bulk collection that's used in 12:26  
16 PPD-28.

17 A. I note that the government employs a particular  
18 definition of bulk collection. And I do think it's  
19 fair to say that Upstream surveillance is not *bulk*  
20 *collection*, because the government is not *ingesting* 12:26  
21 communications in bulk. However, Upstream surveillance  
22 does involve *bulk searching*.

23 213 Q. And when -- you're using "examination" in two different  
24 senses; you're saying the body of documents are being  
25 examined or searched for communications that are 12:26  
26 responsive to the request, if I can call it that, that  
27 is targeted - that's examination in that sense; but  
28 what is examined in the sense in which we would  
29 normally understand it, i.e. available for review, is

1 the product of that search.

2 A. I disagree with that characterisation. I think that  
3 the far greater body of communications is available for  
4 review - the NSA's computers actually review those 12:27  
5 communications, they search through and examine those  
6 communications to locate those that mention its  
7 targets. And I also think it's very important to  
8 underscore that when we're talking about so-called  
9 targeted surveillance under Section 702, again we're  
10 talking about surveillance where the only standard 12:27  
11 constraining the government is that it can target  
12 non-US persons who it reasonably believes are located  
13 abroad and a significant purpose of the collection is  
14 foreign -- is to obtain foreign intelligence. And so I  
15 think given that very low standard, and also the vast 12:27  
16 number of targets, there are real questions about the  
17 extent to which this should be considered targeted  
18 collection.

19 214 Q. And I think you understand that following the search  
20 for data that responds to the target, the 12:28  
21 communications that are filtered to the NSA and given  
22 to the NSA are those communications only that respond  
23 to the targeted search, isn't that correct?

24 A. I hesitate to say "the communications *given* to the  
25 NSA", only because the NSA, in conjunction with the 12:28  
26 telecommunication providers, is using these devices in  
27 the first instance.

28 215 Q. Okay.

29 A. And I'm sorry, could you please repeat the second part



1 of your question?

2 216 Q. Yeah. You do see the distinction between *searching* a  
3 body of data, which you describe as *examining* the data  
4 for responses to the targeted selection, and actually  
5 getting data which is then available for examination in 12:28  
6 the sense in which we would normally use it, namely for  
7 review? You see that distinction?

8 A. There are two stages in Upstream surveillance. I  
9 object to, respectfully object to counsel's  
10 characterisation of examination at the second stage as 12:29  
11 examination in the way we would normally understand it.  
12 When the NSA has access, has generalised access to  
13 these communications as they're flowing past in order  
14 to find the communications of interest and its  
15 computers are looking at the contents of those 12:29  
16 communications, I consider that examination. But there  
17 are two stages: At the first stage the NSA is  
18 conducting bulk searching; after its bulk searches, it  
19 acquires, for long-term use, a subset of those  
20 communications that it can further query or use as it 12:29  
21 sees fit.

22 217 Q. If you go back to your description, you say the  
23 government, in this document on page three, is  
24 "*systematically examining on-line communications in*  
25 *bulk, scanning their full contents to see which ones* 12:30  
26 *merely mention its targets*".

27 A. Yes.

28 218 Q. And you go on, you say at the bottom of that page, you  
29 give an example:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

*"To use a non digital analogy, it is as if the NSA sent agents to the US Postal Service's major processing centres to conduct continuous searches of everyone's mail. The agents would open, copy and read each letter and would keep a copy of any letter that mentioned specific items of interest, despite the fact that the government had no reason to suspect the letter sender or recipient beforehand."*

12:30

12:30

That's not an accurate analogy, is it, Ms. Gorski?

A. I think it *is* an apt analogy.

219 Q. I see. That suggests that everything that is being searched is actually being read by somebody in the NSA, isn't that correct?

12:30

A. I'm happy to use the non-digital analogy and to say -- rather than "agents", we could say scanning devices open, copy and read each letter. At least for the purposes of US law, I don't think that -- the government argues, or has recently argued to the contrary. But whether the search is being conducted by a computer or a human is not significant, the Fourth Amendment intrusion is the same.

12:31

220 Q. Well, that may or may not be the legal consequence, Ms. Gorski - I'm not accepting for one moment that it *is* - but you are *well* aware of the difference between a description of an *agent* examining the documents and what you have described as a computer examining the documents to see what responds to a targeted search.

12:31

1           You're well aware of that distinction.

2           A.    There *is* a distinction. This is an analogy and I think  
3           that the analogy was designed to capture -- the focus  
4           was not on human or computer and I certainly wasn't  
5           intending to obscure the fact that the searches are           12:31  
6           conducted by computers. The purpose of the analogy was  
7           to emphasise the fact that the government is scanning  
8           the contents. So it's not as if the government is  
9           camped out at the postal centre just reviewing the  
10          envelopes that are flowing through, the government is           12:32  
11          actually opening the envelopes and reading the letters.  
12          That was the animating principle behind the analogy.

13   221   Q.    And I suggest to you that the description or position  
14          of the ACLU that is identified in those documents is in  
15          essence the position that you put to this court in the           12:32  
16          form of your expert opinion as a description of these  
17          programmes.

18          A.    Yes, substantively the descriptions are similar. As I  
19          mentioned earlier, these are advocacy pieces designed  
20          to inform a lay audience, so there is some                   12:32  
21          simplification of the nature of the surveillance.

22   222   Q.    If you go to the PCLOB report that is in book seven of  
23          your exhibits and divide 11.

24          **MS. JUSTICE COSTELLO:** I'm sorry, is it *tab* seven did  
25          you say?   12:33

26   223   Q.    **MR. GALLAGHER:**            No, I'm terribly sorry, *book*  
27          seven. The exhibits go on to book seven and eight,  
28          Judge, sorry. (To witness) And if you go to divide 11  
29          you'll see the PCLOB report. And the executive summary

1 contains a description of the operation of these  
2 programmes, Prism and Upstream, isn't that correct?

3 A. The report certainly contains a description. And I  
4 would assume that the executive summary does. But I  
5 would need to be pointed to the particular page in the 12:34  
6 executive summary.

7 224 Q. Well, if you go to the description and history of the  
8 Section 702 programme in page five.

9 A. Unfortunately, my copy of the report is missing some  
10 pages, including page five. 12:34

11 225 Q. Okay. I'm sure we can get you another book.

12 A. It looks like I'm missing every other page. Perhaps  
13 this should've been double-sided but was not.

14 226 Q. Okay. Well, we'll get you another book.

15 A. I've been handed a tablet. I would also appreciate the 12:35  
16 paper copy though, thank you (Same Handed).

17 227 Q. And if you go to page seven in particular.

18 A. Yes.

19 228 Q. In the first full paragraph on page seven it refers to  
20 the government sending directives to electronic 12:35  
21 communications service providers compelling their  
22 assistance in the acquisition of communications. Isn't  
23 that correct?

24 A. Yes.

25 229 Q. And the communications service providers, their 12:36  
26 assistance is *compelled* by this process?

27 A. Yes. Under the statute, it is compelled assistance.

28 230 Q. And the government identifies or tasks certain  
29 selectors - and it identifies examples of those - which

1           it sends to the providers to begin acquisition. And  
2           then it describes how Prism operates in the next  
3           paragraph.

4           A. I would just note that the report does not specify that  
5           the government sends the selectors to the providers           12:36  
6           under Upstream specifically. Clearly, the government  
7           conducts Upstream surveillance with the compelled  
8           assistance of telecommunications providers, but the  
9           precise means by which the telecommunications providers  
10          or the governments are applying the selectors is           12:36  
11          somewhat -- it's not clear in this particular  
12          paragraph.

13   231   Q. Well, if you go to the description of the Prism, you  
14          see how that operates, isn't that correct?

15          A. Yes.   12:37

16   232   Q. And then it gives a description of Upstream.

17          A. Yes.

18   233   Q. It then goes on to describe, at the bottom of the page,  
19          that each agencies that receive communications under  
20          Section 702 has its own minimisation procedures; that's   12:37  
21          any agency that might get the information, isn't that  
22          correct?

23          A. Yes.

24   234   Q. Then over the page: "*Among other things, these*  
25          *procedures include rules on how the agencies may query*   12:37  
26          *the collected data*".

27          A. Yes.

28   235   Q. So it describes the process and the stages of  
29          collecting the data and then there's a separate stage

1 of querying or examining the data.

2 A. There's a separate stage at which the government may  
3 conduct queries of data that has been collected or  
4 acquired. I again would not say that at the second  
5 stage this is the only time that the government 12:38  
6 examines the data. I think the examination with  
7 Upstream surveillance begins earlier with the bulk  
8 searching of communications.

9 236 Q. Well, examination by computer earlier and then there's  
10 a procedure for review of the contents of the data. 12:38

11 A. Yes.

12 237 Q. Two separate stages.

13 A. Yes.

14 238 Q. Then it goes on in the next paragraph to describe the  
15 minimisation procedures, and the paragraph beyond that, 12:38  
16 to each agencies add adherence to its targeting and  
17 minimisation procedures, subject to extensive  
18 oversight.

19 A. It says, I would note that the PCLOB says extensive  
20 oversight within the *executive* branch, without asking 12:38  
21 judicial or congressional oversight in this paragraph.

22 239 Q. Yeah. Then if you go to page 33, there's a description  
23 of the Prism collection and it's given in more detail.

24 A. Yes.

25 240 Q. And on page 35, the Upstream collection. 12:39

26 A. Yes.

27 241 Q. And if you go on to page 111, it describes the  
28 programmatic surveillance carried out under Section  
29 702.

1 A. Yes.

2 242 Q. And gives a further description of the nature of the  
3 collection under section 702.

4 A. Yes.

5 243 Q. And you agree that that is the most authoritative 12:39  
6 description of which we're aware of the operation of  
7 the section 702 programmes, isn't that correct?

8 A. Could you please repeat the adjective before  
9 "description".

10 244 Q. Authoritative. 12:40

11 A. Authoritative. I would say that it is a very  
12 significant source of information about the programmes  
13 conducted under section 702 and it is the official  
14 government acknowledgment that discusses these  
15 programmes at the greatest length. 12:40

16 245 Q. And given the lack of any direct experience with the  
17 practice of how these programmes operate, I suggest it  
18 would've been helpful to the court to provide the  
19 description that's contained in this report and if you  
20 disagreed with the description, to identify the point 12:40  
21 of disagreement and explain the basis for it.

22 A. I'm not sure if that's a question.

23 246 Q. It *is* a question.

24 **MR. DOHERTY:** It's not. It's a statement.

25 A. Could you please repeat the question? 12:41

26 247 Q. **MR. GALLAGHER:** Okay. I suggest that given your  
27 lack of any experience in relation to the practice of  
28 these programmes, that the appropriate course in  
29 describing them would've been to adopt and provide to

1 the court -- or to provide to the court, I should say,  
2 this authoritative description of the programmes and if  
3 you disagreed with any aspect of them, to identify the  
4 point of disagreement and explain the basis for the  
5 disagreement.

12:41

6 A. The description in my report is broadly consistent with  
7 the description in this report. I did not think it  
8 would be useful to the court to simply replicate the  
9 exact language that was used in this report. I do  
10 think that my report contains some additional details  
11 about the operation of the surveillance under section  
12 702 and it also may contain more information about the  
13 breadth of the statute and the breadth of the legal  
14 authority broadly.

12:41

15  
16 Offhand - and I say this offhand because I don't, I  
17 haven't right now reviewed every paragraph of this  
18 report and don't have it internalised and don't have  
19 encyclopedic knowledge of it - but offhand I'm not sure  
20 of any place in which my report actually is  
21 inconsistent with this report. I think my report has  
22 additional information, but I'm not sure about  
23 inconsistencies. There may be some, and I would be  
24 happy to address any that are pointed out to me.

12:42

12:42

25 248 Q. Okay. well, if you go to paragraph 21 of your report  
26 -- sorry, paragraph 23, excuse me. You say:

12:42

27  
28 *"Government disclosures and media reports indicate that*  
29 *Prism surveillance involves the acquisition of*



1           *communications content and meta-data directly from US*  
2           *companies."*

3  
4           Do you see that? Paragraph 23.

5           A.    Yes.  I do use the adjective "directly".  I don't think 12:43  
6           that much rises or falls or that.  And I do cite a  
7           Washington Post article that still, in the first  
8           sentence, refers to direct access.  And after  
9           consultation with the other experts on this issue,  
10          including Prof. Swire, whose description of this 12:43  
11          process made it sound as if the NSA handed the  
12          selectors to the companies on a piece of paper and  
13          perhaps received back in some non-technological form  
14          the information it was seeking, after discussing this  
15          we came to a consensus statement that the precise 12:43  
16          technological means by which Prism surveillance is  
17          accomplished are unknown.  And that is consistent with  
18          the statement in my report and I don't think that is  
19          *inconsistent* with what the PCLOB has said.

20        249   Q.    Well now, Ms. Gorski, you're very much aware of the 12:44  
21            significance of the use of "directly" here, because you  
22            refer and have just referred to the original Snowden  
23            disclosures in April or July 2013, isn't that correct?

24           A.    I'm referring to a Washington Post article from, I  
25            think, the summer of 2013. 12:44

26        250   Q.    Yeah.  A Washington Post article reporting, or  
27            containing the Snowden disclosures, isn't that correct?

28           A.    Yes.

29        251   Q.    And at that stage the allegation was that the

1 government had direct access to the servers of the  
2 various entities, isn't that correct?

3 A. I don't recall offhand if the article said "direct  
4 access to the servers". I know that the first sentence  
5 says "direct access". And that is the language that I 12:45  
6 was referring to in my report.

7 252 Q. Ms. Gorski, you're well aware that the description of  
8 how the government obtained the material that was  
9 contained in the Washington Post article that suggested  
10 some form of direct access to the communications 12:45  
11 network or computer networks of the various providers  
12 was publicly rejected by them and was criticised and  
13 the Washington Post altered its position subsequently,  
14 while never formally retracting it, isn't that correct?

15 A. I don't know about the extent to which the Washington 12:45  
16 Post subsequently altered its position. I will say  
17 that the article itself that I cite I believe might  
18 have been modified. But even though it was modified,  
19 the first sentence, subsequent to the modification,  
20 still says "direct access". I think there's an 12:45  
21 additional caveat of the fact, the fact that the direct  
22 access refers to or is based on the documents  
23 themselves. And so, as modified, the article still  
24 says there is direct access.

25 12:46  
26 And I would also note that of the documents cited, one  
27 of the documents or slides refers to the fact that  
28 Prism surveillance encompasses not just the acquisition  
29 of stored communications, but there is also realtime

1 surveillance. And if there's realtime surveillance  
2 then presumably there's some kind of technological  
3 means by which the NSA or other agencies are obtaining  
4 that information. The precise technological means are  
5 unknown.

12:46

6 253 Q. You relied a moment ago in your explanation of  
7 "directly" on that particular report in the Washington  
8 Post. You were aware that the description in that  
9 report was subsequently refuted by all of the companies  
10 involved, isn't that correct?

12:46

11 A. I don't know that it was refuted by *all* the companies  
12 involved. I do remember some press around some of the  
13 companies contesting -- whether they directly refuted  
14 the topic sentence of the article that I'm citing, I  
15 don't know, I think some of them may have danced around  
16 the issues. But others -- the gist of the objection  
17 was that the NSA did not have what they characterised  
18 as direct access --

12:47

19 254 Q. Yeah.

20 A. -- to their servers.

12:47

21 255 Q. And you mention Facebook there. And *it* rejected that,  
22 isn't that correct?

23 A. From my recollection, yes.

24 256 Q. Yes. And the description that is given in the PCLOB  
25 report is not one of direct access, but one of issuing  
26 directives to the companies, isn't that correct?

12:47

27 A. Well, the PCLOB report talks about directives being  
28 issued to the companies --

29 257 Q. Yeah.

1           A.    -- under *both* Prism and Upstream, which is accurate.  
2           But after the -- the Directive is like the order. So  
3           after that is served on the companies, there's a  
4           subsequent question about how the data is transferred  
5           from the companies to the NSA. So the company may be   12:47  
6           served with the order, but there's still an open  
7           question and it is uncertain how the data is actually  
8           transferred from the companies to the NSA and how the  
9           NSA transmits its selectors to the companies.

10   258   Q.    If it's an open question and it's uncertain, I suggest   12:48  
11           that what you *should've* used to convey to the court is  
12           the description that *PCLOB* provided as to how these  
13           programmes operated. As an expert, that's what he  
14           should've done.

15           A.    The *PCLOB* did not opine specifically on the nature --   12:48  
16           well, I would be happy to, if someone could point me to  
17           a paragraph in which the *PCLOB* says that -- let me  
18           restate please. The *PCLOB* nowhere states that the  
19           government provides selectors under Prism surveillance  
20           to the companies in hard copy and the company then   12:48  
21           prints out all the relevant material and gives it back  
22           to the government. The *PCLOB* doesn't say that. It  
23           doesn't, with the requisite level of detail, opine on  
24           the precise technological means by which the transfer  
25           is effectuated. Given that it is unknown, but it *is*   12:49  
26           known that Prism encompasses some realtime  
27           surveillance, I think direct access is an accurate way  
28           of describing it. But it is important to underscore,  
29           as I did in the consensus document, that the precise

1 means are unknown.

2 259 Q. Sorry, you say you underscored in the consensus  
3 document the precise means are unknown; it follows that  
4 you do not *know* the precise means, isn't that correct?

5 A. Yes. 12:49

6 260 Q. And when you *don't* know the precise means, as an  
7 expert, that should've been *stated*, rather than using a  
8 description that conveys a particular meaning that you  
9 know not only to be controversial, but to have been  
10 actually refuted at the time? 12:49

11 A. It was refuted by companies. But the Washington Post,  
12 which is a very significant, within the United States,  
13 news outlet stood by the first sentence of this  
14 article. And the first sentence of this article refers  
15 to direct access. And that is the source that I cited. 12:50  
16 And although I do not have personal knowledge of the  
17 precise technological means by which this is  
18 accomplished, I think that one can infer from the  
19 circumstances surrounding the surveillance and the  
20 slide that was disclosed that refers to realtime Prism 12:50  
21 surveillance and also the slide that refers to the  
22 on-boarding of companies, that one can infer that there  
23 is some means of direct access. I think that that's a  
24 reasonable inference.

25 261 Q. Well, the only authority you cite is a newspaper 12:50  
26 report. You were aware that that newspaper report had  
27 been refuted, isn't that correct?

28 A. I was aware that companies had objected to the original  
29 version of that report and that the report was

1 subsequently modified, but that the first sentence of  
2 that report that refers to direct access was not  
3 modified.

4 262 Q. And that other news agencies *did* modify the position  
5 and *did* accept the correction, isn't that correct? 12:51

6 A. I can't speak to that. I don't know.

7 263 Q. And you are not in a position, either by virtue of any  
8 technical expertise or by any knowledge yourself of the  
9 practice, to describe the process, isn't that correct?

10 A. I think, given my experience and familiarity with the 12:51  
11 materials described in the report, the Snowden  
12 materials and the government disclosures, I am in a  
13 position to opine on reasonable inferences about the  
14 nature of the surveillance and I have done so.

15 264 Q. Do you have technical expertise, Ms. Gorski, that you 12:51  
16 haven't disclosed to us?

17 A. I do not have technical expertise.

18 265 Q. I suggest to you, as an expert, *knowing* your duty as an  
19 expert, you should *not* have put forward a description  
20 of the process that you yourself are *not* able to stand 12:51  
21 over.

22 A. I, in the text of the report, say "government  
23 disclosures and media reports" and I cite my sources.  
24 And I stand by my report.

25 266 Q. Okay. well, what government disclosure supports your 12:52  
26 contention of direct access?

27 **MR. DOHERTY:** I think it's just very important  
28 that that question be put in proper context. The  
29 statement that Mr. Gallagher has been asking about is

1 at paragraph 23 of Ms. Gorski's report:

2  
3 "Government disclosures and media reports indicate that  
4 *Prism surveillance involves the acquisition of*  
5 *communications contents and meta-data directly from US* 12:52  
6 *companies."*

7  
8 Now, various formulations have been put by  
9 Mr. Gallagher as to what that means, but he has changed  
10 from time to time in the questions. And I think it's 12:52  
11 only fair to the witness that the specific question  
12 should be put by reference to what she's actually said  
13 in the report.

14 267 Q. **MR. GALLAGHER:** Judge, I'm responding to her own  
15 statement just a moment ago to the court that was based 12:52  
16 on government disclosures *and* media reports and I am  
17 asking the witness what government disclosures are you  
18 relying on?

19 A. In referring to the acquisition of communications  
20 content and meta-data, I cite to a FISC opinion. I 12:53  
21 don't know offhand whether the FISC opinion uses the  
22 term "directly". I don't think much rises or falls on  
23 that. At the end of the day, what's significant is  
24 that I think there is a reasonable inference to be  
25 drawn based on the Snowden disclosures and based on 12:53  
26 what must practically happen with surveillance in a  
27 rapidly changing environment in which the government is  
28 tasking new selectors, you know, not on an annual basis  
29 but much more frequently and needs to relay that

1 information to the companies, there is some  
2 technological means of transmission. It's almost  
3 certainly not done all on paper and I don't know what  
4 the precise technological means of transmission is.

5 268 Q. I'll ask you again. What government disclosure do you 12:54  
6 rely on?

7 A. In support of this sentence, which refers to the  
8 acquisition of communications content and meta-data, I  
9 cite to a FISC opinion --

10 269 Q. Are you missing something there? 12:54

11 A. -- and I cite to the PCLOB report.

12 270 Q. Are you missing something there? The sentence  
13 continues: "*Directly from US companies*".

14 A. "*From US companies.*" And I cite to the PCLOB report  
15 and the FISC opinion and NSA programme Prism slides. 12:54

16 271 Q. And we've established that *nowhere* in the PCLOB report  
17 does it suggest that it's obtained directly from the  
18 company, isn't that correct?

19 A. I don't think that we've established that. And I would  
20 need to review the PCLOB report with a search function 12:54  
21 in order to ensure that that word is not used. Again,  
22 I don't think that much rises or falls on this.

23 272 Q. Well, whether much rises or falls on it, Ms. Gorski, if  
24 you'd permit me to just ask you. You cite the PCLOB  
25 report; I assume, as you've done everywhere else, if 12:54  
26 you had authority in the PCLOB report for what you  
27 said, you'd have cited the page. That's what you do  
28 when you cite page 111, pages 33 to -- or, sorry, 35 to  
29 41 as a description of the system in other footnotes.



1 A. Yes, and I did cite the page. I cited to pages 33 and  
2 34.

3 273 Q. Yeah.

4 A. Which --

5 274 Q. And nowhere in pages 33 or 34 does it provide support 12:55  
6 for that contention.

7 A. It provides support for the contention that Prism  
8 surveillance involves the acquisition of communications  
9 content and meta-data from US companies. And again the  
10 adverb "directly", I don't think that the word 12:55  
11 "directly" appears --

12 275 Q. No.

13 A. -- in these two pages.

14 276 Q. And you know the distinction that I am drawing. We're  
15 all agreed they acquire it from the companies through 12:55  
16 the compelled procedure, but I'm focusing on the word  
17 "directly" that you sought to support by reference to  
18 government disclosures and then you identified the  
19 PCLOB report and, as you acknowledge, it *doesn't*  
20 actually support the contention of direct acquisition. 12:56

21 A. I think it depends on what you mean by "direct". It  
22 certainly doesn't, it doesn't contest the proposition  
23 that there's some technological means by which the data  
24 is transferred.

25 277 Q. But what *you* meant by "direct", because you *told* us, 12:56  
26 was the description of "direct" contained in the  
27 Washington Post article. That's what *you* meant.  
28 You've just told us that.

29 A. And the description of "direct" in the Washington Post

1 article is -- I was referring to the first sentence,  
2 which I don't think says "direct access to servers".  
3 And I was saying that I agreed, or I thought that that  
4 was a plausible source to cite, in part because of  
5 Snowden disclosures that were also cited, in 12:57  
6 conjunction with the article, which referred to the  
7 fact that Prism includes realtime surveillance.

8 278 Q. So you're now saying the first sentence that you say  
9 survived in the Washington Post account doesn't  
10 *actually* say anything about direct access to servers, 12:57  
11 is that correct?

12 A. I would need to look back at the Washington Post  
13 account. I think it uses the word "direct access". I  
14 don't know whether it uses the word "servers".

15 279 Q. Okay. So it uses "direct access". And that now is 12:57  
16 exactly what you meant when you described earlier to  
17 the court what you intended to convey by the use of the  
18 term "directly"?

19 A. What I intended to convey by the first sentence of  
20 paragraph 23 was that there is some technological 12:57  
21 means. My understanding, based on government  
22 disclosures about how selectors are tasked and based on  
23 government disclosures about how Prism surveillance  
24 operates and based on media reports that use the word  
25 "direct access" and the media reports that accompany 12:58  
26 the Snowden disclosures, my understanding is that Prism  
27 surveillance involves the acquisition of  
28 communications, content and meta-data through some  
29 technological means directly from US companies.

1 280 Q. But you didn't describe it in those terms in this  
2 report, you didn't say your understanding, that you  
3 were drawing inferences and you certainly didn't make  
4 clear that there is no government disclosure that  
5 supports the evidence contained in your report and put 12:58  
6 forward by you in court.

7 A. I did use the word "indicate", not "state".

8 281 Q. I see.

9 A. I do think that there is some ambiguity around the  
10 precise technological means by which this is 12:58  
11 accomplished.

12 282 Q. Okay. So you think that the use of the word "indicate"  
13 instead of "state" there is of significance, is that  
14 right?

15 A. I think it is of some significance. I think it was 12:58  
16 appropriate, given what this sentence covers, to cite  
17 to both government disclosures and media reports.

18 283 Q. Well, if you use the word "indicate" in that context,  
19 you are saying to the court that there is something in  
20 government disclosures that indicate that. And we've 12:59  
21 established there is *nothing* that indicates it.

22 A. I don't think that we've established that. Because  
23 government disclosures talk about the tasking of  
24 selectors and government disclosures talk about the  
25 scope of the surveillance under Section 702 and 12:59  
26 government disclosures talk about the fact that in the  
27 last year there were more than 94,000 targets, and we  
28 know that those targets may have multiple selectors  
29 associated with them. And given the government

1 disclosures explain the breadth of this surveillance,  
2 it's clear that it would not be practical for the  
3 government to give to the companies in hard copy  
4 requests for various accounts and then to get back the  
5 more than 200 million communications that it acquired 12:59  
6 in 2011 under Prism surveillance, to get all of that in  
7 hard copy. I do think the government's disclosures and  
8 media reports indicate that Prism surveillance involves  
9 the acquisition of communications, content and  
10 meta-data directly from US companies. 13:00

11 284 Q. Okay. So, Ms. Gorski, you're engaged in speculation on  
12 this and you don't know is the answer, isn't that  
13 correct?

14 A. I would not characterise my opinion as speculative.

15 285 Q. I see. And you're aware that neither the review group 13:00  
16 or PCLOB found *any* basis for suggesting there was  
17 direct access in the sense which you have described,  
18 isn't that correct?

19 A. I can't say that the review group -- I can't opine on  
20 the scope of the review group's analysis, because I 13:00  
21 don't recall it as to the precise point offhand and I  
22 don't remember the PCLOB addressing the technological  
23 means by which the data is transferred. And  
24 Prof. Swire, who was a member of the review group,  
25 concurred in my assessment that the precise 13:01  
26 technological means, he agreed with me that there would  
27 be a technological means by which this happens. The  
28 precise means are unknown.

29 286 Q. So the position is it is *unknown*, but you gave a

1 description for which, in truth, you had no basis?  
2 A. My use of "direct" was intended to correspond to some  
3 technological means. I think if the selectors were  
4 provided to the companies on paper and the companies,  
5 in turn, provided the communications on paperback to 13:01  
6 the agencies, that arguably would not constitute  
7 obtaining that information directly from the companies.  
8 My use of "directly" was intended to encompass *some*  
9 technological means.

10 287 Q. Well, in fact you've already told us, and I'm going to 13:01  
11 move from this now, but you've already told us your use  
12 of "direct" was *not* to convey that, but your use of  
13 "direct" was to convey the description that was  
14 contained in the Washington Post article of direct  
15 access. 13:02

16 A. I intended to refer to the first sentence of the  
17 Washington Post article or... The Washington Post  
18 article, in the first sentence, refers to direct  
19 access. And it supports that contention with slides  
20 that were disclosed by Edward Snowden that referred to 13:02  
21 realtime surveillance.

22 **MR. GALLAGHER:** I might leave it there, Judge.  
23 **MS. JUSTICE COSTELLO:** we'll take it up at two o'clock.  
24 Thank you.

25 13:02

26  
27  
28  
29

(LUNCHEON ADJOURNMENT)

1 THE HEARING RESUMED AFTER THE LUNCHEON ADJOURNMENT AS  
2 FOLLOWS

3  
4 CONTINUATION OF CROSS-EXAMINATION OF MS. GORSKI BY  
5 MR. GALLAGHER

14:04

6  
7 MS. JUSTICE COSTELLO: Good afternoon.

8 MR. MICHAEL COLLINS: Good afternoon, Judge.

9 REGISTRAR: Matter of Data Protection Commissioner -v-  
10 Facebook Ireland Ltd. and another.

14:04

11 288 Q. MR. GALLAGHER: Good afternoon, Ms. Gorski, if I can  
12 ask you to stay with page 10 of your report, if it's  
13 convenient for you.

14 A. Yes.

15 289 Q. And if you go to paragraph 25: "*Government disclosure*  
16 *and media reports indicate that Upstream surveillance,*  
17 *which the government claims is authorised by*  
18 *Section 702, involves the mass copying and searching of*  
19 *internet connections flowing into out of the United*  
20 *States.*"

14:04

14:05

21  
22 That's a very general statement, isn't it?

23 A. I don't know that I would characterise the statement as  
24 general.

25 290 Q. I see. Doesn't it suggest there that everything is  
26 being copied?

14:05

27 A. I don't think that the word "mass" suggests that  
28 everything is copying, it does suggest that vast  
29 quantities of information are being copied and

1 searched.

2 291 Q. Yes. You know that all the authorities, government  
3 authorities, that have spoken on this have made it  
4 clear that Upstream does not involve mass surveillance,  
5 it involves discriminate, the use of discriminators; 14:05  
6 isn't that correct?

7 A. The PCLOB, the Privacy and Civil Liberties Oversight  
8 Board, have said that Upstream surveillance does not  
9 involve bulk selection and that is consistent with my  
10 opinion. What the PCLOB is referring to are the 14:05  
11 results of the Upstream searching process. What I'm  
12 referring to here is that first stage, that initial  
13 searching. And my statement here is certainly  
14 consistent with how this surveillance has been  
15 described by, for example, the Foreign Intelligence 14:06  
16 Surveillance Court which has said that - with the NSA's  
17 surveillance devices, communications, any  
18 communications that transits the device that has a  
19 targeted selector anywhere within it will be ingested  
20 for further analysis. That itself indicates that these 14:06  
21 surveillance devices are incredibly powerful and that  
22 they search through vast quantities of communications.

23 292 Q. Ms. Gorski, you say you are talking here about that  
24 first stage of examination that you described this  
25 morning, that does not involve mass copying? 14:06

26 A. The first stage does involve mass copying.

27 293 Q. The purpose of the first stage is, as we have,  
28 I thought, agreed, to examine a body of data through  
29 the use of the targeted inquiry or targeted directive

1 that is issued by the NSA?

2 A. In the first stage there is a mass examination of the  
3 data flowing through the NSA's surveillance devices  
4 which are located at strategic points along the  
5 internet backbone which is the network of the high 14:07  
6 capacity cables and routers and switches that carry  
7 international internet communications into and out of  
8 the United States.

9  
10 The copying comes in in that it's incidental to the 14:07  
11 search. So in effect there are two ways I think  
12 theoretically - I'm not a technologist but based on my  
13 conversations with technologists there are  
14 theoretically two ways in which the NSA could be  
15 conducting this search for its selectors. It could be 14:07  
16 scanning the information inline - and by inline I mean  
17 as it is actually flowing across the cable - or it  
18 could create a temporary copy of that information and  
19 then scan and search through the temporary copy of the  
20 information. 14:08

21  
22 My understanding is that the NSA is in fact creating  
23 the temporary copy of the information in order to  
24 search for its selectors, and that is because it is  
25 less disruptive to intercept traffic than actually 14:08  
26 running the scans on the internet traffic as it is  
27 flowing past. That copy is a temporary copy. After it  
28 opens and examines the contents of these vast  
29 quantities of communications flowing past, the NSA then



1 deletes the temporary copy and retains for long-term  
2 use and analysis the communications to, from and about  
3 its targeted selectors and any multi-communication  
4 transactions.

5 294 Q. There is a lot in that, Ms. Gorski. Firstly, you have 14:08  
6 now explained to us that these sources have explained,  
7 you are not a person with technical expertise, have  
8 explained to you that there are two possibilities, one  
9 which does not involve any copying; isn't that correct?

10 A. Yes, that's correct. 14:09

11 295 Q. Yes. And why did you describe for the court as an  
12 expert the operation of Upstream as involving mass  
13 copying when you can give no evidence as an expert on  
14 that issue?

15 A. I believe that, I am providing evidence as an expert on 14:09  
16 that issue in saying that in my work, which involves  
17 working very closely with technologists, there is a  
18 discussion about the effectiveness of these searches  
19 and how they must be conducted. And in that  
20 conversation it's very clear that there is a creation 14:09  
21 of a temporary copy of the communications because it's  
22 less disruptive to the traffic, the traffic flows.

23  
24 I believe this copying point is also corroborated by  
25 the leading treatise on national security law in the 14:10  
26 United States by David Kris, it's written by an  
27 assistant attorney general, former assistant attorney  
28 general for national security. So it's not a concept  
29 that I'm coming up with out of thin air. The New York

1 Times I believe has also described this as a copying  
2 and searching process.

3 296 Q. I will ask you again, Ms. Gorski, but I'll put the  
4 question a little differently: I think your rules with  
5 regard to expert evidence in the United States, as 14:10  
6 here, involve you giving evidence on matters on which  
7 you are an expert; isn't that correct?

8 A. Yes.

9 297 Q. You have no expertise or no direct knowledge of any  
10 sort as to how Upstream extracts the information; isn't 14:10  
11 that correct?

12 A. I have not been employed by the executive branch, but  
13 based on official government disclosures and media  
14 reports it's very clear that the information is  
15 extracted through Upstream after a bulk searching 14:10  
16 process. I also think it is clear that the bulk  
17 searching process takes place on a copy of the  
18 communications as opposed to the communications inline.

19 298 Q. I'll ask you again: You have no direct knowledge  
20 yourself and you're not in a position to give any 14:11  
21 expert evidence to this court to the effect that the  
22 extraction of the Upstream information is done by a  
23 process of copying?

24 A. I would be similarly situated to any individual  
25 testifying before this court in that individuals with 14:11  
26 direct knowledge of the Upstream copying process would  
27 presumably not be able to opine on that information  
28 because it is classified but, based on the information  
29 that has been made public about the nature of the bulk

1 searches and also based on media reports, I am quite  
2 confident in saying that Upstream surveillance involves  
3 the creation of a temporary copy and a searching of  
4 internet communications.

14:11

5  
6 I would also note that there was an affidavit submitted  
7 in the Jewel case in California, which was a challenge  
8 to Section 702 surveillance. That affidavit was filed  
9 by a former AT&T technician who worked at AT&T offices  
10 in San Francisco and he described in great detail  
11 what's known as a splitter, which is what creates the  
12 copy, he described the mechanism by which the  
13 government creates a copy of these communications and  
14 then searches them.

14:12

15 299 Q. Okay. Just maybe breaking it down then, I'm going to  
16 just spend a little time on this, Ms. Gorski. Firstly  
17 I think you have confirmed that the process by which  
18 Upstream operates on the backbone is classified?

14:12

19 A. There are details of this that are not classified and  
20 are discussed by the PCLOB.

14:12

21 300 Q. But this aspect is *not* based on the PCLOB; isn't that  
22 correct?

23 A. When you say this aspect what are you referring?

24 301 Q. The mass copying.

25 A. The mass copying is drawn from the PCLOB's broader  
26 description about how Upstream must operate and the  
27 PCLOB makes clear that for Upstream to operate the  
28 government must have access to a far greater body of  
29 communications than those that simply contain the

14:12

1 selectors, it has to search through communications to  
2 locate those that contain the selectors.

3 302 Q. Ms. Gorski, you know well there's a big difference  
4 between saying the government must have access to a  
5 much larger body of information, that's one thing, and 14:13  
6 the other saying that it *copies* that information, you  
7 understand that distinction, I take it?

8 A. Yes, I do understand that distinction.

9 303 Q. Yes. And indeed that distinction was recognised in  
10 your earlier answer, that there were two possibilities, 14:13  
11 that it accesses this large body of information but  
12 doesn't copy it or, the second possibility, it accesses  
13 the body of information and does copy it?

14 A. When I referred to the two possibilities I was  
15 referring to it in a theoretical sense. I believe very 14:13  
16 firmly that it does in fact involve copying and this is  
17 corroborated by the declaration that was filed in the  
18 Jewel case by an AT&T technician who worked directly  
19 with this equipment. He went on at length about the  
20 splitter and how the stream of communications was split 14:14  
21 so that a copy was created.

22 304 Q. Okay. So may the court take it, although my question  
23 was the distinction, not what your belief is, I think  
24 you are not here to give evidence as to your belief;  
25 isn't that correct, you know that? 14:14

26 A. I appreciate that I am --

27 305 Q. Yes.

28 A. Yes.

29 306 Q. But you now say that the basis for this assertion is

1 the evidence of this AT&T engineer in the Jewel case?

2 A. That's one of the bases for the assertion.

3 307 Q. We have agreed it's not in the PCLOB report?

4 A. I don't believe that the PCLOB report uses the word  
5 "copy". 14:14

6 308 Q. Yes. And could you now in this instance identify the  
7 government source on which you rely?

8 A. I do know that an opinion of the Foreign Intelligence  
9 Surveillance Court refers again to the very broad  
10 access that the NSA surveillance devices have to the 14:15  
11 communications transiting those devices. I do not know  
12 whether that opinion uses the word "copy", and a New  
13 York Times article by Charlie Savage I do believe uses  
14 the word "copy" and he cites, within that article,  
15 government sources. 14:15

16 309 Q. Ms. Gorski --

17 A. But I don't have the article at hand so this is based  
18 on recollection.

19 310 Q. Ms. Gorski, you are well aware, as distinguished a  
20 newspaper as the New York Times is, it's not a 14:15  
21 government source; isn't that correct?

22 A. Yes.

23 311 Q. You are unable to point to any FISC decision which uses  
24 the word "mass copying" as opposed to having access to  
25 a large body of information; isn't that correct? 14:15

26 A. Offhand, yes.

27 312 Q. Yes. And I take it, if this was stated on the basis of  
28 a FISC decision, you would have identified it, as you  
29 have done with other FISC decisions?

1 A. I do, I do cite a FISC decision at the end of this  
2 paragraph. In the interests of streamlining the  
3 footnotes I tried to include them at the end of the  
4 paragraph.

5 313 Q. Yes, the paragraph deals with -- 14:16

6 A. I would need to look at that citation to assess whether  
7 it contains the word "copy".

8 314 Q. Well I suggest to you that the affidavit evidence filed  
9 in the Jewel case by the AT&T engineer is no basis for  
10 the expert evidence that you have given to this court, 14:16  
11 would you agree with that?

12 A. I would not say that it's not a basis for that as I'm,  
13 I think I --

14 315 Q. Okay, all right. Well then I'll put the Jewel decision  
15 to you, it's not the one that you have actually 14:16  
16 referred to, you have referred to another Jewel  
17 decision, but I'm going to put the Jewel decision that  
18 you now have sought to rely on to you (SAME HANDED TO  
19 THE WITNESS). This was a decision where the court  
20 rejected, rejected the description of the Upstream 14:16  
21 process put forward by the plaintiff; isn't that  
22 correct?

23 A. This is a decision in which the court held at the  
24 summary judgment stage, due to a combination of  
25 standing and state secrets doctrines, that the 14:17  
26 plaintiffs could not proceed with the case.

27 316 Q. I'll ask you again: This is a decision in which the  
28 court rejected, having looked at the evidence, the  
29 description of Upstream put forward in the case; isn't

1           that correct?

2           A.    Here it says "*the technical details of the Upstream*  
3           *collection process remain classified*". I am looking  
4           for a passage in which the court is passing on the  
5           plaintiff's characterisation of that process. I'm           14:17  
6           looking for the passage that you are attempting to  
7           point me to.

8           **MR. GALLAGHER:** Okay. well --

9           **MR. DOHERTY:** I think in fairness to Ms. Gorski, if  
10          Mr. Gallagher is going to put a particular proposition   14:17  
11          that one of many *thousands* of documents in this case  
12          contains a particular statement, he should bring that  
13          to her attention. It's not fair.

14          **MR. GALLAGHER:** I'm putting on the reliance -- excuse  
15          me, I wonder would Mr. Doherty allow me to continue   14:18  
16          with the questions. I am relying on this decision.

17          **MR. DOHERTY:** I haven't stopped Mr. Gallagher.

18          **MR. GALLAGHER:** And I said that the court rejected, and  
19          I'll point to the paragraph in a moment, the version of  
20          Upstream put forward by the plaintiff. That's not       14:18  
21          relying on thousands of documents, that's relying on  
22          the decision.

23          **MR. DOHERTY:** well I'm glad to see that Mr. Gallagher  
24          is going to do what I asked him to do because I think  
25          that's the fair way to proceed in the circumstances.   14:18  
26          **MR. GALLAGHER:** Sorry, I'm asking --

27          **MS. JUSTICE COSTELLO:** I don't think we need to carry  
28          on, I think Mr. Gallagher *was* going to do that. Of  
29          course the witness will be shown the precise passage,

1 but as you well know Mr. Doherty it's quite common to  
2 put questions generally the specific passage is drawn  
3 to the attention of a witness.

4 317 Q. **MR. GALLAGHER:** You see you refer to this decision that  
5 you make no reference to in your report; isn't that 14:18  
6 correct?

7 A. I think I do refer to this decision in the report in my  
8 discussion of the state secrets doctrine, and I have  
9 found the passage that I believe you are referring to.

10 318 Q. Yes. And the court rejected the version of Upstream 14:19  
11 put forward; isn't that correct?

12 A. It said that the *"plaintiff's version of the*  
13 *significant operational details is substantially*  
14 *inaccurate"*. I would note, however, that plaintiffs  
15 included many operational details in their explanation 14:19  
16 of Upstream and, because of the vagueness of the  
17 court's statement, it's impossible to know which  
18 details are accurate or inaccurate.

19 319 Q. I see. Well I put it to you, not only did the court  
20 say that, but it said that the AT&T witness who swore 14:19  
21 an affidavit had no direct knowledge and no reliance  
22 could be placed on the affidavit; isn't that correct,  
23 Ms. Gorski?

24 A. I don't think that the court said that the witness had  
25 no direct knowledge. He said *"the limited knowledge* 14:19  
26 *that Klein does possess firsthand"*, so he does refer to  
27 some knowledge that Klein possess firsthand.

28 320 Q. Okay. Well, will we look at what it says at the  
29 beginning of that paragraph:



1           *"Plaintiffs principally rely on the declaration of*  
2           *Klein, a former AT&T technician who executed a*  
3           *declaration in 2006 about his knowledge and perceptions*  
4           *about the creation of a secure room at the AT&T*  
5           *facility. However, the Court finds Klein establish the* 14:20  
6           *content, function or purpose of the secure room at the*  
7           *AT&T site based on his own knowledge. The limited*  
8           *knowledge that Klein does possess firsthand does not*  
9           *support the Plaintiffs' contention about the actual*  
10           *operation of the Upstream data collection process."* 14:20

11  
12           Do you see that?

13           A.    Yes.  In saying that *"Klein cannot establish the*  
14           *content, function or purpose of the secure room at the* 14:20  
15           *AT&T site based on his own independent knowledge"*, that  
16           phrase is not necessarily referring specifically to  
17           Klein's very specific averment related to the splitter.  
18           Klein, given his level within the organisation, perhaps  
19           did not have firsthand knowledge of the government's  
20           purpose behind the secure room at the AT&T site, all of 14:21  
21           the functions of that secure room.  But I would note  
22           that the court's opinion, because it is written in such  
23           an abstract way, does not speak specifically to the  
24           question of the splitter.

25   321   Q.    Well, doesn't the court go on, Ms. Klein [sic], in the 14:21  
26           next sentence that I have just read out to you:

27  
28           *"However, the court finds that Klein cannot establish*  
29           *the content, function or purpose of the secure room at*

1           *the AT&T site*" and says: *"The limited knowledge that*  
2           *Klein possesses firsthand does not support the*  
3           *Plaintiffs' contention about the actual operation of*  
4           *the Upstream process."*

14:21

5  
6           Isn't that correct?

7           A.   That is what the opinion states. I would note again  
8           that plaintiffs made many contentions about the actual  
9           operation of the Upstream data collection process and  
10          I do not know which contentions the court is referring  
11          to.

14:21

12       322 Q.   Okay. well, I have put it to you a number of times  
13           that the court had rejected the explanation put forward  
14           by the plaintiff with regard to the actual operation of  
15           the Upstream data process; isn't that correct? I put  
16           that a number of times to you?

14:21

17          A.   The court said that it confirms: *"That the Plaintiffs'*  
18          *version of the significant operational details -*  
19          *details plural - of the upstream collection process is*  
20          *substantially inaccurate."*

14:22

21       323 Q.   I will go back to the person that you rely on, this  
22           affidavit that you just referred to for the first time  
23           in your evidence. The court goes on: *"Klein can only*  
24           *speculate about what data were actually processed and*  
25           *by whom in the secure room and how and for what*  
26           *purpose, as he never was involved in the operation."*

14:22

27  
28           Could the court make it any clearer that Klein's  
29           evidence as a description of the Upstream process was

1 rejected, could it, Ms. Gorski?

2 A. It does recognise that Klein did possess some firsthand  
3 knowledge and the court said that that firsthand  
4 knowledge did not support plaintiff's contention about  
5 the actual Upstream data collection process. 14:23

6 324 Q. I will ask the question again: Could the court make it  
7 any clearer that it rejected the version put forward by  
8 Klein of how the Upstream process operated?

9 A. I think the court could have made it clearer by  
10 specifying which of Klein's contentions it was 14:23  
11 specifically rejecting and which of Klein's contentions  
12 did not support plaintiffs' version of events. Because  
13 Klein made many assertions and because plaintiffs made  
14 many assertions it's very difficult to assess which  
15 contentions are being rejected by this paragraph. 14:23

16 325 Q. I'll just suggest to you that it made it very clear:  
17 "*Klein can only speculate about how and for what*  
18 *purpose the data was actually processed*", that's what  
19 that sentence says?

20 A. The sentence does say that Klein can only speculate 14:23  
21 about what data were --

22 326 Q. Yes.

23 A. "*Klein can only speculate about what data specifically*  
24 *were actually processed and by whom and how and for*  
25 *what purpose.*" 14:24

26 327 Q. Yes. So it actually rejected his version of how the  
27 data was processed; isn't that correct?

28 A. I don't think that this necessarily constitutes a  
29 complete rejection.

1 328 Q. I see.  
2 A. I think it is recognising that Klein did not have  
3 sufficient classified clearances to have complete  
4 knowledge of how the data collection was operating in  
5 this instance. 14:24  
6 329 Q. Well, you say you refer to this in your report and  
7 there's a mention of it in one of the footnotes, but  
8 it's not the Jewel decision that you appendix to your  
9 report, so you must have considered it when you were  
10 doing your report; is that correct? Is that correct? 14:24  
11 A. I believe that this decision is appended to my report.  
12 Are you referring to the Klein declaration?  
13 330 Q. No, there's another Klein [sic] decision, it's a later  
14 decision in your report?  
15 A. Klein or Jewel? 14:24  
16 331 Q. Sorry, excuse me, Jewel. Klein is the AT&T technician.  
17 A. I do think I cite, I do believe that I cite to this  
18 opinion in the discussion of the state secrets doctrine  
19 and I will pull that up momentarily, if you would just  
20 give me a moment 14:25  
21 332 Q. You do mention it, but it's not in one of the  
22 appendices so far as I can identify, I couldn't find it  
23 in any of the appendices?  
24 A. That must have been an administrative error and I  
25 apologise to the court for that. 14:25  
26 333 Q. I see.  
27 A. But I do refer to the opinion. Yes, it's in paragraph  
28 55.  
29 334 Q. Exactly. That's why I said, having referred to it in

1 one context, you must have read the case?

2 A. Yes, I had read the case.

3 335 Q. And in preparing, therefore, your report and in now  
4 relying on this as being the basis for your description  
5 of mass copying, you must have relied -- realised it 14:25  
6 doesn't support that description?

7 A. The court's assessment of Klein's evidence in the  
8 description is very unclear. There is no discussion of  
9 mass copying in particular in this context and I do  
10 think that the evidence that Klein put forward was 14:26  
11 persuasive.

12 336 Q. I see.

13 A. This is again not the only source of my assertion that  
14 Upstream involves mass copying.

15 337 Q. Okay. 14:26

16 A. But I also want to underscore for the court that at  
17 bottom what matters is that it's undisputed -- well,  
18 I can't speak as to what's in dispute in the context of  
19 the case. But it is very clear that Upstream  
20 surveillance involves mass searching and bulk searching 14:26  
21 and there are several government disclosures to that  
22 effect.

23 338 Q. Ms. Gorski, I'm going to keep with this for a moment,  
24 but leave aside the question of mass searching, that's  
25 different, as you well know, from mass copying; isn't 14:26  
26 that correct?

27 A. They are distinct, but the copying is attendant to the  
28 search, how the search is effectuated.

29 339 Q. Yes. And you relied on an affidavit from a technician

1 of AT&T to support your contention that there was mass  
2 copying, that's what you said was one of the bases for  
3 that contention; isn't that correct?

4 A. Yes.

5 340 Q. And the only record we have is the court rejects the 14:27  
6 description of that technician as to how the process  
7 works; isn't that correct?

8 A. The court is rejecting aspects of the technician's  
9 description. The court found that Klein: "*Could not*  
10 *establish the content, function or purpose of the* 14:27  
11 *secure room at the AT&T site based on his own*  
12 *independent knowledge*".

13 341 Q. Yes. So Klein had no knowledge of how the process  
14 worked?

15 A. I think that that is an overstatement. The court 14:27  
16 recognises that Klein did have firsthand knowledge  
17 about some facts and the court went on to say that the  
18 firsthand knowledge did not support plaintiffs'  
19 contention about the actual upstream data collection  
20 process. However, again the court was not specific 14:28  
21 about which contentions were unsupported.

22 342 Q. Okay. Ms. Gorski, you're here as an expert to help the  
23 case, a very intelligent expert and you know the  
24 significance of a court saying somebody can only  
25 speculate as to how the process is conducted, you know 14:28  
26 the significance of that, don't you?

27 A. I don't know the precise significance --

28 343 Q. I see.

29 A. -- in the context of these proceedings, but as a

1           general matters it means that the individual who is  
2           simply speculating, the assertions put forth may be  
3           given less credence.

4   344   Q.   Given less credence.  Somebody *speculates*, are you  
5           suggesting credence should be given to speculation?           14:28

6           A.   I did not mean to suggest that credence could be given  
7           to speculation.  I didn't mean to imply that.

8   345   Q.   Okay.  So somebody who speculates as to how the process  
9           works, his evidence cannot be given any credence with  
10          regard to the operation of the process; isn't that           14:29  
11          correct?

12          A.   His evidence about what data were actually possessed  
13          and by whom and for how and for what purpose could not  
14          be given credence in the context of this case.  The  
15          court deemed that that was the case --                       14:29

16   346   Q.   Yes.

17          A.   -- based on the court's review of classified  
18          information.

19   347   Q.   Yes.  Of how the processing, you don't want to lose the  
20          connection between the 'how' and the 'processing', that   14:29  
21          he didn't have any evidence as to the processing; isn't  
22          that correct, other than speculation, which we have  
23          agreed is not evidence?

24          A.   "*Actually processed and by whom and how and for what*  
25          *purpose*".  Yes, because he was never involved in its           14:29  
26          operation.

27   348   Q.   So this technician that you have informed the court of  
28          about 15 minutes ago is somebody who you know, because  
29          you know the laws of evidence, doesn't actually provide

1 any support for the proposition you have put to the  
2 court with regard to copying?

3 A. This is based on one court's assessment of Klein's  
4 personal knowledge. I don't know that that means that  
5 Klein is not a basis for forming my belief about mass 14:30  
6 copying which is informed by other data points as well.

7 349 Q. Okay. Well, is there another court that took a  
8 different view on Klein's knowledge, Ms. Gorski, that  
9 we are aware of that you should inform the judge?

10 A. Not to my knowledge. 14:30

11 350 Q. Yes. So when you put forward Klein as an authority for  
12 the proposition that there is mass copying, you knew  
13 that he didn't provide any evidence for that because he  
14 was somebody who just was speculating on this; isn't  
15 that correct? 14:30

16 A. It's not clear to me from the court's opinion that the  
17 court was saying that Klein could only speculate about  
18 the existence of the splitter, it is just such a  
19 specific proposition and the court's assessment of  
20 Klein does not go into that level of detail. 14:31

21 351 Q. Well the court says he knows nothing about the process  
22 *at all*, it doesn't need to go into the level of detail.  
23 It says he doesn't know about the process, splitter or  
24 anything else about the process?

25 A. The court says that he was never involved in its 14:31  
26 operation, but I think that there may be a distinction  
27 between directly involved in a highly classified  
28 operation and working in a facility and having  
29 knowledge of the technology that is being used in that



1 facility.

2 352 Q. Yes. In paragraph 25 you go on to refer to Upstream  
3 applying to the internet communications, I think it's  
4 called the internet backbone; isn't that correct?

5 A. Yes. 14:31

6 353 Q. And you identify the entities that that relates to,  
7 being Verizon, AT&T; isn't that correct?

8 A. Verizon and AT&T are two of the example companies.

9 354 Q. Yes. And there is no evidence whatsoever that Facebook  
10 is involved in Upstream; isn't that correct? 14:32

11 A. That's correct. However, I would note that individuals  
12 who communicate through Facebook and if those  
13 communications are international, their communications  
14 may very well be swept up in the bulk searching process  
15 of Upstream. But there is no evidence that Facebook is 14:32  
16 compelled to assist the government with respect to  
17 collection under Upstream surveillance under  
18 Section 702.

19 355 Q. At the end of that paragraph: *"Thus, though through  
20 Upstream surveillance the NSA has generalised access to 14:32  
21 the content of communications as it indiscriminately  
22 copies and searches through vast quantities of personal  
23 metadata and content."*

24

25 well, firstly, we have dealt with the copies and we 14:33  
26 have also dealt with the fact that it is not  
27 indiscriminate, it does use discriminants; isn't that  
28 correct?

29 A. Upstream surveillance involves discriminants but the

1 first stage of Upstream surveillance involves searching  
2 and opening through vast quantities of communication  
3 and that opening of the communications and that  
4 searching is itself an indiscriminate search because  
5 the government is touching communications 14:33  
6 indiscriminately, the government is accessing  
7 communications indiscriminately.

8 356 Q. How would you carry out a search, could you explain to  
9 the court, without access to the communications, the  
10 body of data you intend to search, how would that be 14:33  
11 done?

12 A. One way that Upstream could be done that would be more  
13 privacy protective is, rather than search the contents  
14 of the communications, for the government to scan just  
15 the metadata and to see if the metadata is to or from 14:33  
16 its targeted selectors as opposed to looking at the  
17 body of the communications to see if the communications  
18 even reference a targeted selector. It's a much more  
19 intrusive search.

20 357 Q. That's for the 'about', if the about is a target; isn't 14:34  
21 that correct, which it may not be?

22 A. I don't understand.

23 358 Q. The 'about' collection involves searching through the  
24 document - sorry, the communication - to see if there's  
25 any reference in the body of the communication to the 14:34  
26 particular target; isn't that correct?

27 A. As the government conducts Upstream surveillance, about  
28 surveillance is in the government's view inextricably  
29 intertwined, it is part and parcel of Upstream

1 surveillance. Upstream involves searching for targeted  
2 selectors that appear anywhere within the contents or  
3 the headers of the communications. So about  
4 surveillance is part and parcel of Upstream.

5 359 Q. And to carry out that targeted search using an 'about' 14:34  
6 communication, you have to examine the documents; isn't  
7 that right, or search the documents, I should say;  
8 isn't that correct?

9 A. If the --

10 360 Q. Sorry, I keep saying 'documents', I do apologise, 14:34  
11 search the body of data, I'll be more precise.

12 A. Because the government is collecting communications  
13 that are *about* the target, yes, it is searching through  
14 the body of those communications to locate  
15 communications that are about the target. 14:35

16 361 Q. And that's the only way that can be done; isn't that  
17 correct?

18 A. Practically speaking the government would have to  
19 search through the body of communications to locate  
20 communications that are merely about its targets. But 14:35  
21 this --

22 362 Q. And your objection, Ms. Gorski, is that you don't think  
23 that the government should be searching for 'about'  
24 communications; isn't that correct?

25 A. That is one of the objections, yes. 14:35

26 363 Q. Yes. And Upstream only constitutes I think less than,  
27 is it 10% of the 702 programme?

28 A. It is either 10% or describes it slightly less as 10%,  
29 but I believe ten.

1 364 Q. I think it is 8-10%, I think?

2 A. One of the FISC opinions I think uses 10%. I would  
3 note, however, that that statistic refers to the number  
4 of communications that are ultimately ingested. So the  
5 2011 figure for communications collected under 702 was 14:36  
6 more than 250 million, 90% of which were PRISM  
7 communications and 10% of which were Upstream  
8 communications. That said, that's the end result of  
9 the government searches. That in no way reflects the  
10 much greater body of text based internet communications 14:36  
11 that the government is accessing and searching through,  
12 through Upstream collection.

13 365 Q. Well, if you go back to paragraph 19 of your opinion,  
14 you refer to the figures, and we have already touched  
15 on this, that in 2015 the government targeted the 14:36  
16 communications of 94,000 odd individuals; isn't that  
17 correct?

18 A. Yes.

19 366 Q. And you say under a single FISC order, and we have  
20 established that's the annual certificate? 14:36

21 A. Yes.

22 367 Q. So that's in a year?

23 A. Yes.

24 368 Q. You yourself in your report identified that wikimedia,  
25 whom you represented or were involved with in the case, 14:37  
26 they have three trillion communications a year; isn't  
27 that correct?

28 A. They certainly, they have more than a trillion internet  
29 communications, international text based internet

1           communications a year, yes.

2   369   Q.   Yes. Three trillion is what you say in your report?

3           A.   Then that is the accurate number, yes.

4   370   Q.   And I take it from your interest in this area you're

5           aware of the magnitude of daily internet transactions?   14:37

6           A.   I don't know if those have been quantified in terms of

7           number of communications. But, yes, daily internet

8           transactions, there are many.

9   371   Q.   And they are estimated at about 450 billion a day;

10          isn't that correct?   14:37

11          A.   I don't know. 450 billion internet transactions a day?

12   372   Q.   A day, yes.

13          A.   I'm not familiar with that particular estimate.

14          **MS. JUSTICE COSTELLO:** Are you talking about globally

15          or in the US?   14:38

16   373   Q.   **MR. GALLAGHER:** Globally, yes, Judge. I should have

17          clarified that, sorry, globally. We're talking about,

18          and I take it you agree that less than 2% of the

19          information in the world at the moment is non-digital,

20          are you aware of that?   14:38

21          A.   2% of the information?

22   374   Q.   Is non-digital.

23          A.   I was not aware of that particular statistic.

24   375   Q.   But, irrespective of the precise numbers, on any

25          version the vast body of communications are now done   14:38

26          digitally; isn't that correct?

27          A.   Hmm, that would be my assumption.

28   376   Q.   Yes. And that the universe of digital communications,

29          whether judged by day or by year, is enormous?

1 A. Certainly.

2 377 Q. Yes. And any intelligence agency that wanted to  
3 acquire information would have to have some means of  
4 accessing communications that would provide relevant  
5 information to discharge its obligations; isn't that 14:39  
6 correct?

7 A. Could you please repeat the question.

8 378 Q. Any intelligence agency that was discharging its  
9 obligations would need to search this body of  
10 communications in order to obtain information to enable 14:39  
11 it to discharge those functions?

12 A. I fear that the statement may be a bit too general.  
13 I don't think that any intelligence agency would need  
14 to search every single digital communication in the  
15 world every single day in order to discharge its 14:39  
16 functions. I think there are ways of restraining and  
17 cabining that search.

18 379 Q. Well, firstly, nobody is suggesting every communication  
19 is searched every day, but it would have to have some  
20 means of searching the large body of communications 14:39  
21 data; isn't that correct?

22 A. Again in order to?

23 380 Q. Discharge its functions, its obligations?

24 A. Would an intelligence agency need to have some means of  
25 searching a body of communications? 14:40

26 381 Q. Yes.

27 A. I think it depends on how the intelligence agency's  
28 functions are defined. Again, as I noted earlier, if  
29 realtime wire-based surveillance is going to be a form

1 of surveillance conducted by the intelligence agencies,  
2 there are ways to theoretically conduct, they are ways  
3 to conduct it that would be more targeted than what the  
4 NSA is doing with Upstream surveillance and it is  
5 certainly more targeted than what the NSA is doing 14:40  
6 under Executive Order 12333.

7 382 Q. You say it would certainly be more targeted than NSA is  
8 doing, but your report says you don't know the  
9 targeting procedures used by NSA, they are classified,  
10 that's what your report says? 14:40

11 A. The targeting procedures used by the NSA have been  
12 published in conjunction with the media account, so we  
13 do have access to the targeting procedures. In  
14 addition the PCLOB has described the privacy procedures  
15 in its recommendation -- or, I am sorry, the PCLOB has 14:41  
16 described the targeting procedures in its  
17 recommendation that the targeting procedures be  
18 strengthened. Separately, we have the face of the  
19 statute which prescribes at a general level the  
20 standard for targeting and that standard is extremely 14:41  
21 permissive.

22 383 Q. Just to direct you, if I may, to paragraph 21 of your  
23 report: "*Although the government has not made public*  
24 *its Section 702 targeting procedures*", that's what you  
25 say in your report? 14:41

26 A. The government has not officially acknowledged  
27 Section 702 targeting procedures. They have been made  
28 public through a leak of some sort. I should have  
29 clarified that -- well it is completely accurate that

1 the government has not made public its Section 702  
2 targeting procedures, however the government has  
3 described those procedures --

4 384 Q. Yes.  
5 A. -- in part in the PCLOB reports. 14:41

6 385 Q. Exactly. And in fact the PCLOB report goes into great  
7 detail in targeting, in describing those targeting  
8 procedures; isn't that correct? Page, I think, 45  
9 onwards; isn't that correct?

10 A. Let me -- 14:42

11 386 Q. Sorry, page 41 onwards, excuse me.  
12 A. It describes the targeting procedures in some detail  
13 and it also says: "*while some information has been*  
14 *released by the government.*"

15 387 Q. Yes. 14:42  
16 A. "*Neither the NSA nor the FBI targeting procedures have*  
17 *been declassified in full*", which is entirely  
18 consistent with the assertion in my report.

19 388 Q. Well if they have not been declassified you're not in a  
20 position to say that there are other and better 14:42  
21 targeting procedures that could be used?

22 A. Again the 2009 targeting procedures have been made  
23 publically available and I think what is also relevant  
24 here is the face of the statute which permits the  
25 targeting of any non-US person who was reasonably 14:42  
26 believed to be located abroad, and the significant  
27 purpose of the collection is to gather foreign  
28 intelligence information which is broadly defined.  
29 Given that that's the lodestar for targeting I think



1 I am in a position to say that the targeting could be  
2 more constrained as the PCLOB found itself.

3 389 Q. Okay. Well just taking each of those points. Firstly,  
4 what you describe as the targeting procedures made  
5 public in 2009, those have never been acknowledged by 14:43  
6 the government; isn't that correct?

7 A. That is correct.

8 390 Q. Yes. Secondly, as you well know, there have been  
9 significant changes to the targeting procedures since  
10 2009; isn't that correct? 14:43

11 A. I know that there have been changes. I can't opine on  
12 how significant they have been.

13 391 Q. But you have opined on the targeting procedures and  
14 they should be changed, and you told us you can do that  
15 because of the 2009 publication and now you're telling 14:43  
16 us you don't know the significance of the changes that  
17 have been made since?

18 A. I do know the changes that have been described by the  
19 PCLOB and the PCLOB made it clear that its  
20 recommendations for stronger targeting procedures had 14:43  
21 not been fully implemented. And, separate from the  
22 targeting procedures, my comment about how Upstream  
23 surveillance could be conducted in a more targeted  
24 fashion relates to how it could be accomplished. The  
25 targeting procedures provide very general guidelines 14:44  
26 about the ways in which NSA analysts must document  
27 their targeting, for example. I mean it provides very  
28 broad criteria for examples of what constitutes foreign  
29 intelligence information.

1           **MR. GALLAGHER:** Okay. I'm going to then refer you to  
2           the statute which you have relied on, if you go to  
3           divide 3. Judge, the statute is in book, you might  
4           find it easier. It's in divide 3 of this book.  
5           **MS. JUSTICE COSTELLO:** This book? 14:44  
6           **MR. GALLAGHER:** Yes. Mr. Collins referred to the  
7           version in the first book of US authorities, 14.  
8           **MS. JUSTICE COSTELLO:** Yes.  
9           **MR. GALLAGHER:** But I think, I have only a few sections  
10          and it's probably as easy to refer to here. 14:44  
11          **MS. JUSTICE COSTELLO:** Yes.  
12   392   **Q.**   **MR. GALLAGHER:** And if you go to page 4, firstly these  
13          powers are used to acquire foreign intelligence  
14          information; isn't that correct? That's what you have  
15          told us already? 14:45  
16          **A.**   The statute authorises the collection of information --  
17   393   **Q.**   Yes.  
18          **A.**   -- related to foreign intelligence.  
19   394   **Q.**   Yes. And you told us that there is sort of a general  
20          reference to foreign affairs which makes it very broad, 14:45  
21          isn't that what you told us?  
22          **A.**   Yes, the definition of foreign intelligence when the  
23          information is not concerning a United States person is  
24          extremely broad.  
25   395   **Q.**   Okay. well let's just look at it then in 4: "*Firstly,* 14:45  
26          *foreign intelligence information means information that*  
27          *relates to, and, if concerning a US person, is*  
28          *necessary to the ability of the US to protect itself*  
29          *against (a) actual or potential attack or grave hostile*

1           *acts of a foreign power*". That, I take it, you would  
2           agree is a necessary protection? would you?

3           A. I'm not sure exactly what you mean by "*necessary*".  
4           This is a definition that relates to an extremely broad  
5           surveillance authority and the breadth of the 14:46  
6           surveillance authority I don't think is necessary. If  
7           you are asking me as a general principle is it  
8           important to protect against attacks and great hostile  
9           acts, yes it is important to protect against attacks  
10           and great hostile acts, but there is not a clear nexus 14:46  
11           between that protection and the surveillance that's  
12           currently conducted under Section 702.

13   396   Q. Just sticking with the definition then, do you think  
14           that definition should be further narrowed or further  
15           expressed, expressed differently? 14:46

16           A. My concern with the definition of foreign intelligence  
17           information is specifically with respect to Part 2.

18   397   Q. Okay. So you have no issue with the first part, (a),  
19           (b) and (c) in 1?

20           A. "*Information that*" -- again the definition of vacuum, 14:46  
21           no, but the "*authority as implemented*" I do have  
22           concerns with.

23   398   Q. Okay. well you did refer to the statute and we're just  
24           dealing with the statute now and we will see the  
25           implementation. 14:47

26           A. Mm hmm.

27   399   Q. Then in 2 you refer to the conduct of the foreign  
28           affairs, but if you read 2 you will see that it is  
29           actually circumscribed: "*Information with respect to a*

1           *foreign power or foreign territory*". So it's a foreign  
2 power or foreign territory that relates to the conduct  
3 of the foreign affairs?

4       A.    *"That relates to"* is an extremely broad term and  
5           *"information with respect to a foreign power or a* 14:47  
6           *foreign territory"*, I don't see that as a significant  
7 constraint on the foreign affairs prong under 2.

8 400 Q.    Okay. What sort of connector do you think should be  
9 used instead of *"relates to"*, do you think it would be  
10 appropriate to have a narrower connector there? 14:47

11       A.    I think it would be appropriate to narrow the  
12 definition of foreign intelligence information more  
13 broadly to a more concrete set of objectives that are  
14 more analogous to what's set forth under 1 at the very  
15 least. 14:48

16 401 Q.    Firstly, I suggest to you that while it's described in  
17 those terms, it is in and of itself a restraint on the  
18 use of these powers; isn't that correct? That's  
19 something that is a curtailment or restraint on the use  
20 of the powers? 14:48

21       A.    The powers don't exist outside of the statute because  
22 the Fourth Amendment would be the fundamental  
23 constraint on government actions. So the government is  
24 constrained and then the government under this statute  
25 is authorised to collect foreign intelligence 14:48  
26 information in certain circumstances and under Section  
27 702 those circumstances are extraordinarily broad and  
28 the standard is very permissive.

29 402 Q.    Just as we're on this, are you aware of the statutory

1 basis for any other country and how it defines what its  
2 national security services can do?

3 A. I am not.

4 403 Q. No. Are you aware whether any other country, with the  
5 recent exception of the United Kingdom, make available 14:49  
6 the statutory basis for its foreign intelligence  
7 gathering?

8 A. I am not.

9 404 Q. No. And here the United States sets out the basis on  
10 which these powers can be exercised in a statute in 14:49  
11 relation to Section 702; isn't that correct?

12 A. Section 702 is a statutory authority, it's a very broad  
13 grant of authority and in some ways the devil is in the  
14 details because the statute contemplates minimisation  
15 procedures and targeting procedures and, as we have 14:49  
16 established, the government has not officially  
17 acknowledged the precise targeting procedures in full,  
18 although there have been some official government  
19 acknowledgments about aspects of those targeting  
20 procedures. 14:49

21  
22 I would also note that, even more than 702, Executive  
23 Order 12333 is an extremely broad grant of authority  
24 that conducts surveillance and that executive order is  
25 not a statutory law, it was not passed by Congress and 14:50  
26 it can be revoked or amended by the executive at will  
27 at any time.

28 405 Q. I'll come, don't worry, Ms. Gorski, to 12333, we'll  
29 look at that, but if you don't mind it might just

1 assist if we look at Section 702 at the moment which is  
2 what my questions are directed to. And you did say  
3 that the targeting procedures in the statute were very  
4 broad; isn't that correct?

5 A. The targeting procedures that I have seen from 2009 and 14:50  
6 my understanding of the targeting procedures as  
7 described by the PCLOB, yes, the targeting procedures  
8 are very broad and the overall standard for targeting,  
9 which is articulated in the statute, is a very broad  
10 standard. 14:50

11 406 Q. But you do acknowledge a distinction and your answers  
12 do acknowledge a distinction between the broad  
13 targeting basis provided for in the statute and the  
14 targeting procedures that are actually used, details of  
15 which you're not aware of? 14:51

16 A. The targeting procedures that are actually used conform  
17 to the standard set forth in the statute. They do not  
18 significantly restrain. They don't in any way  
19 substantively change the underlining standard which is  
20 the government reasonably believes that a non-US person 14:51  
21 located broad is the target of the communication and a  
22 significant purpose is to acquire for intelligence  
23 information. That substantive standard is unchanged by  
24 the targeting procedures. What the targeting  
25 procedures do is provide some examples of the types of 14:51  
26 appropriate targeting and set forth some specific  
27 documentation requirements.

28 407 Q. Yes. And if you go to page 41 of the report there is a  
29 description of the targeting procedures, that's the

1 PCLOB report divide 11 of book 7. And I'm not going to  
2 waste time on this --

3 **MS. JUSTICE COSTELLO:** Sorry, what's the page again?

4 **MR. GALLAGHER:** It's page 41, Judge, but there's just a  
5 few passages I want to draw your attention to. And it 14:52  
6 says how they go about targeting and if you go to page  
7 42, the last paragraph:

8  
9 *"Section 702 targeting begins when an NSA analyst  
10 discovers or is informed of a foreign intelligence 14:52  
11 lead, specifically information indicating that a  
12 particular person may possess or receive the types of  
13 foreign intelligence information described within one  
14 of the Section 702 certifications."*

15 A. Yes. 14:52

16 408 Q. And then it goes over the page to explain that:

17  
18 *"Having identified a potential person to target through  
19 the tasking of a selector, the NSA analyst must then  
20 apply the targeting procedures. These procedures 14:52  
21 require the NSA analyst to make a determination  
22 regarding the assessed location and non-US person  
23 status of the potential target, whether the target  
24 possesses or is likely to communicate or receive  
25 foreign intelligence information authorised and 14:53  
26 approved."*

27  
28 You see that?

29 A. Mm hmm. I don't see -- oh, "authorised under and

1           *approved*".

2   409   Q.   Yes.  *"Authorised under and approved, excuse me,*  
3           *certification"*?

4           A.   Yes.

5   410   Q.   Then if you go to the next paragraph, it talks about an   14:53  
6           initial review.  It describes, I don't want to take the  
7           court's time, that the initial review then is reviewed  
8           again; isn't that correct, by a superior?  You are  
9           familiar with all of this, Ms. Gorski, aren't you?

10          A.   I am familiar with this.  I am just wondering about the   14:53  
11          second review (witness reading the document).  Could  
12          you please point me to the specific sentence concerning  
13          the second review of the foreignness determination.

14   411   Q.   Would you go to *"approvals"* on page 46:  *"Once analysts*  
15           *have documented their determination in a NSA database*   14:53  
16           *the tasking request undergoes two layers of review*  
17           *before Section 702 acquisition is initiated"*, do you  
18           see that?

19          A.   Yes.

20   412   Q.   *"Two different senior NSA analysts must review the*   14:54  
21           *documentation"*?

22          A.   Yes.

23   413   Q.   So that's a very detailed description of the targeting  
24           procedure, isn't it?

25          A.   It's a somewhat detailed description of the targeting   14:54  
26           procedures and it makes clear that the ultimate  
27           standard articulated on the face of the statute is  
28           unchanged by the targeting procedures.

29   414   Q.   Nobody is suggesting, I don't think anybody thought,



1 Ms. Gorski, that anybody could change what's in the  
2 statute?

3 A. Hmm.

4 415 Q. But it identifies that, notwithstanding the statutory  
5 power, there is a very detailed procedure that is 14:54  
6 actually documented in respect of each targeting  
7 exercise?

8 A. Respectfully I do feel that your questions previously  
9 suggested that the targeting procedures themselves  
10 substantially constrain the actual targeting decisions. 14:54

11 416 Q. I see.

12 A. And I just wanted to point out that here it's very  
13 clear that the standard articulated on the face of the  
14 statute is the standard that applies to the targeting  
15 decisions. 14:54

16 417 Q. Well, do you think it's entirely accurate then to say  
17 as you do in that paragraph of your report,  
18 paragraph 21, that the government has not made public  
19 its section 702 targeting procedures?

20 A. It is accurate that the targeting procedures 14:55  
21 themselves, the actual targeting procedures have not  
22 been officially acknowledged. The document that I cite  
23 is the targeting procedures that the government has  
24 published and it has full redacted the content of those  
25 procedures. However, as I have explained in my 14:55  
26 testimony here, and as I think is reflected in the  
27 memorandum that the experts collectively put together,  
28 official government documents have described portions  
29 of those targeting procedures and the 2009 version of

1 the targeting procedures is publically available,  
2 although not officially acknowledged.

3 418 Q. well, that's a description of the targeting procedures  
4 that you yourself said was quite detailed; isn't that  
5 correct? 14:55

6 A. which description of the targeting procedures?

7 419 Q. The one that I opened, pages 41 to 45.

8 A. I don't know that I agree that it was quite detailed.  
9 It provides some detail about portions of the targeting  
10 procedures, yes. 14:56

11 420 Q. And when you talk about the other detail, you're  
12 talking about perhaps operational details with regard  
13 to the particular selectors used; is that correct?

14 A. No, I'm talking about specific, more specific  
15 instructions in the 2009 targeting procedures. I'm not 14:56  
16 referring to the selection of, I'm not talking about  
17 particular selectors.

18 421 Q. Yes. And you wouldn't expect that to be published, but  
19 what you would expect or, sorry, not expect, but what  
20 is published here is a description of the process that 14:56  
21 is involved, a very careful process before a directive  
22 is issued; isn't that correct?

23 A. I would not characterise the process as necessarily  
24 very careful. I do appreciate that there are levels of  
25 executive branch review but this is surveillance that 14:56  
26 is not, there are no individualised determinations made  
27 by a judge ex ante and these are targeting decisions  
28 that are made entirely within the discretion of the  
29 executive branch. And -- yes, that's all.

1 422 Q. And of course those targeting procedures describe not  
2 only PRISM but Upstream; isn't that correct?

3 A. Yes, the targeting procedures are also not specific to  
4 either programme. And they are not, based on my  
5 understanding from, not the PCLOB report but a 14:57  
6 different one. There are not different targeting  
7 procedures for different certifications, which again  
8 I think speaks to the ways in which the targeting  
9 procedures wouldn't operate as a meaningful constraint  
10 on the surveillance given that they are not tailored to 14:57  
11 the type of surveillance conducted.

12 423 Q. And you are aware that within the NSA there are  
13 dedicated legal divisions who have responsibility in  
14 relation to reviewing and guiding in relation to these  
15 processes; isn't that correct? 14:57

16 A. The NSA does have in-house lawyers.

17 424 Q. And it has a very substantial compliance section; isn't  
18 that correct?

19 A. I don't know that I would characterise it as  
20 substantial, but it does have a compliance section, or 14:58  
21 it has an inspector -- it has an office of the  
22 inspector general.

23 **MR. GALLAGHER:** Yes. Can I now ask you to look at the  
24 document - it's more easily found, Judge, in Book 13,  
25 Book 1 of 13, there's a more complete version. 14:58  
26 Ms. Gorski has included the main body of the adequacy  
27 decision but not the annexes in her book, so I would  
28 ask that the witness be given Book 13-1, if I may, if  
29 she has it already.



1 426 Q. Then it is overseen by the -- sorry, excuse me. It  
2 says: *"Therefore, as noted by the PCLOB, surveillance*  
3 *'consists entirely of targeting specific non-US person*  
4 *about whom an individualised determination has been*  
5 *made'"*, do you see that? 15:00

6 A. Yes.

7 427 Q. And in 82 it says: *"Moreover, in its representations*  
8 *the US government has given the European Commission*  
9 *explicit assurance that the US Intelligence Community*  
10 *'does not engage in indiscriminate surveillance of* 15:00  
11 *anyone, including ordinary European citizens'.* As  
12 *regards personal data collected within the US, this*  
13 *statement is supported by empirical evidence which*  
14 *shows that access through NSL and under FISA, both*  
15 *individually and together, only concern a relatively* 15:00  
16 *small number of targets when compared to the overall*  
17 *flow of data."*

18

19 You saw those paragraphs when you looked at the  
20 decision, I take it? 15:01

21 A. Yes, and I have some concerns about particular  
22 formulations in those paragraphs.

23 428 Q. I see. You don't accept what the US government told  
24 the European Commission then?

25 A. Well, I would like to begin first with paragraph 81. 15:01  
26 There's a reference to the *"targeting of specific*  
27 *non-US persons about whom an individualised*  
28 *determination has been made"*. An important context  
29 there is that the individualised determination is made

1 entirely by the executive branch, it's not an  
2 individualised determination by a court.

3 429 Q. I think --

4 A. Separately, in connection with paragraph 82, I disagree 15:01  
5 with the US government's representation that it does  
6 not engage in indiscriminate surveillance of anyone,  
7 including ordinary European citizens.

8 430 Q. I see.

9 A. As noted previously I -- Upstream surveillance clearly 15:01  
10 involves bulk searching and that bulk searching is a  
11 form of indiscriminate surveillance. In addition,  
12 under Executive Order 12333, as we know from the  
13 definitions in Presidential Policy Directive 28, the  
14 government even acknowledges that it engages in bulk  
15 collection. And more generally because the targeting 15:02  
16 standard is so low, I think that that is of real  
17 concern and certainly ordinary European citizens'  
18 communications are swept up by the vast US surveillance  
19 apparatus.

20 431 Q. I take it from that, Ms. Gorski, you might think that 15:02  
21 the Commission must not have understood the reference  
22 to individual determinations and must have thought  
23 there was a court involved, is that what you -- are you  
24 suggesting that?

25 A. I'm not suggesting that the Commission misunderstood 15:02  
26 individualised determination. I was just clarifying  
27 for the court here to provide additional context for  
28 that statement. And then, with respect to paragraph  
29 82, this also, it's access request through NSL and

1 under FISA individually and together. I'm not sure  
2 exactly what the court means by "access requests". Oh  
3 here it cites the statistical transparency report.  
4 Okay, so these are requests for information that has  
5 been stored, not surveillance in realtime. And so 15:03  
6 empirical evidence about surveillance of stored  
7 communications, it doesn't, it's not enough, it's not  
8 the proper comparator when you are looking at  
9 collection under Section 702 as a whole which  
10 incorporates both surveillance of stored communications 15:03  
11 and surveillance in realtime of communications as they  
12 are transiting cables.

13 432 Q. Ms. Gorski, could I ask you to perhaps continue on in  
14 that document. The pagination is perhaps sometimes  
15 difficult to detect, but it's visible on the top left 15:04  
16 or right-hand side. And if you went to paragraph --  
17 page 98, sorry. You can see it's L207. And if it's on  
18 the left-hand page, it's on the left-hand side at the  
19 top and if it's on the right-hand page, it's on the  
20 right-hand side. L207/98. And it's part of the letter 15:04  
21 of Robert Litt. Have you got it? The heading is  
22 Foreign Intelligence Surveillance Act?

23 A. Yes. I don't see -- could I just, I just want to make  
24 sure that this *is* the letter of Robert Litt, that  
25 that's the header for the letter. 15:05

26 433 Q. Yes, if you go back to 91.  
27 A. Great. Thank you very much.

28 434 Q. And if you look at the first paragraph:  
29

1           *"Collection under Section 702 of the FISA is not mass*  
2           *and indiscriminate, but is narrowly focused."*

3

4           Do you see that?

5           A.    Yes. 15:05

6   435   Q.    Then the next:

7

8           *"Collection under Section 702 is one of the most*  
9           *valuable sources of intelligence both for the United*  
10          *States protecting both the United States and our* 15:05  
11          *European partners."*

12

13          And:

14

15          *"Extensive information of the operational oversight of* 15:05  
16          *Section 702 is publicly available."*

17

18          Do you see that?

19          A.    I do see that.

20   436   Q.    Then just at the last paragraph of the page: 15:05

21

22          *"Once the court approves the targeting and minimisation*  
23          *procedures, collection under Section 702 is not bulk or*  
24          *indiscriminate, but consists entirely of targeting*  
25          *specific persons about whom an individualised* 15:06  
26          *determination has been made."*

27

28          And it's making clear what the process is, isn't that  
29          correct?



1 A. That is what the text says. I would want to respond to  
2 the text.

3 437 Q. Okay. Well, I'll give you an opportunity in a moment.  
4 If you go over the page, at the very top, the first  
5 sentence:

15:06

6  
7 *"The basis for the selection of the target must be*  
8 *documented. The documentation for every selector is*  
9 *subsequently reviewed by the Department of Justice."*

10

15:06

11 You see that?

12 A. I do see that. My concern at the outset with the fact  
13 that collection under 702 is not mass and  
14 indiscriminate is the following: The information that  
15 is ultimately collected under 702 is collected through  
16 the use of targeted selectors; however, because the  
17 targeting standard is so low and because there is such  
18 a vast number of targets, I think it is still fair to  
19 say that collection under Section 702 is mass  
20 surveillance.

15:06

15:07

21  
22 Now, because the collection uses discriminants, the  
23 selectors discriminants, it may be correct that  
24 collection under 702 is not indiscriminate, that that's  
25 pertaining solely to the end product, to the collection  
26 itself. But the process by which the collection  
27 occurs, which involves bulk searching under Upstream  
28 surveillance, that searching is a kind of  
29 indiscriminate searching.

15:07

1  
2           so I think collection should be understood more broadly  
3           to refer to the entire collection process, which does  
4           include indiscriminate searching under Upstream  
5           surveillance under Section 702. However, even applying 15:07  
6           a narrower definition of "collection" where you're only  
7           referring to the communications that are acquired for  
8           long-term use, I would still characterise "collection"  
9           under Section 702 as mass collection.

10 438 Q. I think that's how you've characterised it in the 15:07  
11           various publications that I drew your attention to this  
12           morning, isn't that correct?

13           A. That's how I've characterised it in my report and --

14 439 Q. Yeah.

15           A. -- I would need to refer back to the specific language. 15:08

16 440 Q. Okay. well, we won't delay on that. And I think  
17           you're giving a lecture this evening on mass  
18           surveillance, isn't that correct?

19           A. Yes.

20 441 Q. And your view of this process, for the reasons that you 15:08  
21           have said, is that it involves mass surveillance?

22           A. Yes.

23 442 Q. But irrespective of your description or  
24           characterisation of it, if you wanted to get, as an  
25           expert, an up to date description of the process as of 15:08  
26           July 2016, shortly before you were doing your  
27           affidavit, you could have taken the description that  
28           the United States government has formally and solemnly  
29           given to the European Commission to explain to the

1 court how that system operates, isn't that correct?  
2 A. I realise that this is a source that I *could* have  
3 cited. However, I do think that this is not the most  
4 direct source, because it is filtered through the  
5 European Commission's understanding of what the 15:09  
6 surveillance practices are. I would also note that the  
7 paragraph we were discussing earlier had an inapposite  
8 example related to access requests - and that's under  
9 NSL and FISA - and as I noted, that wasn't the proper  
10 comparator. So I think that it would not have been 15:09  
11 appropriate for my expert report to just quote the  
12 European Commission's interpretation of US law at  
13 length.

14 443 Q. Well, we were talking there about Robert Litt, who I  
15 think is the General Counsel of the NSA, is that right? 15:09

16 A. Oh, I'm sorry, here we're back at --

17 444 Q. Well, that's what we were on, I think, Ms. Gorski. I'm  
18 sorry if I didn't make that clear.

19 A. Excuse me, we're back in the letter, not in the  
20 European Commission's decision. 15:09

21 445 Q. No, we hadn't gone back to it. I will just stick with  
22 the letter, which is what you were commenting on.

23 A. Yes. And I do, I appreciate Robert Litt is under a  
24 solemn obligation to describe this surveillance in a  
25 way that he believes is accurate. I disagree with his 15:09  
26 characterisation of surveillance conducted under  
27 Section 702.

28 446 Q. So you *could've* offered to the court, as an expert,  
29 that description as being the correct description and

1 then you could've explained to the court, while it does  
2 not say that the collection is indiscriminate and mass,  
3 you disagree with that for the following reasons. You  
4 could've offered your evidence on that basis, isn't  
5 that correct? 15:10

6 A. I could have begun with Robert Litt's description, but  
7 because I disagree with it, I did not see this as the  
8 appropriate frame for presenting this evidence. And  
9 the US Government certainly has an interest in  
10 characterising its surveillance in a particular way in 15:10  
11 the context of the privacy shield.

12 447 Q. But as an expert, nobody is stopping you identifying  
13 your disagreement. What I suggested is you could've  
14 said 'This is the description of it and I disagree with  
15 it in the following respects'. Isn't that correct? 15:10

16 A. I would be reluctant to characterise this as the  
17 definitive description of US Government surveillance.  
18 It is one description put forth by one government  
19 official of US Government surveillance. It includes  
20 characterisations that I disagree with. 15:11

21 448 Q. Well, you're describing Mr. Litt now as *one* government  
22 official?

23 A. He is one government official.

24 449 Q. I see. But you did say that he is somebody, General  
25 Counsel of the NSA, who might be taken to understand 15:11  
26 the system and that he was under a solemn obligation to  
27 identify how it operated, isn't that correct?

28 A. I think he was a General Counsel of the Office of the  
29 Director of National Intelligence.

1 450 Q. Sorry, of the Director of National Intelligence,  
2 exactly.

3 A. I assume that he was under a solemn obligation to  
4 describe the surveillance accurately. But this also  
5 includes his characterisations of the surveillance with 15:11  
6 which I disagree.

7 451 Q. And instead you choose to base your description in  
8 *significant* part on descriptions in the media, isn't  
9 that correct?

10 A. I don't believe it's accurate to say that my 15:11  
11 description of the surveillance is based in *significant*  
12 part on descriptions in the media. Certainly those  
13 descriptions played a role in the creation of my expert  
14 report. But my opinion is also based in large part on  
15 government disclosures concerning the surveillance. 15:12

16 452 Q. Well, if not significant, material part on media  
17 publications, isn't that correct?

18 A. The Snowden disclosures and accompanying press accounts  
19 and other press accounts were a material part of my  
20 expert report, yes. 15:12

21 453 Q. And if you're basing it on a government explanation,  
22 this is the most up to date government explanation by  
23 the person who is General Counsel of the Office of  
24 Director of National Intelligence, responsible for all  
25 these agencies, isn't that correct? 15:12

26 A. There are other government documents that have been  
27 released subsequent to this concerning Section 702  
28 surveillance, but your question was framed as to  
29 whether this is the most up to date statement by Robert

1           Litt. I know that Robert Litt gives many talks and  
2           speeches and it's possible that a transcript of those  
3           speeches exists and there's a more recent statement on  
4           surveillance.

5   454   Q.   All right. Well, you're not aware of any more recent       15:13  
6           statements that contradict the explanation he's given  
7           here, are you?

8           A.   No.

9   455   Q.   So the most recent readily available statement is that  
10          provided by Robert Litt, the General Counsel of the       15:13  
11          ODNI?

12          A.   If your question is: Is the most recent statement of  
13          the General Counsel of the ODNI *this* statement, then I  
14          would say I believe so, barring other significant  
15          statements in other contexts.                               15:13

16   456   Q.   And as an expert, as you say, owing a duty to the  
17          court, do you agree it would at least have been  
18          appropriate, in your report, to draw the court's  
19          *attention* to this description, disagreeing with it if  
20          you want, contradicting it, qualifying it, but that       15:13  
21          that's the way your evidence should have been presented  
22          on this issue of practice?

23          A.   I don't have any particular regrets about how my  
24          evidence was presented. I think I presented it in a  
25          way that was fair and intended to help the court. And   15:14  
26          this was not an intentional omission, I just did not  
27          see this as a source that was worth raising in context  
28          to the court, given my reliance on other government  
29          sources.

1 457 Q. I'm sorry, a source not worth raising to the court,  
2 what you said was the most up to date statement? Just  
3 to understand that?

4 A. Up to date statement of Robert Litt.

5 458 Q. Yes. And that wasn't worth mentioning to the court? 15:14

6 A. I did not see this as an essential aspect of -- I did  
7 not see this particular representation as an essential  
8 aspect of my expert report. I'm also -- I'm not -- I  
9 would want to be 100% sure I didn't cite it at all. I  
10 may have cited it at the end of the report when I was 15:14  
11 discussing the privacy shield Ombudsperson. But that  
12 may have just been to the Kerry letter describing the  
13 Ombudsperson.

14 459 Q. Well, you told us earlier that was just the separate  
15 agreement in the letter. But you did go to the trouble 15:15  
16 of citing one passage in your report, and that's  
17 paragraph 75. And I want to ask you to look at 36.  
18 Paragraph 36 of *your* report, sorry. And keep open the  
19 Adequacy Decision that we're dealing with. And you  
20 purport to quote from the report in paragraph 36. You 15:15  
21 say:

22  
23 *"Indeed, as observed by the European Commission in its*  
24 *Privacy Shield Adequacy Decision, the US Government may*  
25 *access EU citizens' personal data 'outside the United 15:15*  
26 *States, including during their transit on the*  
27 *transatlantic cables from Union to the United States'."*

28  
29 Do you see that?

1 A. Yes.  
2 460 Q. So that's paragraph 75. 81 is on the opposite page.  
3 And if you go back to paragraph 75 you'll see what the  
4 Commission *actually* say:

5  
6 *"These limitations are particularly relevant to*  
7 *personal data transferred under the EU-US Privacy*  
8 *Shield. In particular, in case collection of personal*  
9 *data were to take place outside the United States,*  
10 *including during their transit on the transatlantic* 15:16  
11 *cable from the Union to the United States, as is*  
12 *confirmed by US authorities in the representation of*  
13 *the ODNI, the limitations and safeguards set out*  
14 *therein, including those... PPD28, apply to such*  
15 *collection."* 15:16

16  
17 There's no --

18 **MS. JUSTICE COSTELLO:** Mr. Gallagher, I'm sorry, where  
19 were you quoting from?

20 **MR. GALLAGHER:** Oh, 75 of the Adequacy Decision. 15:16  
21 I do apologise.

22 **MS. JUSTICE COSTELLO:** Now, hang on. I've got  
23 Mr. Litt's letter, and that's page 98.

24 **MR. GALLAGHER:** I'm terribly sorry, this is on  
25 page 16. 15:16

26 **MS. JUSTICE COSTELLO:** Oh, right back at the beginning?

27 **MR. GALLAGHER:** Way back. Sorry.

28 **MS. JUSTICE COSTELLO:** Thank you. I beg your pardon.

29 461 Q. **MR. GALLAGHER:** That is not confirming that it



1 takes place, but it says *in case* it takes place, isn't  
2 that correct?

3 A. In particular, in case of -- yes. And that's correct  
4 in part, because the government's official  
5 acknowledgments about surveillance under Executive 15:17  
6 Order 12333 have been somewhat limited, so I'm assuming  
7 that the government perceived this, the US Government  
8 perceived this to be --

9 462 Q. Classified.

10 A. -- an operational detail and so the European 15:17  
11 Commission was not permitted to confirm or deny the  
12 nature of that surveillance. But it has been  
13 documented extensively in numerous media accounts. And  
14 surveillance under 12333 includes not only this kind of  
15 wire surveillance on transatlantic cables from the EU 15:17  
16 to the US, but also includes the collection of billions  
17 of cellphone location records, address lists, buddy  
18 lists, contents of communications, financial  
19 transactions, the list goes on and on. Basically, any  
20 kind of data that you can imagine collecting in bulk, 15:18  
21 the US Government is collecting under EO 12333, as  
22 described in numerous media accounts.

23 463 Q. But I think you know the question I'm asking, and you  
24 have acknowledged it; the Commission *doesn't* provide  
25 for confirmation that that takes place in terms of the 15:18  
26 undersea cable, isn't that correct?

27 A. It does say "*In case collection of personal data were*  
28 *to take place.*" But it contemplates a very specific  
29 hypothetical that I'm imagining was not drawn up out of

1 thin air.

2 464 Q. Yeah. But you said the Commission was unable to  
3 confirm that, is what you said in your answer a few  
4 moments ago. But that's not how it's expressed in the  
5 report, isn't that correct? 15:18

6 A. I'm not sure whether the European Commission was unable  
7 to confirm that. That would be my supposition based on  
8 this phrasing. But my report says the US Government  
9 *may* access EU citizens' personal data. And I think the  
10 Commission's statement is entirely consistent with 15:19  
11 that; it recognises that the US Government *may*, in  
12 certain cases, collect personal data outside of the  
13 United States. If the US Government did not have this  
14 capacity and if it were not using this capacity, this  
15 sentence wouldn't exist. 15:19

16 465 Q. Well, what you're saying is the US Government could  
17 access data outside the United States *wherever* it is,  
18 is that what you're saying?

19 A. I can't speak to the full breadth of the US  
20 Government's data access capabilities outside of the 15:19  
21 US, but they are significant, including on  
22 transatlantic cables from the EU to the US.

23 466 Q. And that involves a situation where there's *no* transfer  
24 of data to the US, isn't that correct?

25 A. No, this specific hypothetical concerns the transfer of 15:19  
26 data from the EU to the US and the US Government is  
27 intercepting it *off* US soil but as the data is being  
28 transferred from the EU to the US. So again, if the  
29 question put forth by the Court of Justice in Schrems

1 for operative issue is whether the US ensures an  
2 adequate level of protection for data that is  
3 transferred to the US then this kind of surveillance is  
4 pertinent to the inquiry.

5 467 Q. What I'm suggesting to you is that this capacity under 15:20  
6 Executive Order 12333 applies to data *outside* the US,  
7 as opposed to data *transferred* to the US. Isn't that  
8 correct?

9 A. This capacity applies to data that is *being* transferred  
10 to the US. This capacity also applies to surveillance 15:20  
11 that takes place wholly outside of the US and doesn't  
12 involve data being transferred to the US at all. But  
13 what is contemplated by this paragraph is data  
14 transferred from the EU to US. The collection does not  
15 take place on US soil, if that's the relevant 15:20  
16 distinction that you're getting at. However, under  
17 EO12333, as noted earlier, there is an exception for  
18 some kinds of foreign to foreign communications that  
19 transit US soil - the government can, under EO12333,  
20 intercept those communications on US soil as well. 15:20

21 468 Q. If you look at paragraph 27 of your report, you say:  
22 "*EO12333 is the primary authority under which the NSA*  
23 *gathers foreign intelligence*".

24 A. Yes.

25 469 Q. How can you say it's the primary authority? 15:21

26 A. That's based on an NSA document that we obtained  
27 through the Freedom of Information Act. The NSA  
28 characterised it in those terms.

29 470 Q. Is that the basis on which it acquires territory

1 outside the USA?

2 A. Could you please repeat the question? I believe you  
3 said "acquires territory"?

4 471 Q. The reference to primary territory, is that a reference  
5 to acquiring intelligence outside of the USA? 15:21

6 A. That is a reference to acquiring intelligence, the  
7 acquisition taking place off US soil. I did not intend  
8 to suggest that transit authority on US soil is the  
9 primary means of gathering foreign intelligence.

10 472 Q. In relation to the operation of 12333, again you're 15:22  
11 aware of the explanation that's provided of that in the  
12 Adequacy Decision and the annexes that are attached to  
13 the Adequacy Decision, is that correct?

14 A. I know there's a discussion of -- I know Litt  
15 discusses, Mr. Litt discusses PPD-28. And PPD-28 15:22  
16 applies most directly to 12333, so I'm assuming there's  
17 a discussion of 12333 there. But I can't offhand point  
18 to the particular paragraph in which 12333 is  
19 discussed. I would need a citation.

20 473 Q. Just in relation to PPD-28, did you consider what was 15:22  
21 said in that context in the Adequacy Decision?

22 A. What was said by the European Commission or what was  
23 said by Mr. Litt?

24 474 Q. Either.

25 A. I reviewed those materials. My analysis in the report 15:23  
26 is based primarily on the text of PPD-28 itself, which  
27 is fairly straightforward.

28 475 Q. Well, just in relation to the text that you quote in  
29 your report, you don't actually quote the full

1 provisions that you cite of PPD-28, isn't that correct?

2 A. In the interests of --

3 476 Q. If you have PPD-28? It's in divide eight -- or five,  
4 sorry.

5 A. In the interests of brevity, I did not use block 15:23  
6 quotations in discussing, for example, the principles  
7 under PPD-28. I accurately summarise, however, the  
8 constraints on the use of information acquired in bulk.

9 477 Q. Okay.

10 A. The tab number for PPD-28? 15:24

11 478 Q. Is divide five.

12 A. Five. Thank you.

13 479 Q. And you, in paragraph 40 of your report, cite the broad  
14 principles. And the first principle you cite is:  
15 15:24

16 *"The US shall not collect signals intelligence for the*  
17 *purpose of suppressing or burdening criticism or*  
18 *dissent or for disadvantaging persons based on their*  
19 *ethnicity, race, gender, sexual orientation or*  
20 *religion."* 15:24

21

22 You see that?

23 A. Yes, that is a principle I cite.

24 480 Q. Well, when you go to page three of divide five, you'll  
25 see that there's an important sentence that's not 15:24  
26 referred to by you. And that is the sentence:  
27

28 *"Privacy and civil liberties shall be integral*  
29 *considerations in the planning of US signals*

1           *intelligence.*"

2  
3           I take it you agree that's an important sentence?

4           A.     Frankly, I *disagree*. That was not an intentional  
5           omission, but looking at this now, the principles are     15:25  
6           very broad and the principles themselves, without --  
7           because they don't contain implementing regulations and  
8           specific strictures, it's very difficult to know how  
9           the principles will be implemented. In this first  
10          sentence, "*Privacy and civil liberties shall be*     15:25  
11          integral considerations *in the planning of US signals*  
12          *intelligence activities*", it's extremely difficult to  
13          understand what "integral considerations" means when  
14          the same document acknowledges and effectively ratifies  
15          the US Government's engagement in bulk collection of     15:25  
16          communications. Those two things seem to me  
17          dramatically inconsistent.

18       481   Q.     I think it's a historic reference to the integral  
19                  nature of privacy and civil liberties in the context of  
20                  foreign intelligence, isn't it, and was so recognised?     15:25

21          A.     I don't know whether this is some kind of historical  
22                  reference. But it does not function as a meaningful  
23                  constraint on the US Government's foreign intelligence  
24                  gathering exercise.

25       482   Q.     Sorry, my question was badly phrased. Its *inclusion* in     15:26  
26                  the procedures *governing* the collection of foreign  
27                  intelligence is a *historical* matter - there is no  
28                  precedent for it that you're aware anywhere else, is  
29                  that correct?

1 A. I think that there -- for this, this particular  
2 proposition, no. I think there *is* some precedent for  
3 the proposition that signals intelligence should not be  
4 conducted solely for the purposes of burdening First  
5 Amendment rights - now, this is a slightly different 15:26  
6 proposition.

7 483 Q. It is, yeah.

8 A. And the first statement that privacy and civil  
9 liberties shall be integral considerations in the  
10 planning of - it doesn't even say "in the execution", 15:27  
11 but in the planning of - signals intelligence  
12 activities, I am not aware of that statement existing  
13 in other government documents, no.

14 484 Q. If you go to the next item on your 40: "*The collection*  
15 *of foreign private commercial information or trade* 15:27  
16 *secrets is authorised only to protect the national*  
17 *security of the US.*" You omit the second sentence in  
18 (c): "*It is not an authorised foreign intelligence or*  
19 *counterintelligence purpose to collect such information*  
20 *to afford a competitive advantage.*" Do you see that? 15:27

21 A. Yes.

22 485 Q. And in the next one, where you say: "*signals*  
23 *intelligence activities.*" And if you go to (d), you  
24 omit the last sentence: "*Such appropriate and feasible*  
25 *alternatives to signals intelligence should be* 15:27  
26 *prioritised.*" Do you see that?

27 A. Yes. Frankly, I don't think, given the breadth of the  
28 US Government's signals intelligence activities, that  
29 diplomatic and public sources constitute a significant

1 proportion of the information acquired, given that  
2 again, as acknowledged in PPD-28 itself, the government  
3 engages in bulk surveillance. So I agree, I think my  
4 statement -- oh, I do know "*the US shall consider the*  
5 *availability of other information, including from* 15:28  
6 *diplomatic and public sources.*" And I think that  
7 captures the critical part of principle (d).  
8 486 Q. Yeah. "*Should be prioritised*" I think is what (d)  
9 said, isn't that correct?  
10 A. "*Should be*" -- yes, it uses the words "*should be* 15:28  
11 *prioritised*".  
12 487 Q. "*Prioritised*", yeah.  
13 A. Yes.  
14 488 Q. And if you go to the bottom of the page of PPD-28:  
15 15:28  
16 "*3. In particular, when the United States collects*  
17 *non-publicly available signals intelligence in bulk, it*  
18 *shall use the data only for the purposes of detecting*  
19 *and countering the espionage and other threats and*  
20 *activities directed by foreign powers or their* 15:29  
21 *intelligence services against the US and its*  
22 *interests.*"  
23  
24 And those matters are referred to in paragraph 42 of  
25 your report, isn't that correct? 15:29  
26 A. Yes, they're referred to in paragraph 42.  
27 489 Q. And I take it that you agree that all of those purposes  
28 are important purposes, do you?  
29 A. Again, these purposes in a vacuum are arguably



1 important purposes. But it's important to consider  
2 these purposes in context. Here, the government is  
3 saying it can use information collected in bulk - a  
4 violation of the essence of the right to privacy - it  
5 can use that information to advance these purposes, 15:29  
6 which, while important, are also collectively broadly  
7 defined.

8 490 Q. Then if you go on, on the PPD at page five it sets out  
9 safeguarding personal information collected through  
10 signals intelligence. 15:30

11 A. Yes.

12 491 Q. And sets out procedures. Now, can I ask you to go then  
13 to the Litt letter at page 91 in that same divide, in  
14 book one of the European authorities, divide 13?

15 **MS. JUSTICE COSTELLO:** I'm sorry, Mr. Gallagher, what 15:30  
16 was that again?

17 **MR. GALLAGHER:** It's the Adequacy Decision and  
18 the Litt letter, but this time it's at page 91 of that  
19 document, Judge.

20 **MS. JUSTICE COSTELLO:** Oh, yes. 15:30

21 492 Q. **MR. GALLAGHER:** And that gives an explanation  
22 and more detail with regard to PPD-28, isn't that  
23 correct?

24 A. I don't know that it gives more detail, but it gives an  
25 explanation of PPD-28. 15:31

26 493 Q. And I suggest to you that those principles are,  
27 contrary to what you say in your report, certainly a  
28 material limitation on the powers under E012333.

29 A. Some of the principles are technically limitations. I

1 don't think that these are *significant* limitations,  
2 again given the fact that PPD-28 itself ratifies the  
3 practice of bulk surveillance. And I do think that  
4 there are *other* parts of PPD-28 that are more  
5 significant limitations than these principles. 15:32

6 494 Q. And you made the point that that is a Presidential  
7 Directive. But (A) it's in existence and (B) it's part  
8 of the arrangement that was reached with the European  
9 Union, isn't that correct?

10 A. Yes. 15:32

11 495 Q. And if there were any change in the situation, the  
12 European Union, in its annual review procedure,  
13 scheduled to take place before the end of July 2017,  
14 can address that in whatever way it thinks is  
15 appropriate, isn't that correct? 15:32

16 A. Frankly, I'm not sure about the extent of the European  
17 Commission's review procedure, I have no personal  
18 knowledge of that. And separately, I would note that,  
19 unlike Executive Orders, which must be published in the  
20 Federal Register and made public in the United States 15:32  
21 if they're going to have legal force, Presidential  
22 Policy Directives are often classified; for example, up  
23 until very recently one of the presidential policy  
24 directives surrounding targeting killing was entirely  
25 classified. 15:33

26  
27 So I would assume, given general principles of law,  
28 that if PPD-28 were revoked or modified, that that fact  
29 *would* be made public and as a normative matter, it

1 certainly *should* be made public. But I can't entirely  
2 discount the possibility that the administration would  
3 take some kind of unilateral action to modify PPD-28 in  
4 a way that was unknown to the public.

5 496 Q. Okay. Well, assuming the administration doesn't act in 15:33  
6 a way that's covert, unknown and misleading, I take it  
7 you agree that the European Commission will be able to  
8 make a judgment as to the significance of any changes  
9 that might occur in relation to PPD-28 as part of its  
10 review and you can offer an opinion on that without 15:33  
11 knowing the details of that review or its methodology?

12 A. I know no details about that review or its methodology,  
13 so I can offer no opinion.

14 497 Q. You can offer no opinion at all? And would you agree 15:34  
15 that, from your reading of the documents, that PPD-28  
16 was regarded by the Commission as having importance?

17 A. Yes.

18 498 Q. And the Commission attached considerable significance  
19 to it.

20 A. Certainly PPD-28 had importance, yes. 15:34

21 499 Q. And it attached, I suggest, considerably more  
22 significance to it than you did in your report.

23 A. I think that my report explained why certainly the  
24 general principles in PPD-28 did not operate as  
25 significant constraints on the government's privacy 15:34  
26 violations in the course of its foreign intelligence  
27 surveillance. I explained that some of the other  
28 constraints in PPD-28 were *more* significant. However,  
29 they are still extremely weak. For example, the limits

1 on the retention and dissemination of non-US person  
2 communications are defined with respect to section 2.3  
3 of Executive Order 12333. And under Section 2.3, there  
4 are many exceptions for scenarios in which  
5 communications involving US persons can be retained or 15:35  
6 disseminated. First and foremost is if those  
7 communications contain foreign intelligence  
8 information. And critically, under Executive Order  
9 12333, foreign intelligence information is defined even  
10 more broadly than it is under FISA - I believe it's any 15:35  
11 information that relates to the activities of a foreign  
12 person, that's the definition in part.

13  
14 So given that very broad definition, the restraints in  
15 Section 2.3 are, I think, little comfort to Europeans; 15:35  
16 even if it does put them on a more equal footing with  
17 Americans, it's cold comfort.

18 500 Q. Just with regard to the retention of data, PPD-28  
19 requires that NSA destroy collected data within five  
20 years, isn't that correct, *unless* NSA personnel -- that 15:35  
21 data satisfied PPD-28 determinations standards. Isn't  
22 that correct?

23 A. Yes, there is a five-year default age-off for  
24 unevaluated data. But if data has been evaluated and  
25 analysts determine that it contains foreign 15:36  
26 intelligence information, there's the latitude to  
27 retain that communication indefinitely.

28 501 Q. Well, I suggest that's *not* the standard. The standard  
29 is fourfold:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

*"These standards only permit retention if NSA personnel determine that data (1) is publicly available (2) is related to an authorised foreign intelligence requirement (3) is related to past, ongoing or about to be committed crimes or (4) indicates a possible threat to the safety of any person or organisation."* 15:36

Those are fairly specific standards, not just a general position as identified by you. 15:36

A. So, I'm sorry, are you citing the Litt letter still?

502 Q. Yes.

A. So Litt here is referring to implementing procedures which impose these more stringent requirements. I was referring to the text of Executive Order 12333 itself. 15:37  
Section 2.3 refers to the ability to retain communications that contain foreign intelligence information in the abstract. The implementing procedures issued by the NSA are a little bit different. Could you please point me to the page number please? 15:37

503 Q. I just don't have it at my finger tips and I'll come back to it in a moment. But we were talking about PPD-28. You say you were talking about 12333, that's what *you* were talking about in terms of retention. 15:37

A. So PPD-28 defines the retention and dissemination obligations - and this is also in the expert memorandum, the consensus document. Those are defined with respect to Section 2.3 of Executive Order 12333.

1 On its face, Section 2.3 is incredibly broad -  
2 Executive Order 12333 is incredibly broad. However, the  
3 NSA has issued implementing procedures for PPD-28 that  
4 are arguably somewhat narrower, but still again  
5 extremely broad. And I think that the specific 15:38  
6 provisions that counsel was referring to were those  
7 implementing procedures for PPD-28, known as the  
8 Section 4 procedures.

9 504 Q. Exactly.

10 A. And the Section 4 procedures permit retention of 15:38  
11 communications about -- concerning non-US persons if  
12 those communications are related to a foreign  
13 intelligence requirement. Again, foreign intelligence  
14 is defined very broadly. "Related to" is a very broad  
15 term. 15:38

16 505 Q. Okay. Well, of course, we know and you have accepted  
17 that PPD-28 now governs the procedures under 12333,  
18 isn't that correct?

19 A. PPD-28 applies to collection under 12333, yes.

20 506 Q. So if we're looking at what is the position with 15:38  
21 respect to retention, it's appropriate to look at  
22 PPD-28 in that regard, isn't that correct?

23 A. Yes.

24 507 Q. And if I could ask you to go to 12333, which is in 15:39  
25 divide four of your book, the book we've been on with  
26 your statement. And I think you said a number of times  
27 that foreign intelligence is very broad.

28 A. Excuse me just one moment, I have many binders here.  
29 Yes.

1 508 Q. And the definition of foreign intelligence the court  
2 will find in the last page, Judge. Not the very last  
3 page, but the last physical page on the right-hand  
4 side, if that makes sense? 3.5 contains the definition.  
5 So the second last page of text. 15:39

6 MS. JUSTICE COSTELLO: Yes.

7 509 Q. MR. GALLAGHER: At (e):

8  
9 *"'Foreign intelligence information' means information*  
10 *relating to the capabilities, intention or activities* 15:39  
11 *of foreign government or elements thereof, foreign*  
12 *organisations, foreign persons or international*  
13 *terrorists".*

14 A. Yes. And I think that that is about as broad a  
15 definition of foreign intelligence as one can devise. 15:40

16 510 Q. Well, given the significance of the intelligence  
17 gathering capability, that is the sort of definition  
18 that you would expect in the context of foreign  
19 intelligence, isn't that correct? By its nature, it has  
20 to be broad enough to capture the relevant threats. 15:40

21 A. Again, assessing a definition in a vacuum, I think, is  
22 a relatively -- it's not a particularly productive  
23 exercise. What's critical is how the definition is  
24 then employed in the context of the law. And because  
25 the law permits the retention of communications that 15:40  
26 contain foreign intelligence information, the  
27 definition is problematically broad.

28 511 Q. In relation to -- I'm going to move on to, excuse me,  
29 the section of your report which deal with government

1 defences, standing and state secrets doctrine. That's  
2 on page 18. In relation to the Clapper -v- ACLU  
3 decision, that was a decision which held to be  
4 unconstitutional the bulk collection under the former  
5 Section 215, isn't that correct, before it was amended 15:41  
6 by the Freedom Act?

7 A. That's incorrect. It held that the bulk collection  
8 under Section 215 was not authorised by the statute.  
9 And it did not reach the constitutional question.

10 512 Q. I'm sorry, it was held that it was unlawful because it 15:42  
11 wasn't authorised by reference to, I think, an  
12 interpretation that involved the Constitution, is that  
13 correct?

14 A. It held that it was unlawful because the statute could 15:42  
15 not be permitted to authorise such expansive collection  
16 because of the terms of the statute were just quite  
17 pedestrian. I think the court used the metaphor "You  
18 can't hide elephants in mouse holes." And that was  
19 precisely what the bulk collection was under Section  
20 215. 15:42

21 513 Q. In that particular case, I think the evidence was that  
22 Verizon had handed over bulk data, is that correct?

23 A. Yes. Through the Snowden disclosures, it became  
24 apparent that Verizon was ordered to produce the  
25 telephony meta-data of its customers. 15:42

26 514 Q. And the fact that the government now possessed that  
27 data was regarded as an injury in fact, is that  
28 correct?

29 A. It wasn't solely the government's possession of that



1 data, it was the fact that the plaintiffs in that case  
2 could show that the government possessed their data  
3 because of --

4 515 Q. Yes.

5 A. -- the Snowden disclosure. 15:43

6 516 Q. But possession of the plaintiffs' data, the mere  
7 possession of that data amounts to an injury in fact,  
8 isn't that correct?

9 A. In the context of that case, yes. Because the  
10 plaintiffs had effectively received notice of the 15:43  
11 surveillance. But in the ordinary course and excepting  
12 exceptional circumstances and except for an  
13 extraordinarily small number of criminal defendants -  
14 only, I believe, eight to date - the vast majority of  
15 individuals who are subject to the surveillance do not 15:43  
16 receive notice.

17 517 Q. But just taking it and separating out the concepts, if,  
18 as happened in ACLU -v- Clapper, the plaintiffs could  
19 say 'The government are in possession of my data', that  
20 amounted in US law to meeting the criterion of standing 15:44  
21 which requires that there be established an injury in  
22 fact, isn't that correct?

23 A. The plaintiffs were able to establish, by virtue of  
24 this order, they had received notice that the  
25 government did in fact possess their data under this 15:44  
26 particular provision. And the court held that there  
27 was injury in fact.

28 518 Q. And that was sufficient to give them standing?

29 A. Standing has three elements: Injury, causation and

1 redressability. The causation element was also  
2 satisfied here, because it was clear that the data was  
3 acquired pursuant to the particular statutory authority  
4 that was being challenged, because again the plaintiffs  
5 had specific notice of that fact due to the exceptional 15:44  
6 circumstances of the case.

7 519 Q. All I'm trying to establish, and just a very simple  
8 proposition, Ms. Gorski: All of that was sufficient to  
9 give them standing in this particular case?

10 A. Yes. 15:44

11 520 Q. And those cases where standing has not been successful  
12 is where it has not been possible to establish to the  
13 satisfaction of the court that the government *has* data  
14 belonging to the particular person or persons, isn't  
15 that correct? 15:45

16 A. So in US law, "establish" is a term that suggests again  
17 a factual showing. Some of the cases have involved  
18 dismissals at the outset of the pleading stage based on  
19 facial challenges to the complaint - so the government  
20 argues that the complaint itself does not plausibly 15:45  
21 plead an injury in fact, you haven't plausibly alleged  
22 that the government has either seized your data or  
23 searched through it. And accordingly, in certain cases  
24 the plaintiffs are dismissed on that ground.

25 521 Q. Okay. well, if you wish, we'll break it down. In a 15:45  
26 facial challenge, on a motion to dismiss, the court  
27 looks to see if it's pleaded as a fact, which the court  
28 then assumes, that the government has your data, isn't  
29 that correct?

1 A. The court assesses whether the pleadings are plausible.  
2 So it's not simply whether it was pleaded as a fact,  
3 it's not enough just to say 'The government has my  
4 data' or 'The government is searching for my data', but  
5 your allegations have to be plausible. In addition, 15:46  
6 the plausibility test applies only to allegations that  
7 are well pled. And the government, in litigation - and  
8 speaking again from personal experience - has been very  
9 aggressive about arguing that certain allegations are  
10 not sufficiently detailed to be well pled and certain 15:46  
11 allegations are speculative. And as a result, in the  
12 government's view, certain allegations shouldn't be  
13 even subject to the plausibility standard, they should  
14 just be even more --

15 522 Q. But in essence, Ms. Gorski, it's an assessment of the 15:46  
16 facts as pleaded. It's an assessment of the facts as  
17 pleaded, which are assumed to be true for the purposes  
18 of that assessment?

19 A. Only the well pled facts are assumed to be true.

20 523 Q. Okay. 15:46

21 A. And it's an assessment of whether the well pled facts  
22 plausibly establish injury in fact, causation and  
23 redressability.

24 524 Q. Then the second stage, if you get over that, is the  
25 motion for summary judgment, isn't that correct? 15:47

26 A. Yes, with one caveat; a second way to bring a motion to  
27 dismiss is through what's known as a factual challenge.  
28 And in the context of a factual challenge, the  
29 government would be arguing, in effect, 'This is

1 sufficiently well pled, but your underlying facts are  
2 wrong and we want to dispute those'. And the  
3 government can bring a factual challenge even at this  
4 early motion to dismiss stage, but then the court  
5 engages in a kind of factual finding that would be 15:47  
6 similar to a factual assessment on the merits of the  
7 summary judgment stage. But yes, then the case would  
8 proceed to summary judgment, assuming that a plaintiff  
9 survived a facial challenge on a motion to dismiss.

10 525 Q. And if they survive a facial challenge and it proceeds 15:47  
11 to summary judgment, they get discovery and there are  
12 depositions, isn't that correct?

13 A. The plaintiff is theoretically entitled to discovery.  
14 The court has significant discretion in the scope of  
15 discovery. I would note, however, that there is a risk 15:48  
16 in the discovery process of asking for information that  
17 prompts the government to invoke the state secrets  
18 privilege.

19 526 Q. And I think you agree with Prof. Vladeck that the state  
20 secrets privilege *cannot* be successfully invoked by the 15:48  
21 government in the context of Section 702, isn't that  
22 correct?

23 A. No, that is not accurate. I agree with Prof. Vladeck  
24 that in the context of challenges to two specific  
25 programmes under Section 702, Prism and Upstream, the 15:48  
26 government could not invoke the **Totten** bar, which is  
27 one form of the state secrets privilege. However, both  
28 Prof. Vladeck and I agree that even in cases  
29 challenging those programmes under Section 702, the

1 government could, as it did in Jewel invoke the  
2 Reynolds privilege, which is also the state secrets  
3 privilege. And in the context of the Reynolds  
4 privilege, the government argues not that the entire  
5 subject matter of the case is a secret, but it argues 15:49  
6 that evidence that the critical to adjudication of the  
7 dispute is secret and accordingly the proceeding cannot  
8 go forward.

9 527 Q. Okay. So it can't rely on the Totten privilege,  
10 because that's regarded as being waived by, implicitly 15:49  
11 waived by Section 702, but it *is* entitled, if it can  
12 establish in respect of the Reynolds privilege, to  
13 plead state secret privilege in respect of a particular  
14 matter, isn't that correct?

15 A. I wouldn't say that the Totten privilege has been 15:49  
16 waived by Section 702. Again, if there were another  
17 programme under Section 702, the government may invoke  
18 the Totten privilege. And frankly, the government may  
19 even invoke, it's conceivable that the government would  
20 invoke the Totten privilege in a challenge to Upstream 15:49  
21 or Prism. I think it is very unlikely that the  
22 government would succeed in invoking the Totten  
23 privilege in particular in that context.

24  
25 And it's not that Section 702 waived the privilege, but 15:50  
26 that the government's official acknowledgments about  
27 these two particular programmes are sufficiently  
28 extensive that the government cannot, with a straight  
29 face, say that the very subject matter of the

1 proceeding is a secret.

2 528 Q. well, I think you've two elements; you have the right  
3 of action and you have all of the information that's  
4 out in public. And as you know, Prof. Vladeck is of  
5 the opinion that, given the existence of the 15:50  
6 information that is now publicly available, it is much  
7 more difficult for the government to raise state secret  
8 privilege, certainly the Totten bar and, even in the  
9 context of the Reynolds state secret privilege, that  
10 it's going to be more confined, isn't that correct? 15:50

11 A. I don't believe that Vladeck, Prof. Vladeck, in his  
12 report, suggests that the Reynolds privilege would be  
13 more confined in the context of litigation around Prism  
14 and Upstream, particularly given the ruling, the recent  
15 ruling in the Jewel case that was based both on 15:50  
16 standing *and* state secrets. But Prof. Vladeck does  
17 take the position, as do I, that it is unlikely the  
18 government would successfully raise the Totten bar in a  
19 challenge to Prism or Upstream.

20 529 Q. And if Reynolds privilege is waived, the court looks at 15:51  
21 the plea and *it* makes the decision, isn't that correct?  
22 The court says that it's not *bound* by any plea that's  
23 raised by the government, *it* has to assess whether the  
24 privilege properly applies?

25 A. The beginning of your question asked whether the 15:51  
26 Reynolds privilege was waived and I'm not sure what you  
27 meant by that. But just setting that aside and  
28 focusing on the court's ability to adjudicate this  
29 issue; in both the context of the Totten bar and the

1            **Reynolds** privilege, the court cannot, would not simply  
2            just accept the government's invocation of the state  
3            secrets privilege, there's some adjudication of that  
4            issue. with the **Reynolds** privilege in particular, the  
5            court is assessing whether the evidence that is at            15:51  
6            issue is sufficiently central to the case to warrant  
7            dismissal of the case on the grounds of the state  
8            secrets privilege.

9    530    Q.    But it also assesses the claim for state secrets  
10            privilege as well, isn't that correct?            15:52

11            A.    Yes.

12    531    Q.    And the courts have made that very clearly in **Reynolds**.

13            A.    Yes.

14    532    Q.    In relation to the standing argument, it's not just a  
15            question of relying on Article 4 of the Constitution in            15:52  
16            some of these cases, reliance is also placed on  
17            Article 1, is that correct?

18            A.    I'm sorry, there *is* no Article 4 to the Constitution.

19    533    Q.    I'm sorry, the Fourth Amendment and the First  
20            Amendment. Excuse me, I'm using European -- I do            15:52  
21            apologise. The First Amendment as well as the Fourth  
22            Amendment.

23            A.    In certain cases plaintiffs have raised claims under  
24            the First Amendment and the Fourth Amendment. In  
25            Wikimedia, for example, we have First Amendment and            15:52  
26            Fourth Amendment claims. And our case was dismissed on  
27            standing grounds.

28    534    Q.    Yes, but you're appealing that at the moment and  
29            central to the appeal is that there *is* standing on

1 First Amendment grounds, isn't that correct?

2 A. That is one of the arguments on appeal, yes.

3 535 Q. And the point being made is that there is a distinction  
4 between the First and Fourth Amendment with regard to  
5 standing and that the standing rules for the First 15:53  
6 Amendment are more favourable, isn't that correct?

7 A. The standing rules for the First Amendment, I think  
8 that there is an argument that in certain contexts they  
9 can be more favourable. But in our experience, raising  
10 First Amendment claims has, in the context of foreign 15:53  
11 intelligence surveillance, has not materially affected  
12 the courts' analysis, standing analysis. So for  
13 example, we also represented ten plaintiffs in a  
14 challenge to Section 702 - we brought the challenge the  
15 day after the statute went into law. In that case - it 15:54  
16 was decided by the Supreme Court - Amnesty  
17 International -v- Clapper and there there was also a  
18 First Amendment claim and a Fourth Amendment claim.

19 536 Q. The point I'm making to you is that it is being --  
20 there is a basis for and it is a significant part of 15:54  
21 the submissions of the amici, which you, ACLU is  
22 involved in wikimedia, that the First Amendment  
23 standing provisions are more favourable to a plaintiff.  
24 Isn't that correct?

25 A. Some of the amici in the case have argued that the 15:54  
26 First Amendment standards for standing are more  
27 favourable to a plaintiff than the Fourth Amendment  
28 standards.

29 537 Q. And they have contended in this context that there are



1 three well recognised First Amendment privacy rights  
2 engaged: The right to speak anonymously, the right to  
3 associational privacy and the right to information,  
4 including the right to receive information in private,  
5 isn't that correct? 15:55

6 A. Yes.

7 538 Q. And it is alleged that the First Amendment injuries can  
8 be triggered by this chilling effect on First Amendment  
9 rights, the chilling effect exercised by the statutory  
10 powers on First Amendment rights, isn't that correct? 15:55

11 A. Yes, although there are some limitations in the context  
12 of surveillance in attempting to base standing solely  
13 on a chilling effect under Supreme Court precedent.  
14 And again I think the two key examples on point here  
15 are Amnesty International -v- Clapper, in which we 15:55  
16 brought both a First Amendment claim and a Fourth  
17 Amendment claim and our claims were dismissed,  
18 notwithstanding the fact that we were representing  
19 organisations like Amnesty, like Human Rights Watch and  
20 lawyers who represented detainees at Guantanamo Bay and 15:56  
21 had to place international calls to those detainees'  
22 families and associates abroad in the course of their  
23 investigations representing those detainees.

24  
25 So our constellation of plaintiffs in this case that 15:56  
26 went to the Supreme Court included the individuals and  
27 organisations most likely to be subject to the  
28 surveillance realistically. And we lost in a five to  
29 four decision and the court said our allegations were

1 merely speculative. And there we raised First and  
2 Fourth Amendment claims.

3 539 Q. well, taking just Clapper -v- Amnesty first, your brief  
4 in wikimedia explains that Clapper -v- Amnesty failed  
5 because that was an action brought, I think, the day  
6 *following* the enactment of the revised version of  
7 Section 702, is that correct? 15:56

8 A. There *was* no revised version of Section 702. But it  
9 was the day --

10 540 Q. I'm sorry, I keep making that mistake. The  
11 *introduction* of Section 702, I do apologise. 15:56

12 A. Yes, the suit was brought, it was brought as what's --  
13 different from a facial motion to dismiss, it was  
14 brought as what's known as a facial challenge to the  
15 statute. So the action was brought the day after the  
16 statute went into effect. We believe our case in  
17 wikimedia is different; in wikimedia we're challenging  
18 the operation of the statute in effect, we're  
19 challenging upstream surveillance and much more is  
20 known about the surveillance than it was at the time of  
21 Clapper. 15:57

22  
23 Notwithstanding those facts *and* notwithstanding the  
24 fact that we're representing wikimedia, who engages in  
25 a volume of communications that outstrips the volume of  
26 communications by *any* of the other plaintiffs in  
27 Amnesty, the District Court still dismissed our suit  
28 for lack of standing. 15:57

29 541 Q. well, you've made that point and we're just dealing

1 with the appeal at the moment and the basis of  
2 distinction. And I think you make the point that in  
3 that case that Clapper -v- Amnesty plaintiffs were not  
4 able to point to *any* evidence at all of a surveillance  
5 programme established by the government under Section 15:57  
6 702, isn't that correct?

7 A. It is correct. At the time there were -- at the time  
8 of the case there were not official acknowledgments  
9 about the programmes that were being operated under  
10 Section 702. The language of the statute though made 15:57  
11 it clear that the government had a very broad  
12 surveillance authority when it came to targeting non-US  
13 persons located abroad.

14 542 Q. Yes. And the court said that the respondents had  
15 failed to offer *any* evidence and the respondents have 15:58  
16 no actual knowledge and thus can only speculate as to  
17 how the Attorney General and the Director of  
18 Intelligence would exercise their discretion in  
19 determining which targets to -- which communications to  
20 target, isn't that correct? 15:58

21 A. Yes.

22 543 Q. And the brief in Wikimedia says that the court  
23 expressed reluctance, under those highly speculative  
24 circumstances, to find standing. The court did not  
25 know at the time what surveillance programmes existed 15:58  
26 under Section 702 and the extent to which the FISCR -  
27 that is the appeal court from the FISC - has authorised  
28 or restricted the programmes, isn't that correct?

29 A. Yes.

1 544 Q. And the distinction made is now the public knows.  
2 A. The distinction made is that now the public is aware of  
3 programmes that are being implemented under Section  
4 702, it is aware of certifications that have issued  
5 from the FISC under Section 702 and much more in 15:59  
6 general is known about how the surveillance is  
7 conducted. In addition, one of the operative  
8 distinctions between the two cases is that again we're  
9 representing wikimedia, which engages in a tremendous  
10 volume of communications with users in every country on 15:59  
11 earth.

12 545 Q. And Prof. Vladeck has said in his report, as you have  
13 seen, that given the Snowden revelations, one cannot  
14 say that Clapper -v- Amnesty creates a particular block  
15 to standing in these cases. 15:59

16 A. I think it's accurate to say that the standing  
17 assessment is not -- I think what Prof. Vladeck was  
18 getting at was the idea that there's not a foreign  
19 intelligence exception to the standing doctrine. As a  
20 general matter, however, when plaintiffs are 16:00  
21 challenging executive branch action - whether that's  
22 foreign intelligence surveillance or some other kind of  
23 executive branch action - the courts tend to look with  
24 greater scrutiny at standing issues. So there is a  
25 greater scrutiny, it's not specific or unique to 16:00  
26 foreign intelligence surveillance, it applies more  
27 broadly to executive branch actions.

28 546 Q. I think he makes another point. He says the existence  
29 of this information, the knowledge of the programmes,

1 which were not known at the time of Clapper, means that  
2 there is a very important and material distinction that  
3 *now* exists in terms of standing which distinguishes the  
4 situation from the facts of Clapper.

5 A. If -- I concur that there are material distinctions in 16:00  
6 the situation of plaintiffs now, as opposed to the  
7 situation of plaintiffs before the Snowden disclosures.  
8 However, as we did see in the Jewel decision,  
9 notwithstanding those material distinctions, courts  
10 still dismiss claims brought by plaintiffs challenging 16:00  
11 Section 702 surveillance for lack of standing.

12 547 Q. And there have also been various cases where the  
13 standing has been accepted, isn't that correct?

14 A. There has to be some limiting principle. If you're 16:01  
15 saying foreign intelligence surveillance cases, the  
16 exception to the rule where standing has been  
17 established by a preponderance of the evidence is the  
18 ACLU -v- Clapper case challenging the 215 telephony  
19 meta-data programme because we had notice through  
20 exceptional circumstances. But as a general rule, no 16:01  
21 notice is provided. And under the American system,  
22 without notice it is extraordinarily difficult to  
23 establish standing.

24 548 Q. Can I just understand how do you conceive of a system 16:01  
25 of notice working in foreign intelligence of people who  
26 might be regarded as threats to security? Do you think  
27 they should be notified of the fact that they're under  
28 surveillance?

29 A. In the context of criminal wire taps in the US, there

1 is a notice obligation. It's delayed notice. So when  
2 the wire tap ceases, within 90 days the targets have to  
3 be notified. And the court also has discretion to  
4 notify individuals who are affected by the  
5 surveillance, even if they weren't the targets of the 16:02  
6 surveillance. And I think that in the foreign  
7 intelligence surveillance context, delayed notice is an  
8 option. And if the government were to say that delayed  
9 notice is impossible then the standing requirements  
10 have to be adjusted to reflect the reality that 16:02  
11 individuals don't receive notice. And without notice  
12 there's really -- it's exceptionally difficult to  
13 obtain meaningful judicial redress.

14 549 Q. But, Ms. Gorski, you're well aware of the difference  
15 between a foreign -- or a national security situation 16:02  
16 on the one hand and law enforcement on the other hand  
17 in terms of the ability and practicability of giving  
18 notice, isn't that correct? There's a huge difference?

19 A. Well, foreign intelligence investigations overlap  
20 significantly with criminal investigations. But 16:03  
21 notwithstanding that overlap, it is true, the  
22 government has asserted that, you know, foreign  
23 intelligence investigations are particularly long  
24 running. But eventually they reach a terminus. And I  
25 would still think that a delayed notice requirement 16:03  
26 could be feasible, even if it's delayed significantly.

27 550 Q. And I take it that while you may not agree with  
28 everything Prof. Swire says in this regard, it's  
29 obvious as a matter of first principle that if people

1 were entitled to notice and could obtain notice and  
2 information in relation to the foreign intelligence to  
3 which they were -- sorry, the surveillance that they  
4 were subjected to, it would be a *considerable* advantage  
5 to potential terrorists, to people involved in cyber 16:03  
6 security, or in breaching cyber security, to people,  
7 hostile foreign governments, because they would be able  
8 to work out significant, or obtain significant  
9 information with regard to the operation of that  
10 foreign intelligence system, isn't that correct? 16:04

11 A. Prof. Swire goes even farther in arguing that  
12 individual remedies in the context of these privacy  
13 violations are not appropriate. He does also note  
14 specifically that notice poses certain threats. And I  
15 don't disagree that notice could, in certain contexts, 16:04  
16 pose a threat, which is why I am suggesting a kind of  
17 delayed notice requirement, which is an option that  
18 Prof. Swire doesn't grapple with.

19 **MS. JUSTICE COSTELLO:** Mr. Gallagher, I'm just  
20 wondering, I was going to ask how much longer do you 16:04  
21 think? Now, I don't want to cut you short. I'm just  
22 looking at the logistics of running this.

23 **MR. GALLAGHER:** I think it's only the reply from  
24 --

25 **MS. JUSTICE COSTELLO:** No, I'm just wondering how much 16:04  
26 longer you feel --

27 **MR. GALLAGHER:** I would be done in five minutes.  
28 I'm sorry, I should've told you that, Judge. I'm going  
29 to be done very shortly.

1           **MS. JUSTICE COSTELLO:** And I know that Mr. Murray said  
2           that he wasn't asking any questions. I'm assuming that  
3           covers Mr. Collins.

4           **MR. GALLAGHER:** I don't know whether there's any  
5           re-examination. 16:05

6           **MS. JUSTICE COSTELLO:** Then it's a question of whether  
7           --

8           **MR. DOHERTY:** It'll be very short.

9           **MS. JUSTICE COSTELLO:** Very good.

10          **MR. GALLAGHER:** Sorry, Judge, I'm -- 16:05

11          **MS. JUSTICE COSTELLO:** No, no, I just needed to know  
12          where we were going.

13   551    Q.   **MR. GALLAGHER:** Ms. Gorski, you make various  
14            comments in relation to the operation of the Ombudsman  
15            system, isn't that correct? 16:05

16            A.    Yes.

17   552    Q.    And you have criticisms to make of that system - you  
18            don't think it's very significant, is that fair to say?

19            A.    I don't think it's very significant, certainly when  
20            considered in light of a judicial redress option, which 16:05  
21            this is not.

22   553    Q.    And again you say that the fact that the Ombudsman  
23            cannot confirm or deny that a complaint was made is of  
24            significance, isn't that correct?

25            A.    Yes. 16:05

26   554    Q.    And I suggest to you that again in the sphere that  
27            we're talking about, that if people could obtain  
28            information as to whether they were being surveyed and  
29            the subject of security surveillance by submitting



1 questions and finding whether or not they're being --  
2 or whether or not they *were* the subject of that  
3 surveillance, that that would make the efficient and  
4 effective conduct of foreign surveillance extremely  
5 difficult, if not impossible. 16:06

6 A. I appreciate that that would be a challenge to the  
7 Ombudsperson providing more substantive and meaningful  
8 responses to the individuals reaching out to the  
9 Ombudsperson. But I think what that really underscores  
10 is the importance of having a legitimate full judicial 16:06  
11 remedy available to individuals and that that could be  
12 obtained, as noted, through a delayed notice  
13 requirement or through some kind of relaxation of the  
14 standing standards.

15 555 Q. And I take it that you're aware that the Ombudsman, 16:06  
16 while he cannot bind the executive agency, his  
17 recommendations would have significant effect? I think  
18 they're published, or to be published in the Federal  
19 Register, isn't that correct?

20 A. It may be correct that the recommendations are supposed 16:07  
21 to be published. I'm not certain about that. Offhand,  
22 I would object to a "significant effect" for the  
23 recommendations. There's no basis for concluding that  
24 the agencies will respond in significant ways to the  
25 recommendations and there's no basis for concluding 16:07  
26 that the Ombudsperson's authority to investigate  
27 violations extends to violations that go beyond the  
28 regulations at issue and the framework at issue. So  
29 for example, there's nothing in the text of Privacy

1 shield that indicates that the Ombudsperson has the  
2 authority to investigate Fourth Amendment violations in  
3 the same way that a court could assess whether the  
4 Fourth Amendment had been violated.

5 556 Q. Well, you see, once the Ombudsman's, or Ombudsperson's 16:08  
6 findings are published in the Federal Register,  
7 firstly, a failure to respond and for the agency to  
8 address the issue is going to create public pressure,  
9 isn't that correct?

10 A. I think that if the agency failed to respond to the 16:08  
11 Ombudsperson, depending on the nature of the  
12 recommendation, people might not be aware of the  
13 agency's response or non response. In certain  
14 situations in which the agency's response or non  
15 response was made public, that could theoretically be a 16:08  
16 vector for political pressure. But again that's really  
17 a series of contingencies that I don't think  
18 constitutes an adequate remedy for significant privacy  
19 violation.

20 557 Q. And in terms of the continuance of the Privacy Shield, 16:08  
21 it's something that would be of very material  
22 significance presumably to somebody reviewing its  
23 operation, isn't that correct?

24 A. Could you please repeat the question?

25 558 Q. Failure to respond to the Ombudsperson or publication 16:09  
26 by the Ombudsperson of significant findings would be a  
27 very important factor to anybody assessing -- sorry,  
28 reviewing the continuation of the Privacy Shield, isn't  
29 that correct?

1 A. I would think that that would be a factor if the person  
2 reviewing the Privacy Shield were aware of agency  
3 compliance or noncompliance. But again, there's no  
4 option for the Ombudsperson to signal to the public  
5 that noncompliance exists and has *not* been remedied. 16:09  
6 The only options are to say that the laws have been, or  
7 the regulations - we're not even talking about the laws  
8 writ large - the regulations have been complied with,  
9 or, in the event of noncompliance, such noncompliance  
10 has been remedied. Those are the only two things the 16:09  
11 Ombudsperson can say. So it doesn't even contemplate  
12 the possibility of noncompliance, which, given the  
13 realities of executive privilege practice, I'm not sure  
14 that's appropriate.

15 559 Q. Well, if there's noncompliance, the Ombudsman says that 16:10  
16 the recommendation has not been complied with, isn't  
17 that correct?

18 A. I don't know where the Ombudsperson would say the  
19 recommendation has not been complied with. Because in  
20 a response to a proper complaint, the Ombudsperson can 16:10  
21 only say one of two things: The Ombudsperson can say  
22 there was compliance, or there was noncompliance but  
23 such noncompliance has been remedied.

24 560 Q. Exactly. So he says the noncompliance *hasn't* been  
25 remedied. 16:10

26 A. That's not an option for the Ombudsperson under --

27 561 Q. Okay.

28 A. -- the --

29 562 Q. So what the Ombudsperson says is there's been

1 noncompliance and he or she says nothing about it being  
2 remedied?

3 A. That's not an option under the way that the  
4 Ombudsperson is conceptualised within the Privacy  
5 Shield agreement. There are only two options for the 16:10  
6 Ombudsperson's response - it's almost Kafkaesque. The  
7 Ombudsperson can say the laws have been complied with,  
8 or there was noncompliance but it has been remedied.  
9 There is no possibility for saying there's been  
10 noncompliance that is ongoing. 16:11

11 563 Q. Well, I suggest to you that's *not* the position and if  
12 there was noncompliance, that would be apparent and  
13 that would have very serious consequences.

14 A. When we're talking about foreign intelligence  
15 surveillance activities that are classified, it's not 16:11  
16 clear to me that noncompliance would be apparent. I  
17 don't know what the consequences of noncompliance would  
18 be. Again, I also don't know what the full breadth of  
19 the Ombudsperson's investigatory authority would be,  
20 given that these provisions don't contemplate that the 16:11  
21 Ombudsperson can conduct investigations about the  
22 surveillance's legality writ large.

23 **MR. GALLAGHER:** Thank you, Ms. Gorski

24

25 **MS. GORSKI WAS RE-EXAMINED AS FOLLOWS BY MR. DOHERTY** 16:11

26

27 564 Q. **MR. DOHERTY:** Just very briefly, Ms. Gorski.  
28 Mr. Gallagher put a number of questions to you in the  
29 course of cross-examination in relation to foreign

1 intelligence activities of the US Government and gave  
2 examples of threats to security, terrorism, breaches of  
3 cyber security and hostile foreign government action.  
4 It may be trite, we've seen two different definitions  
5 of foreign intelligence, one in Section 702 or for the 16:12  
6 purposes of Section 702 in the FISA Act and one in  
7 Executive Order 12333. Are the definitions limited to  
8 those examples that Mr. Gallagher gave of foreign  
9 intelligence in those Acts?

10 A. Neither definition is limited to those examples. 16:12

11 565 Q. We spent quite some time earlier today with  
12 cross-examination from Mr. Gallagher on paragraph 23 of  
13 your report on page ten. And in particular  
14 Mr. Gallagher took you through, I think, a series of  
15 questions relating to or about the use of the word 16:12  
16 "direct" in the sense of the acquisition of  
17 communications in content directly from service  
18 providers.

19 A. Yes.

20 566 Q. And he, I think, spent some time bringing you to the 16:13  
21 footnote reference, the Washington Post article that  
22 was, I think, subsequently amended he referred to. Do  
23 you recall that earlier today?

24 A. Yes.

25 567 Q. And the issue -- I think it's clear from Prof. Swire's 16:13  
26 report, we see that he takes a view that there was some  
27 misreporting about what was actually involved. The  
28 initial Snowden files and as reported in The Guardian  
29 referred to government having direct access to the

1 servers of these service providers, isn't that right?

2 A. Yes. And Prof. Swire explains that the Washington Post  
3 article was amended. What is less clear from  
4 Prof. Swire's explanation is that the Washington Post  
5 article's first sentence that refers to tapping 16:13  
6 directly, that remained unchanged and still contains  
7 the words "tapping directly".

8 568 Q. I think what you're addressing in the first sentence of  
9 paragraph 23 is government acquisition of  
10 communications content and meta-data directly from US 16:14  
11 companies?

12 A. Yes.

13 569 Q. Can I ask you, in that context, to turn, it's in a  
14 different book, I'm afraid, book seven, tab 17, it's  
15 the extracts from the PCLOB report that you footnote. 16:14  
16 **MS. JUSTICE COSTELLO:** Page seven, what was the tab  
17 again please?

18 **MR. DOHERTY:** It's page two, tab -- sorry, I  
19 beg your pardon, Judge, it's book seven, tab 17. And  
20 certainly in my booklet it starts on page 33 of the 16:14  
21 PCLOB report.

22 **MS. JUSTICE COSTELLO:** Yes, thank you.

23 570 Q. **MR. DOHERTY:** Do you have that?

24 A. Yes.

25 571 Q. Here PCLOB are discussing Prism, as indeed you were at 16:14  
26 paragraph 23 of your report. And it says:  
27  
28 *"In Prism collection, the government (specifically the*  
29 *FBI on behalf of the NSA) sends selectors such as an*

1 *e-mail address to a United States based electron*  
2 *communications service provider that has been served a*  
3 *Directive. Under the Directive, the server provider is*  
4 *compelled to give the communications sent to or from*  
5 *that selector to the government."*

16:15

6  
7 So it's describing a process of the service providers  
8 giving the information to the government.

9 A. Yes.

10 572 Q. And is that what you had in mind when you described  
11 government disclosures and media reports indicating --

16:15

12 **MR. GALLAGHER:** Judge, that's (A) a leading  
13 question and she explained what she had in mind - she  
14 had in mind something different.

15 **MS. JUSTICE COSTELLO:** well, it's certainly a leading  
16 question. Certainly you've got the transcripts there,  
17 you can put what she said in evidence to Mr. Gallagher  
18 and ask her to comment on it if you wish.

16:15

19 573 Q. **MR. DOHERTY:** well, I don't think that would  
20 be constructive, given that so many different versions  
21 of the question were put by Mr. Gallagher, both before  
22 and after lunch. (To Witness) But in paragraph 23,  
23 just reading the first sentence of paragraph 23 there,  
24 do you see any correlation between that and what's said  
25 at page 33 of the PCLOB report?

16:15

26 A. What is in the first sentence of paragraph 23 is  
27 entirely consistent with what is in this paragraph of  
28 the PCLOB report. I also had in mind, in addition to  
29 this description of Prism surveillance, the media

1 reports cited below. But what I was really referring  
2 to was the fact that there has to be some technological  
3 means by which this information is exchange, as opposed  
4 to being exchanged in hard copy paper form. And those  
5 technological means are a function of, or could be, I 16:16  
6 think, appropriately described as a form of direct  
7 access. I did not mean to suggest more than that.

8  
9 And the fact that there are some kind of technological  
10 means for the government to send selectors to the 16:16  
11 companies and for the companies to, in turn, provide  
12 information to the government is effectively agreed to  
13 by the other experts, as noted in the memorandum.

14 574 Q. Is there any other party, to your knowledge, or does  
15 the PCLOB report refer to any other party to whom 16:16  
16 information is *given* by the service providers before  
17 it's given to the government?

18 A. No.

19 575 Q. Can I ask you, just in the same tab, to turn to page 34  
20 of the PCLOB report? You see in the first full 16:17  
21 paragraph there the reference to the government not  
22 having to declassify the specific ISPs that have been  
23 served directives to undertake Prism collection, but  
24 they give an example using a fake United States  
25 company. And that concludes with a sentence: "The 16:17  
26 acquisition continues until the government detasks  
27 johntarget@usa.isp.com.

28 A. Yes.

29 576 Q. And does that have any bearing on the sentence that you



1 had given in paragraph 23 of your report?

2 A. Again this indicates that the tasking and detasking is  
3 something that happens on an ongoing basis, these are  
4 not decisions that are made annually along with the  
5 directives that are served on the providers. The 16:17  
6 tasking and detasking of selectors will change over the  
7 course of the year. And accordingly, that again  
8 suggests that there is some kind of technological means  
9 by which those selectors are shared with the companies  
10 so that the government can detask as appropriate when 16:17  
11 necessary or task other selectors as appropriate when  
12 necessary as soon as possible.

13 577 Q. We'd also spent some time in the afternoon on paragraph  
14 25 of your report and questioning around the issue of  
15 copying and searching internet communications both in 16:18  
16 the second sentence and, I think, in the penultimate  
17 sentence of that paragraph. Can I ask you in that  
18 context to look at the middle paragraph of page 34 of  
19 the PCLOB report in terms of the role of the NSA?

20 A. Page 34? 16:18

21 578 Q. Yes.

22 A. Page 34 of the PCLOB report refers solely to Prism  
23 collection. And the discussion about copying was with  
24 respect to Upstream collection.

25 579 Q. I think you're quite right. Page 35 then deals with 16:18  
26 Upstream collection.

27 A. Yes.

28 580 Q. And the middle paragraph there talks about:  
29

1           *"Unlike Prism collection, raw Upstream collection is*  
2           *not routed to the CIA or FBI and therefore it reside*  
3           *only in NSA systems, where it is subject to NSA*  
4           *minimisation procedures."*

16:19

6           So the information is collected and routed to the NSA  
7           system, that's what PCLOB have said, is that correct?

8           A.    Yes.

9   581   Q.    And do you believe *that's* consistent with what you've  
10           said in your report?

16:19

11          A.    Yes, that's absolutely consistent with what I've said  
12           in my report about the nature of the information that  
13           is ultimately acquired at the end of the Upstream  
14           surveillance process.

15   582   Q.    Then just on that issue, I think we've seen -- and I  
16           mean by that the issue of the raw data being collected  
17           and kept on NSA -- collected by the NSA, *then* being  
18           subject to minimisation procedures. I think in the  
19           joint memorandum there's a reference to an Executive  
20           Order passed by the Obama administration in relation to  
21           the sharing of raw data?

16:19

22          A.    Yes. I don't think it's an Executive Order, but there  
23           are no Obama administration procedures. But that  
24           concerns the sharing of raw data under Executive Order  
25           12333. Historically, the NSA first supplied  
26           minimisation procedures to that raw data, vast volumes  
27           of raw data collected under that authority, before  
28           sharing the information with other agencies. Due to  
29           the Obama administration order, under certain

16:20

16:20

1 circumstances now the agencies themselves can access  
2 the raw data and themselves apply the minimisation  
3 procedures. But there are real concerns about the  
4 extent to which agencies that don't have experience  
5 applying minimisation procedures or don't have 16:20  
6 sufficient oversight mechanisms in place will operate  
7 under the new Obama administration rules.

8 583 Q. Okay. Just then perhaps lastly, there are two perhaps  
9 related issues here. One relates to something you said  
10 at page, or paragraph 22 of your report about the two 16:20  
11 known programmes under Section 702 - and we heard  
12 earlier your reasons for making that statement about  
13 the two known programmes; one related to the breadth of  
14 Section 702 and one related to the fact that the PCLOB  
15 report is 2014, so we don't *know* what might've happened 16:21  
16 in the intervening, as I understood your answer  
17 earlier. Then separately you were asked some questions  
18 about, certainly Mr. Gallagher put it to you, I think,  
19 that on the assumption that the government won't act in  
20 a covert, secret and misleading way in terms of its 16:21  
21 dealings with the Commission in relation to PPD-28 and  
22 the things that have been said about that.

23  
24 Can I just ask you generally, what is the US  
25 Government's record like in accurately describing to 16:21  
26 other entities or authorities how it conducts  
27 surveillance?

28 **MR. GALLAGHER:** I object to that. I didn't go  
29 into that issue. I asked her a question and she agreed

1 it wouldn't. This is some form of cross-examination of  
2 the witness. It's totally improper.

3 **MS. JUSTICE COSTELLO:** I'm not too sure that that at  
4 all arises out of her, first of all, her report, and  
5 secondly, Mr. Gallagher's cross-examination. 16:22

6 **MR. DOHERTY:** Well, with respect, I think it  
7 does.

8 **MS. JUSTICE COSTELLO:** Well, I know he had it  
9 predicated by that, but I don't know that the answer  
10 specifically agreed with his predication of the 16:22  
11 question.

12 584 Q. **MR. DOHERTY:** May please the court. I'll ask  
13 a slightly different question then. Ms. Gorski --

14 **MS. JUSTICE COSTELLO:** I will read the transcript, I  
15 hasten to add. 16:22

16 585 Q. **MR. DOHERTY:** May it please the court. Has  
17 the FISC court had cause to consider the accuracy or  
18 otherwise of government representations about its  
19 activities in the past?

20 A. Yes, on multiple occasions. And I think the October 16:22  
21 2011 opinion by Judge John Bates that addressed the  
22 multi communications transactions recognised that the  
23 FISC had misrepresented the scope of the surveillance  
24 and had not been forthcoming about the scope of  
25 surveillance as a historical matter. 16:22

26 **MR. DOHERTY:** Just in ease of the court, the  
27 court will find that decision at B25 in the books.  
28 Thank you very much, Ms. Gorski.

29 **MS. JUSTICE COSTELLO:** Thank you very much, Ms. Gorski.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

You can step down. I'll take the matter up on  
wednesday at eleven o'clock.

**MR. GALLAGHER:** Yes. And thank you for the  
extra time, Judge. I'm sorry we went over. Thank you  
very much.

16:23

**THE HEARING WAS THEN ADJOURNED UNTIL WEDNESDAY, 15TH  
FEBRUARY AT 11:00**

|          |   |   |  |  |
|----------|---|---|--|--|
|          | 119:6, 125:23,<br>125:28, 134:12,<br>145:6, 145:14,<br>145:21, 147:6,<br>148:10, 148:16,<br>148:17, 148:18,<br>156:3, 156:9, 157:15,<br>157:24, 157:29,<br>158:17, 158:19,<br>158:24, 181:7, 186:25   | <b>2011</b> [6] - 15:15,<br>20:5, 48:3, 92:6,<br>116:5, 188:21<br><b>2013</b> [5] - 41:13,<br>41:16, 41:17, 81:23,<br>81:25<br><b>2014</b> [6] - 41:25,<br>58:18, 60:29, 61:1,<br>63:18, 187:15<br><b>2015</b> [2] - 19:1,<br>116:15<br><b>2016</b> [4] - 45:5,<br>58:23, 132:17, 138:26<br><b>2016/4809P</b> [1] - 1:5<br><b>2017</b> [6] - 1:18, 5:2,<br>65:9, 65:12, 154:13<br><b>2017'</b> [1] - 15:12<br><b>21</b> [4] - 22:18, 80:25,<br>119:22, 129:18<br><b>215</b> [6] - 29:26,<br>58:10, 160:5, 160:8,<br>160:20, 173:18<br><b>22</b> [5] - 23:19, 32:23,<br>57:27, 187:10<br><b>23</b> [14] - 23:29,<br>25:21, 64:4, 80:26,<br>81:4, 87:1, 90:20,<br>181:12, 182:9,<br>182:26, 183:22,<br>183:23, 183:26, 185:1<br><b>24</b> [1] - 5:22<br><b>25</b> [4] - 21:3, 94:15,<br>113:2, 185:14<br><b>250</b> [3] - 20:8, 63:21,<br>116:6<br><b>27</b> [1] - 147:21<br><b>28</b> [5] - 3:3, 24:26,<br>29:10, 56:19, 134:13<br><b>2ND</b> [1] - 2:16 | 78:25, 88:28, 185:25<br><b>36</b> [5] - 26:4, 45:21,<br>143:17, 143:18,<br>143:20<br><b>37</b> [1] - 27:3<br><b>37-42</b> [1] - 2:23<br><b>38</b> [2] - 8:3, 27:8<br><b>3rd</b> [2] - 7:27, 48:2   | 18:25, 19:1, 19:14,<br>20:3, 20:5, 20:11,<br>20:13, 24:25, 29:15,<br>31:8, 31:12, 31:28,<br>32:15, 32:17, 32:18,<br>33:15, 37:18, 37:24,<br>38:6, 38:23, 38:24,<br>38:26, 39:13, 39:21,<br>40:4, 42:23, 42:27,<br>43:2, 43:25, 49:10,<br>49:13, 49:14, 50:1,<br>50:6, 50:23, 50:25,<br>52:9, 52:17, 53:12,<br>53:17, 53:20, 53:22,<br>53:24, 53:29, 54:4,<br>54:7, 54:11, 54:16,<br>55:21, 55:26, 56:13,<br>56:26, 56:29, 57:6,<br>58:1, 58:7, 58:17,<br>58:20, 58:28, 59:7,<br>61:4, 61:13, 62:6,<br>62:11, 65:8, 65:28,<br>72:9, 76:8, 77:20,<br>78:29, 79:3, 79:7,<br>79:13, 80:12, 91:25,<br>94:18, 99:8, 113:18,<br>115:27, 116:5,<br>119:24, 119:27,<br>120:1, 123:12,<br>124:27, 125:11,<br>125:12, 125:22,<br>126:1, 127:9, 127:14,<br>128:17, 129:19,<br>132:21, 135:9, 136:1,<br>136:8, 136:16,<br>136:23, 137:13,<br>137:15, 137:19,<br>137:24, 138:5, 138:9,<br>139:27, 141:27,<br>164:21, 164:25,<br>164:29, 165:11,<br>165:16, 165:17,<br>165:25, 168:14,<br>170:7, 170:8, 170:11,<br>171:6, 171:10,<br>171:26, 172:4, 172:5,<br>173:11, 181:5, 181:6,<br>187:11, 187:14<br><b>75</b> [8] - 45:15, 45:17,<br>45:22, 132:14,<br>143:17, 144:2, 144:3,<br>144:20 |
|          | <b>12th</b> [1] - 132:17<br><b>13</b> [7] - 37:25,<br>131:24, 131:25,<br>132:3, 132:12, 153:14<br><b>13-1</b> [1] - 131:28<br><b>139</b> [1] - 28:10<br><b>14</b> [2] - 17:21, 122:7<br><b>15</b> [7] - 17:22, 24:27,<br>51:17, 53:11, 63:6,<br>63:12, 111:28<br><b>15TH</b> [1] - 189:7<br><b>16</b> [4] - 18:24, 52:7,<br>62:3, 144:25<br><b>17</b> [6] - 6:28, 32:23,<br>53:5, 62:28, 182:14,<br>182:19<br><b>17th</b> [1] - 8:13<br><b>18</b> [4] - 37:26, 38:4,<br>57:19, 160:2<br><b>180</b> [2] - 4:7, 4:8<br><b>1806</b> [1] - 60:15<br><b>188</b> [1] - 4:8<br><b>19</b> [4] - 18:24, 21:3,<br>63:15, 116:13<br><b>1ST</b> [1] - 2:10<br><b>1st</b> [1] - 15:10  | <b>4</b><br><b>4</b> [14] - 1:18, 2:14,<br>14:18, 14:20, 23:19,<br>31:20, 35:28, 122:12,<br>122:25, 157:6, 158:8,<br>158:10, 167:15,<br>167:18<br><b>40</b> [2] - 149:13,<br>151:14<br><b>41</b> [5] - 88:29,<br>120:11, 126:28,<br>127:4, 130:7<br><b>42</b> [3] - 127:7,<br>152:24, 152:26<br><b>44</b> [1] - 6:28<br><b>45</b> [3] - 8:1, 120:8,<br>130:7<br><b>450</b> [2] - 117:9,<br>117:11<br><b>46</b> [1] - 128:14<br><b>48</b> [1] - 7:8  | <b>4</b><br><b>4</b> [14] - 1:18, 2:14,<br>14:18, 14:20, 23:19,<br>31:20, 35:28, 122:12,<br>122:25, 157:6, 158:8,<br>158:10, 167:15,<br>167:18<br><b>40</b> [2] - 149:13,<br>151:14<br><b>41</b> [5] - 88:29,<br>120:11, 126:28,<br>127:4, 130:7<br><b>42</b> [3] - 127:7,<br>152:24, 152:26<br><b>44</b> [1] - 6:28<br><b>45</b> [3] - 8:1, 120:8,<br>130:7<br><b>450</b> [2] - 117:9,<br>117:11<br><b>46</b> [1] - 128:14<br><b>48</b> [1] - 7:8 | <b>5</b><br><b>5</b> [6] - 2:18, 4:6,<br>12:13, 23:29, 27:7,<br>31:29<br><b>52</b> [1] - 29:1<br><b>55</b> [1] - 108:28  |
| <b>0</b> | <b>02</b> [3] - 51:19, 52:12,<br>57:20  |   |  |  |
| <b>1</b> | <b>1</b> [10] - 3:4, 8:8,<br>12:19, 29:2, 123:19,<br>124:14, 131:25,<br>132:4, 157:3, 167:17<br><b>10</b> [3] - 46:12, 46:13,<br>94:12<br><b>10%</b> [5] - 115:27,<br>115:28, 116:2, 116:7<br><b>100%</b> [1] - 143:9<br><b>10th</b> [1] - 1:18<br><b>10TH</b> [1] - 5:1<br><b>11</b> [5] - 23:23, 50:28,<br>75:23, 75:28, 127:1<br><b>111</b> [2] - 78:27, 88:28<br><b>11:00</b> [1] - 189:8<br><b>12</b> [4] - 15:25, 15:26,<br>28:1, 132:1<br><b>1233</b> [1] - 158:2<br><b>12333</b> [50] - 15:24,<br>15:27, 16:1, 16:10,<br>16:22, 16:23, 17:4,<br>17:9, 17:11, 17:19,<br>29:8, 30:25, 31:7,<br>32:5, 32:7, 32:11,<br>33:13, 37:18, 45:13,<br>45:20, 56:11, 56:15,<br>56:21, 56:25, 57:5,<br>57:9, 57:15, 57:17, | <b>2</b><br><b>2</b> [18] - 2:8, 2:19,<br>2:24, 2:28, 2:29, 5:17,<br>12:19, 26:25, 27:7,<br>28:9, 30:13, 34:13,<br>34:20, 123:17,<br>123:27, 123:28,<br>124:7, 157:3<br><b>2%</b> [2] - 117:18,<br>117:21<br><b>2.3</b> [6] - 156:2, 156:3,<br>156:15, 157:16,<br>157:29, 158:1<br><b>20</b> [1] - 63:28<br><b>200</b> [2] - 15:15, 92:5<br><b>2006</b> [1] - 105:3<br><b>2008</b> [1] - 50:6<br><b>2009</b> [8] - 13:20,<br>120:22, 121:5,<br>121:10, 121:15,<br>126:5, 129:29, 130:15   | <b>3</b><br><b>3</b> [15] - 9:15, 14:18,<br>14:19, 22:19, 26:6,<br>27:7, 30:29, 34:8,<br>34:16, 35:21, 122:3,<br>122:4, 152:16, 157:5<br><b>3.5</b> [1] - 159:4<br><b>31</b> [1] - 57:12<br><b>32</b> [2] - 25:20, 45:21<br><b>323</b> [1] - 3:9<br><b>33</b> [7] - 4:6, 78:22,<br>88:28, 89:1, 89:5,<br>182:20, 183:25<br><b>34</b> [9] - 4:7, 10:29,<br>11:1, 89:2, 89:5,<br>184:19, 185:18,<br>185:20, 185:22<br><b>35</b> [5] - 26:25, 28:10,  | <b>6</b><br><b>6</b> [4] - 5:16, 5:17,<br>9:18, 15:22<br><b>60s</b> [1] - 9:3<br><b>64</b> [1] - 9:3   |
|          |   | <b>7</b><br><b>7</b> [5] - 3:11, 14:18,<br>28:22, 37:15, 127:1<br><b>7/8</b> [1] - 2:8<br><b>702</b> [141] - 12:20,<br>12:21, 12:26, 12:27,<br>13:3, 14:12, 14:13,<br>14:15, 17:20, 17:23,<br>17:25, 18:6, 18:14,   | <b>8</b><br><b>8</b> [5] - 10:29, 11:1,<br>11:3, 22:25, 28:22<br><b>8-10%</b> [1] - 116:1<br><b>81</b> [4] - 132:15,<br>132:19, 133:25, 144:2  |  |

**82** [3] - 133:7, 134:4, 134:29

---

## 9

---

**9** [3] - 15:22, 37:15, 37:17

**90** [1] - 174:2

**90%** [1] - 116:6

**91** [3] - 135:26, 153:13, 153:18

**94,000** [2] - 91:27, 116:16

**94,368** [1] - 19:1

**98** [2] - 135:17, 144:23

---

## A

---

**A&L** [1] - 3:3

**ABBEY** [1] - 3:10

**ability** [5] - 5:27, 122:28, 157:16, 166:28, 174:17

**able** [7] - 12:4, 86:20, 98:27, 155:7, 161:23, 171:4, 175:7

**ably** [1] - 28:18

**above-named** [1] - 1:26

**abroad** [10] - 13:4, 13:6, 19:15, 30:28, 53:7, 56:22, 72:13, 120:26, 169:22, 171:13

**abroad"** [1] - 56:9

**absolutely** [2] - 49:17, 186:11

**abstract** [2] - 105:23, 157:18

**accept** [3] - 86:5, 133:23, 167:2

**accepted** [2] - 158:16, 173:13

**accepting** [1] - 74:25

**access** [52] - 14:22, 20:29, 31:9, 31:16, 37:19, 40:7, 40:12, 41:21, 42:21, 56:1, 64:24, 64:26, 71:10, 73:12, 81:8, 82:1, 82:4, 82:10, 82:22, 82:24, 83:18, 83:25, 84:27, 85:15, 85:23, 86:2, 86:26, 90:2, 90:10, 90:25, 92:17, 93:15, 93:19, 99:28, 100:4, 101:10, 101:24, 113:20,

114:9, 119:13, 133:14, 134:29, 135:2, 139:8, 143:25, 146:9, 146:17, 146:20, 181:29, 184:7, 187:1

**access"** [4] - 82:5, 82:20, 90:13, 90:15

**accesses** [4] - 31:14, 70:18, 100:11, 100:12

**accessing** [3] - 114:6, 116:11, 118:4

**accommodate** [1] - 23:16

**accompany** [1] - 90:25

**accompanying** [1] - 141:18

**accomplished** [4] - 81:17, 85:18, 91:11, 121:24

**accord** [2] - 53:12, 53:16

**accordingly** [6] - 24:13, 43:20, 47:25, 162:23, 165:7, 185:7

**account** [4] - 54:9, 90:9, 90:13, 119:12

**accounts** [10] - 15:7, 15:11, 19:27, 19:28, 55:19, 92:4, 141:18, 141:19, 145:13, 145:22

**accuracy** [1] - 188:17

**accurate** [18] - 25:9, 31:17, 35:17, 37:6, 54:2, 54:11, 74:11, 84:1, 84:27, 104:18, 117:3, 119:29, 129:16, 129:20, 139:25, 141:10, 164:23, 172:16

**accurately** [3] - 141:4, 149:7, 187:25

**acknowledge** [3] - 89:19, 126:11, 126:12

**acknowledged** [14] - 13:19, 16:26, 17:11, 29:18, 41:4, 42:18, 51:28, 119:26, 121:5, 125:17, 129:22, 130:2, 145:24, 152:2

**acknowledgement** [1] - 40:2

**acknowledges** [3] - 56:20, 134:14, 150:14

**acknowledgment** [1] - 79:14

**acknowledgments**

[5] - 35:6, 125:19, 145:5, 165:26, 171:8

**ACLU** [21] - 6:11, 6:12, 11:27, 11:28, 12:11, 29:27, 36:4, 36:16, 36:23, 37:3, 59:16, 60:2, 60:25, 65:15, 66:16, 66:19, 75:14, 160:2, 161:18, 168:21, 173:18

**ACLU's** [1] - 37:11

**acquire** [8] - 20:20, 30:2, 56:16, 67:24, 89:15, 118:3, 122:13, 126:22

**acquired** [10] - 19:7, 20:3, 20:7, 78:4, 92:5, 138:7, 149:8, 152:1, 162:3, 186:13

**acquires** [6] - 48:25, 50:24, 69:5, 73:19, 147:29, 148:3

**acquiring** [8] - 20:15, 48:24, 49:1, 50:22, 54:10, 71:8, 148:5, 148:6

**acquisition** [19] - 13:7, 14:1, 18:25, 76:22, 77:1, 80:29, 82:28, 87:4, 87:19, 88:8, 89:8, 89:20, 90:27, 92:9, 128:17, 148:7, 181:16, 182:9, 184:26

**acquisitions** [2] - 18:13, 31:8

**acronym** [1] - 70:11

**acronyms** [2] - 70:6, 70:13

**act** [2] - 155:5, 187:19

**Act** [19] - 8:12, 8:17, 8:20, 8:21, 8:24, 9:6, 9:8, 9:9, 9:13, 9:14, 25:22, 25:25, 47:7, 47:12, 135:22, 147:27, 160:6, 181:6

**action** [11] - 1:27, 9:14, 22:16, 27:15, 155:3, 166:3, 170:5, 170:15, 172:21, 172:23, 181:3

**actions** [2] - 124:23, 172:27

**activities** [11] - 32:25, 150:12, 151:12, 151:23, 151:28, 152:20, 156:11, 159:10, 180:15, 181:1, 188:19

**activity** [3] - 19:20, 36:1, 49:24

**actors** [2] - 22:28, 23:5

**acts** [4] - 25:2, 123:1, 123:9, 123:10

**Acts** [1] - 181:9

**actual** [10] - 105:9, 106:3, 106:8, 106:14, 107:5, 110:19, 122:29, 129:10, 129:21, 171:16

**add** [2] - 78:16, 188:15

**addition** [7] - 13:15, 69:24, 119:14, 134:11, 163:5, 172:7, 183:28

**additional** [6] - 44:11, 59:7, 80:10, 80:22, 82:21, 134:27

**address** [8] - 12:14, 47:18, 65:13, 80:24, 145:17, 154:14, 178:8, 183:1

**addressed** [5] - 21:16, 28:14, 47:19, 59:5, 188:21

**addresses** [4] - 9:3, 33:1, 47:21, 54:8

**addressing** [3] - 9:28, 92:22, 182:8

**Adequacy** [11] - 58:22, 58:24, 58:25, 58:29, 143:19, 143:24, 144:20, 148:12, 148:13, 148:21, 153:17

**adequacy** [5] - 16:27, 44:15, 59:2, 131:26, 132:12

**adequate** [4] - 16:13, 16:17, 147:2, 178:18

**adherence** [1] - 78:16

**adjective** [2] - 79:8, 81:5

**ADJOURNED** [1] - 189:7

**ADJOURNMENT** [2] - 93:27, 94:1

**adjudicate** [2] - 25:18, 166:28

**adjudication** [2] - 165:6, 167:3

**adjusted** [1] - 174:10

**administration** [6] - 155:2, 155:5, 186:20, 186:23, 186:29, 187:7

**administrative** [1] - 108:24

**Administrative** [2] - 25:21, 25:25

**admitted** [1] - 6:3

**adopt** [2] - 7:14, 79:29

**advance** [2] - 36:27, 153:5

**advantage** [2] - 151:20, 175:4

**adverb** [1] - 89:10

**adversarial** [2] - 32:18, 46:26

**advised** [2] - 22:27, 23:17

**advocacy** [3] - 65:22, 66:24, 75:19

**advocate** [5] - 36:5, 36:11, 36:16, 36:20, 65:22

**advocating** [2] - 65:18, 65:20

**AFERTs** [1] - 65:22

**affairs** [5] - 13:11, 122:20, 123:28, 124:3, 124:7

**affected** [2] - 168:11, 174:4

**affidavit** [11] - 5:18, 6:26, 9:2, 99:6, 99:8, 102:8, 104:21, 104:22, 106:22, 109:29, 138:27

**AFFIRMED** [1] - 5:11

**afford** [1] - 151:20

**afforded** [1] - 9:5

**afraid** [1] - 182:14

**AFTER** [1] - 94:1

**afternoon** [4] - 94:7, 94:8, 94:11, 185:13

**age** [1] - 156:23

**age-off** [1] - 156:23

**agencies** [15] - 8:16, 8:18, 42:9, 77:19, 77:25, 78:16, 83:3, 86:4, 93:6, 119:1, 141:25, 177:24, 186:28, 187:1, 187:4

**Agency** [3] - 9:17, 42:8, 42:11

**agency** [12] - 17:25, 27:16, 53:1, 77:21, 118:2, 118:8, 118:13, 118:24, 177:16, 178:7, 178:10, 179:2

**agency's** [3] - 118:27, 178:13, 178:14

**agent** [1] - 74:27

**agents** [5] - 19:21,

49:26, 74:3, 74:5,  
74:17  
**aggressive** [1] -  
163:9  
**ago** [5] - 40:19, 83:6,  
87:15, 111:28, 146:4  
**agree** [20] - 22:10,  
23:27, 24:16, 39:22,  
40:16, 79:5, 102:11,  
117:18, 123:2, 130:8,  
142:17, 150:3, 152:3,  
152:27, 155:7,  
155:14, 164:19,  
164:23, 164:28,  
174:27  
**agreed** [20] - 14:20,  
14:25, 16:5, 17:24,  
21:5, 23:22, 23:25,  
24:2, 67:4, 71:5,  
71:13, 89:15, 90:3,  
92:26, 95:28, 101:3,  
111:23, 184:12,  
187:29, 188:10  
**agreement** [6] - 18:1,  
22:9, 46:6, 46:11,  
143:15, 180:5  
**agrees** [1] - 21:15  
**Agron** [1] - 59:14  
**AHERN** [1] - 2:18  
**air** [2] - 97:29, 146:1  
**allegation** [1] - 81:29  
**allegations** [8] -  
10:4, 10:8, 163:5,  
163:6, 163:9, 163:11,  
163:12, 169:29  
**alleged** [5] - 10:14,  
10:20, 42:15, 162:21,  
169:7  
**Alliance** [1] - 2:26  
**allow** [1] - 103:15  
**allowed** [1] - 30:2  
**allowing** [1] - 30:6  
**almost** [2] - 88:2,  
180:6  
**altered** [2] - 82:13,  
82:16  
**alternatives** [1] -  
151:25  
**amass** [1] - 30:6  
**ambiguity** [1] - 91:9  
**amended** [6] - 29:9,  
29:12, 125:26, 160:5,  
181:22, 182:3  
**Amendment** [38] -  
21:5, 21:12, 21:17,  
21:22, 21:28, 22:2,  
27:23, 27:26, 74:23,  
124:22, 151:5,  
167:19, 167:20,  
167:21, 167:22,  
167:24, 167:25,  
167:26, 168:1, 168:4,  
168:6, 168:7, 168:10,  
168:18, 168:22,  
168:26, 168:27,  
169:1, 169:7, 169:8,  
169:10, 169:16,  
169:17, 170:2, 178:2,  
178:4  
**AMERICA** [1] - 2:21  
**American** [6] - 6:10,  
12:9, 23:8, 26:20,  
59:19, 173:21  
**Americans** [1] -  
156:17  
**amici** [2] - 168:21,  
168:25  
**amicus** [5] - 59:17,  
59:24, 60:5, 60:28,  
61:11  
**Amnesty** [8] -  
168:16, 169:15,  
169:19, 170:3, 170:4,  
170:27, 171:3, 172:14  
**amounted** [1] -  
161:20  
**amounts** [1] - 161:7  
**analogous** [2] - 68:6,  
124:14  
**analogy** [8] - 74:2,  
74:11, 74:12, 74:16,  
75:2, 75:3, 75:6,  
75:12  
**analyse** [1] - 64:1  
**analysis** [7] - 26:10,  
92:20, 95:20, 97:2,  
148:25, 168:12  
**analyst** [3] - 127:9,  
127:19, 127:21  
**analysts** [6] - 53:1,  
121:26, 128:14,  
128:20, 156:25  
**analysts'** [1] - 17:25  
**AND** [1] - 1:13  
**Angwin** [1] - 41:11  
**animating** [1] - 75:12  
**annexes** [2] -  
131:27, 148:12  
**annual** [4] - 18:10,  
87:28, 116:20, 154:12  
**annually** [1] - 185:4  
**anonymously** [1] -  
169:2  
**answer** [8] - 25:7,  
33:17, 35:26, 92:12,  
100:10, 146:3,  
187:16, 188:9  
**answers** [2] - 6:14,  
126:11  
**ante** [3] - 18:9, 50:5,  
130:27  
**apart** [2] - 7:11, 38:5  
**apologise** [6] -  
108:25, 115:10,  
132:4, 144:21,  
167:21, 170:11  
**apparatus** [2] -  
14:12, 134:19  
**apparent** [3] -  
160:24, 180:12,  
180:16  
**appeal** [5] - 10:25,  
167:29, 168:2, 171:1,  
171:27  
**Appeal's** [1] - 66:10  
**appealing** [1] -  
167:28  
**appeals** [1] - 6:9  
**appear** [1] - 115:2  
**APPEARANCES** [1] -  
2:3  
**appellant** [1] - 3:25  
**appended** [2] - 5:18,  
108:11  
**appendices** [2] -  
108:22, 108:23  
**appendix** [2] - 5:22,  
108:8  
**application** [2] -  
17:9, 21:4  
**applies** [12] - 21:22,  
21:28, 22:2, 129:14,  
147:6, 147:9, 147:10,  
148:16, 158:19,  
163:6, 166:24, 172:26  
**apply** [9] - 16:1,  
17:11, 21:17, 47:10,  
47:11, 50:19, 127:20,  
144:14, 187:2  
**applying** [5] - 21:12,  
77:10, 113:3, 138:5,  
187:5  
**appreciate** [5] -  
76:15, 100:26,  
130:24, 139:23, 177:6  
**appropriate** [18] -  
36:9, 56:23, 56:24,  
79:28, 91:16, 124:10,  
124:11, 126:26,  
139:11, 140:8,  
142:18, 151:24,  
154:15, 158:21,  
175:13, 179:14,  
185:10, 185:11  
**appropriately** [1] -  
184:6  
**approvals** [1] -  
128:14  
**approve** [2] - 17:25,  
48:18  
**approved** [3] - 52:25,  
127:26, 128:2  
**approved"** [1] -  
128:1  
**approves** [1] -  
136:22  
**approving** [5] -  
17:23, 18:4, 52:23,  
52:24, 53:4  
**April** [1] - 81:23  
**apt** [1] - 74:12  
**area** [2] - 36:6, 117:4  
**areas** [1] - 12:16  
**arguably** [5] - 13:10,  
30:17, 93:6, 152:29,  
158:4  
**argued** [2] - 74:20,  
168:25  
**argues** [4] - 74:20,  
162:20, 165:4, 165:5  
**arguing** [3] - 163:9,  
163:29, 175:11  
**argument** [3] - 47:5,  
167:14, 168:8  
**arguments** [2] -  
66:11, 168:2  
**arises** [2] - 60:15,  
188:4  
**arrangement** [1] -  
154:8  
**array** [1] - 39:9  
**arrived** [1] - 44:18  
**Article** [7] - 11:9,  
11:14, 28:22, 29:1,  
167:15, 167:17,  
167:18  
**article** [21] - 81:7,  
81:24, 81:26, 82:3,  
82:9, 82:17, 82:23,  
83:14, 85:14, 89:27,  
90:1, 90:6, 93:14,  
93:17, 93:18, 101:13,  
101:14, 101:17,  
181:21, 182:3  
**article's** [1] - 182:5  
**articulated** [3] -  
126:9, 128:27, 129:13  
**AS** [5] - 5:1, 5:12,  
34:1, 94:1, 180:25  
**ASHLEY** [2] - 4:5,  
5:11  
**aside** [3] - 20:19,  
109:24, 166:27  
**aspect** [6] - 46:4,  
80:3, 99:21, 99:23,  
143:6, 143:8  
**aspects** [6] - 45:27,  
45:29, 46:24, 47:24,  
110:8, 125:19  
**asserted** [1] - 174:22  
**assertion** [4] -  
100:29, 101:2,  
109:13, 120:18  
**assertions** [3] -  
107:13, 107:14, 111:2  
**assess** [4] - 102:6,  
107:14, 166:23, 178:3  
**assessed** [1] -  
127:22  
**assesses** [2] - 163:1,  
167:9  
**assessing** [5] - 10:3,  
59:2, 159:21, 167:5,  
178:27  
**assessment** [11] -  
48:14, 92:25, 109:7,  
112:3, 112:19,  
163:15, 163:16,  
163:18, 163:21,  
164:6, 172:17  
**assist** [5] - 35:25,  
35:26, 55:10, 113:16,  
126:1  
**assistance** [4] -  
76:22, 76:26, 76:27,  
77:8  
**assistant** [2] - 97:27  
**associated** [1] -  
91:29  
**associates** [1] -  
169:22  
**associational** [1] -  
169:3  
**assume** [4] - 76:4,  
88:25, 141:3, 154:27  
**assumed** [2] -  
163:17, 163:19  
**assumes** [1] -  
162:28  
**assuming** [6] -  
11:14, 145:6, 148:16,  
155:5, 164:8, 176:2  
**assumption** [3] -  
22:8, 117:27, 187:19  
**assurance** [1] -  
133:9  
**AT** [1] - 189:8  
**AT&T** [17] - 99:9,  
100:18, 101:1, 102:9,  
104:20, 105:2, 105:4,  
105:7, 105:15,  
105:20, 106:1,  
108:16, 110:1,  
110:11, 113:7, 113:8  
**Atlantic** [1] - 16:24  
**attached** [3] -  
148:12, 155:18,  
155:21  
**attack** [3] - 22:27,  
23:4, 122:29



**attacks** [2] - 123:8, 123:9  
**attempting** [2] - 103:6, 169:12  
**attendant** [1] - 109:27  
**attention** [7] - 55:29, 103:13, 104:3, 127:5, 132:15, 138:11, 142:19  
**attorney** [2] - 97:27  
**Attorney** [2] - 18:11, 171:17  
**audience** [1] - 75:20  
**authored** [1] - 65:5  
**authorisation** [2] - 61:25, 65:14  
**authorise** [1] - 160:15  
**authorised** [12] - 56:7, 94:17, 124:25, 127:25, 127:29, 128:2, 151:16, 151:18, 157:4, 160:8, 160:11, 171:27  
**authorises** [1] - 122:16  
**authorising** [1] - 63:3  
**authoritative** [4] - 79:5, 79:10, 79:11, 80:2  
**authorities** [8] - 29:13, 95:2, 95:3, 122:7, 132:4, 144:12, 153:14, 187:26  
**Authority** [3] - 16:6, 17:14  
**authority** [25] - 12:15, 17:7, 17:13, 27:6, 27:25, 30:5, 80:14, 85:25, 88:26, 112:11, 123:5, 123:6, 123:21, 125:12, 125:13, 125:23, 147:22, 147:25, 148:8, 162:3, 171:12, 177:26, 178:2, 180:19, 186:27  
**availability** [1] - 152:5  
**available** [26] - 8:23, 9:14, 29:4, 29:17, 29:24, 30:11, 45:1, 45:4, 47:2, 47:16, 53:12, 67:21, 70:21, 70:23, 71:29, 72:3, 73:5, 120:23, 125:5, 130:1, 136:16, 142:9, 152:17, 157:3, 166:6,

177:11  
**avermment** [1] - 105:17  
**aware** [37] - 8:16, 44:13, 44:17, 59:10, 59:13, 59:16, 59:25, 61:6, 61:8, 74:26, 75:1, 79:6, 81:20, 82:7, 83:8, 85:26, 85:28, 92:15, 101:19, 112:9, 117:5, 117:20, 117:23, 124:29, 125:4, 126:15, 131:12, 142:5, 148:11, 150:28, 151:12, 172:2, 172:4, 174:14, 177:15, 178:12, 179:2

## B

**B25** [1] - 188:27  
**backbone** [5] - 55:11, 70:26, 96:5, 99:18, 113:4  
**background** [3] - 5:23, 5:27, 35:1  
**badly** [1] - 150:25  
**BANK** [1] - 2:13  
**bar** [9] - 24:1, 24:4, 24:10, 24:15, 24:20, 164:26, 166:8, 166:18, 166:29  
**Bar** [1] - 6:2  
**barriers** [1] - 32:18  
**barring** [1] - 142:14  
**BARRINGTON** [1] - 2:21  
**BARROW** [1] - 2:13  
**base** [2] - 141:7, 169:12  
**based** [41] - 9:11, 11:28, 13:21, 35:10, 37:29, 38:7, 38:8, 44:10, 68:17, 68:18, 82:22, 87:15, 87:25, 90:21, 90:22, 90:24, 96:12, 98:13, 98:28, 99:1, 99:21, 101:17, 105:7, 105:15, 110:11, 111:17, 112:3, 116:10, 116:29, 118:29, 131:4, 141:11, 141:14, 146:7, 147:26, 148:26, 149:18, 162:18, 166:15, 183:1  
**bases** [2] - 101:2, 110:2

**basing** [1] - 141:21  
**basis** [28] - 18:10, 50:9, 50:12, 61:9, 79:21, 80:4, 87:28, 92:16, 93:1, 100:29, 101:27, 102:9, 102:12, 109:4, 112:5, 125:1, 125:6, 125:9, 126:13, 132:21, 137:7, 140:4, 147:29, 168:20, 171:1, 177:23, 177:25, 185:3  
**Bates** [2] - 48:2, 188:21  
**Bay** [1] - 169:20  
**bear** [1] - 48:27  
**bearing** [2] - 13:10, 184:29  
**bears** [2] - 18:7, 43:25  
**became** [1] - 160:23  
**BEEN** [1] - 5:11  
**BEFORE** [1] - 1:17  
**beforehand** [1] - 74:9  
**beg** [2] - 144:28, 182:19  
**began** [3] - 6:9, 49:29, 140:6  
**begin** [3] - 16:9, 77:1, 133:25  
**beginning** [6] - 10:5, 60:6, 62:23, 104:29, 144:26, 166:25  
**begins** [2] - 78:7, 127:9  
**behalf** [3] - 28:4, 37:1, 182:29  
**behind** [4] - 5:17, 28:9, 75:12, 105:20  
**belief** [3] - 100:23, 100:24, 112:5  
**believes** [4] - 13:5, 72:12, 126:20, 139:25  
**belonging** [1] - 162:14  
**below** [1] - 184:1  
**best** [1] - 14:28  
**better** [1] - 120:20  
**between** [20] - 14:21, 23:21, 36:20, 36:23, 56:25, 57:13, 57:22, 61:2, 73:2, 74:26, 100:4, 111:20, 112:27, 123:11, 126:12, 168:4, 172:8, 174:15, 183:24  
**beyond** [4] - 27:20, 31:2, 78:15, 177:27  
**big** [1] - 100:3

**billion** [2] - 117:9, 117:11  
**billions** [1] - 145:16  
**bind** [2] - 27:16, 177:16  
**binders** [1] - 158:28  
**bit** [3] - 69:12, 118:12, 157:19  
**BL** [7] - 2:6, 2:11, 2:17, 2:21, 2:27, 3:2, 3:8  
**block** [3] - 43:11, 149:5, 172:14  
**Board** [4] - 13:16, 13:25, 38:11, 95:8  
**board** [1] - 14:2  
**boarding** [1] - 85:22  
**body** [31] - 38:15, 38:18, 38:19, 54:21, 55:6, 68:20, 69:2, 70:25, 71:7, 71:9, 71:24, 72:3, 73:3, 95:28, 99:28, 100:5, 100:11, 100:13, 101:25, 114:10, 114:17, 114:25, 115:11, 115:14, 115:19, 116:10, 117:25, 118:9, 118:20, 118:25, 131:26  
**Book** [7] - 5:15, 5:17, 131:24, 131:25, 131:28, 132:3, 132:4  
**book** [20] - 5:17, 27:29, 41:8, 75:22, 75:26, 75:27, 76:11, 76:14, 122:3, 122:4, 122:5, 122:7, 127:1, 131:27, 153:14, 158:25, 182:14, 182:19  
**Booklet** [1] - 27:29  
**booklet** [4] - 5:15, 7:22, 28:9, 182:20  
**books** [3] - 29:22, 132:1, 188:27  
**bottom** [6] - 8:8, 8:10, 73:28, 77:18, 109:17, 152:14  
**bound** [1] - 166:22  
**box** [1] - 5:8  
**branch** [17] - 13:17, 18:21, 27:16, 29:9, 29:11, 35:8, 50:1, 50:15, 52:28, 78:20, 98:12, 130:25, 130:29, 134:1, 172:21, 172:23, 172:27  
**breaches** [1] - 181:2  
**breaching** [1] - 175:6  
**breadth** [9] - 29:23, 80:13, 92:1, 123:5, 146:19, 151:27, 180:18, 187:13  
**break** [2] - 69:14, 162:25  
**breaking** [1] - 99:15  
**breavity** [1] - 149:5  
**BRIAN** [1] - 2:5  
**brief** [10] - 59:17, 59:24, 59:27, 60:5, 60:28, 61:11, 64:14, 64:16, 170:3, 171:22  
**briefly** [6] - 5:22, 26:15, 27:27, 28:3, 31:7, 180:27  
**bring** [7] - 10:6, 23:10, 25:26, 32:21, 103:12, 163:26, 164:3  
**bringing** [2] - 36:27, 181:20  
**broad** [36] - 13:12, 14:9, 16:24, 30:12, 33:16, 58:8, 58:12, 63:29, 67:12, 71:10, 101:9, 121:28, 122:20, 122:24, 123:4, 124:4, 124:27, 125:12, 125:23, 126:4, 126:8, 126:9, 126:12, 126:21, 149:13, 150:6, 156:14, 158:1, 158:2, 158:5, 158:14, 158:27, 159:14, 159:20, 159:27, 171:11  
**broaden** [1] - 51:10  
**broader** [9] - 20:27, 30:22, 30:24, 31:26, 51:7, 51:19, 69:2, 69:12, 99:25  
**broadly** [14] - 13:9, 23:3, 43:2, 43:7, 44:8, 80:6, 80:14, 120:28, 124:13, 138:2, 153:6, 156:10, 158:14, 172:27  
**brought** [11] - 26:12, 26:20, 26:21, 168:14, 169:16, 170:5, 170:12, 170:14, 170:15, 173:10  
**BSA** [1] - 2:26  
**buddy** [1] - 145:17  
**buggy** [1] - 54:24  
**BUILDING** [1] - 3:10  
**bulk** [78] - 6:29, 7:2,

7:4, 7:10, 16:23, 17:2, 20:14, 20:28, 29:25, 31:7, 31:8, 31:13, 32:6, 33:14, 53:25, 53:26, 53:27, 54:1, 54:3, 54:5, 54:17, 54:19, 54:20, 54:22, 55:3, 55:5, 55:8, 55:14, 55:17, 56:14, 56:18, 56:20, 56:22, 57:3, 57:4, 57:13, 57:14, 57:16, 58:9, 67:6, 67:10, 67:17, 68:7, 70:19, 71:14, 71:15, 71:18, 71:19, 71:21, 71:22, 73:18, 73:25, 78:7, 95:9, 98:15, 98:16, 98:29, 109:20, 113:14, 134:10, 134:14, 136:23, 137:27, 145:20, 149:8, 150:15, 152:3, 152:17, 153:3, 154:3, 160:4, 160:7, 160:19, 160:22  
**bundled** [4] - 20:18, 48:26, 69:9, 69:26  
**bundles** [1] - 48:29  
**burden** [2] - 9:26, 11:18  
**burdening** [2] - 149:17, 151:4  
**burdensome** [1] - 50:20  
**business** [4] - 12:1, 12:2, 30:1, 35:29  
**BY** [6] - 1:17, 5:12, 33:20, 34:1, 94:4, 180:25

## C

**cabining** [1] - 118:17  
**cable** [3] - 96:17, 144:11, 145:26  
**cables** [8] - 16:25, 17:3, 68:8, 96:6, 135:12, 143:27, 145:15, 146:22  
**CAHILL** [1] - 3:2  
**California** [2] - 24:24, 99:7  
**campaign** [2] - 65:15, 65:17  
**camped** [1] - 75:9  
**CANAL** [1] - 2:28  
**cannot** [13] - 27:10, 27:11, 27:16, 105:13, 105:28, 111:9,

164:20, 165:7, 165:28, 167:1, 172:13, 176:23, 177:16  
**capabilities** [3] - 27:6, 146:20, 159:10  
**capability** [1] - 159:17  
**capacity** [6] - 96:6, 146:14, 147:5, 147:9, 147:10  
**CAPEL** [1] - 3:10  
**capture** [2] - 75:3, 159:20  
**captures** [1] - 152:7  
**careful** [3] - 71:4, 130:21, 130:24  
**carried** [2] - 78:28, 132:23  
**carry** [4] - 96:6, 103:27, 114:8, 115:5  
**carrying** [2] - 51:25, 68:9  
**case** [57] - 9:27, 10:4, 10:5, 10:15, 10:24, 11:23, 11:27, 12:7, 24:24, 26:26, 29:27, 34:26, 37:2, 47:1, 59:13, 59:17, 60:7, 64:29, 65:7, 66:14, 99:7, 100:18, 101:1, 102:9, 102:26, 102:29, 103:11, 109:1, 109:2, 109:19, 110:23, 111:14, 111:15, 116:25, 144:8, 145:1, 145:3, 145:27, 160:21, 161:1, 161:9, 162:6, 162:9, 164:7, 165:5, 166:15, 167:6, 167:7, 167:26, 168:15, 168:25, 169:25, 170:16, 171:3, 171:8, 173:18  
**Case** [1] - 1:5  
**cases** [17] - 10:11, 11:18, 26:23, 35:3, 36:27, 47:2, 146:12, 162:11, 162:17, 162:23, 164:28, 167:16, 167:23, 172:8, 172:15, 173:12, 173:15  
**causation** [3] - 161:29, 162:1, 163:22  
**causes** [2] - 9:13, 22:16  
**caveat** [3] - 22:4, 82:21, 163:26

**ceases** [1] - 174:2  
**Cedarbaum** [1] - 6:7  
**cellphone** [1] - 145:17  
**CENTER** [1] - 3:7  
**central** [2] - 167:6, 167:29  
**centre** [1] - 75:9  
**centres** [1] - 74:4  
**certain** [16] - 34:20, 50:24, 76:28, 124:26, 146:12, 162:23, 163:9, 163:10, 163:12, 167:23, 168:8, 175:14, 175:15, 177:21, 178:13, 186:29  
**certainly** [37] - 5:17, 23:12, 30:19, 31:24, 38:10, 39:4, 40:22, 43:10, 46:10, 50:18, 53:29, 63:8, 65:18, 75:4, 76:3, 88:3, 89:22, 91:3, 95:13, 116:28, 118:1, 119:5, 119:7, 132:13, 134:17, 140:9, 141:12, 153:27, 155:1, 155:20, 155:23, 166:8, 176:19, 182:20, 183:15, 183:16, 187:18  
**certificate** [1] - 116:20  
**certification** [11] - 48:4, 48:5, 48:6, 48:9, 48:18, 52:22, 52:23, 52:24, 52:25, 53:4, 128:3  
**certifications** [4] - 18:13, 127:14, 131:7, 172:4  
**certify** [1] - 1:22  
**challenge** [16] - 10:8, 10:9, 11:15, 99:7, 162:26, 163:27, 163:28, 164:3, 164:9, 164:10, 165:20, 166:19, 168:14, 170:14, 177:6  
**challenged** [2] - 29:27, 162:4  
**challenges** [5] - 9:21, 9:28, 10:11, 162:19, 164:24  
**challenging** [11] - 11:7, 24:25, 25:28, 35:3, 66:14, 164:29, 170:17, 170:19,

172:21, 173:10, 173:18  
**change** [4] - 126:19, 129:1, 154:11, 185:6  
**changed** [2] - 87:9, 121:14  
**changes** [7] - 36:8, 49:11, 121:9, 121:11, 121:16, 121:18, 155:8  
**changing** [3] - 15:9, 15:12, 87:27  
**chapter** [1] - 22:25  
**characterisation** [5] - 72:2, 73:10, 103:5, 138:24, 139:26  
**characterisations** [2] - 140:20, 141:5  
**characterise** [16] - 19:24, 39:16, 44:7, 47:29, 49:13, 50:15, 54:11, 54:16, 57:6, 65:17, 92:14, 94:23, 130:23, 131:19, 138:8, 140:16  
**characterised** [6] - 20:14, 34:26, 83:17, 138:10, 138:13, 147:28  
**characterising** [1] - 140:10  
**Charlie** [2] - 41:11, 101:13  
**chart** [1] - 7:5  
**Charter** [1] - 28:23  
**chief** [1] - 49:8  
**chilling** [3] - 169:8, 169:9, 169:13  
**choke** [1] - 68:8  
**choose** [2] - 45:27, 141:7  
**chosen** [1] - 49:8  
**CIA** [1] - 186:2  
**Circuit** [3] - 6:8, 12:4, 66:10  
**circumscribed** [3] - 51:20, 63:10, 123:29  
**circumscribed** [1] - 63:4  
**circumstances** [11] - 17:13, 21:23, 85:19, 103:25, 124:26, 124:27, 161:12, 162:6, 171:24, 173:20, 187:1  
**citation** [4] - 46:1, 57:18, 102:6, 148:19  
**citations** [1] - 38:10  
**cite** [26] - 45:12, 46:3, 57:12, 63:8, 81:6, 82:17, 85:25,

86:23, 87:20, 88:9, 88:11, 88:14, 88:24, 88:28, 89:1, 90:4, 91:16, 102:1, 108:17, 129:22, 143:9, 149:1, 149:13, 149:14, 149:23  
**cited** [12] - 35:18, 46:9, 46:10, 58:8, 82:26, 85:15, 88:27, 89:1, 90:5, 139:3, 143:10, 184:1  
**cites** [5] - 43:10, 61:11, 63:17, 101:14, 135:3  
**citing** [3] - 83:14, 143:16, 157:11  
**citizen** [4] - 16:2, 16:14, 21:13, 22:3  
**citizens** [13] - 17:2, 18:26, 19:8, 19:24, 19:26, 20:2, 20:12, 21:17, 22:11, 26:13, 26:20, 26:21, 134:7  
**citizens'** [1] - 19:18  
**citizens'** [5] - 16:19, 133:11, 134:17, 143:25, 146:9  
**Civil** [6] - 6:10, 13:15, 13:25, 38:11, 59:19, 95:7  
**civil** [6] - 32:19, 47:5, 149:28, 150:10, 150:19, 151:8  
**claim** [8] - 23:10, 25:26, 27:22, 167:9, 168:18, 169:16, 169:17  
**claims** [11] - 26:12, 26:19, 37:18, 56:1, 94:17, 167:23, 167:26, 168:10, 169:17, 170:2, 173:10  
**Clapper** [17] - 11:7, 11:23, 11:27, 12:11, 29:27, 160:2, 161:18, 168:17, 169:15, 170:3, 170:4, 170:21, 171:3, 172:14, 173:1, 173:4, 173:18  
**CLARE** [1] - 2:18  
**clarified** [3] - 7:5, 117:17, 119:29  
**clarify** [3] - 6:26, 7:7, 21:8  
**clarifying** [1] - 134:26  
**classified** [24] - 8:27, 9:1, 40:7, 40:12, 41:21, 42:22, 43:21,

43:24, 46:19, 46:22, 46:27, 58:26, 58:27, 98:28, 99:18, 99:19, 108:3, 111:17, 112:27, 119:9, 145:9, 154:22, 154:25, 180:15

**classified**<sup>[1]</sup> - 103:3

**clear**<sup>[31]</sup> - 15:16, 31:27, 32:9, 32:10, 43:16, 43:18, 53:19, 57:16, 64:19, 77:11, 91:4, 92:2, 95:4, 97:20, 98:14, 98:16, 99:27, 107:16, 109:19, 112:16, 121:19, 123:10, 128:26, 129:13, 136:28, 139:18, 162:2, 171:11, 180:16, 181:25, 182:3

**clearances**<sup>[1]</sup> - 108:3

**clearer**<sup>[3]</sup> - 106:28, 107:7, 107:9

**clearly**<sup>[3]</sup> - 77:6, 134:9, 167:12

**clerked**<sup>[1]</sup> - 6:6

**clerkship**<sup>[1]</sup> - 6:9

**client's**<sup>[1]</sup> - 10:21

**closely**<sup>[1]</sup> - 97:17

**closer**<sup>[1]</sup> - 60:29

**cold**<sup>[1]</sup> - 156:17

**colleagues**<sup>[1]</sup> - 33:18

**collect**<sup>[5]</sup> - 17:2, 124:25, 146:12, 149:16, 151:19

**collected**<sup>[16]</sup> - 7:4, 7:10, 18:18, 77:26, 78:3, 116:5, 133:12, 137:15, 153:3, 153:9, 156:19, 186:6, 186:16, 186:17, 186:27

**collecting**<sup>[4]</sup> - 77:29, 115:12, 145:20, 145:21

**Collection**<sup>[1]</sup> - 136:1

**collection**<sup>[78]</sup> - 6:29, 7:2, 15:27, 48:20, 53:26, 54:3, 54:4, 54:5, 54:17, 56:6, 56:20, 56:22, 57:3, 57:4, 57:13, 57:14, 57:17, 71:6, 71:7, 71:11, 71:12, 71:14, 71:15, 71:18, 71:20, 72:13, 72:18, 78:23, 78:25, 79:3, 103:3, 105:10, 106:9, 106:19, 107:5, 108:4, 110:19, 113:17, 114:23, 116:12, 120:27, 122:16, 134:15, 135:9, 136:8, 136:23, 137:13, 137:19, 137:22, 137:24, 137:25, 137:26, 138:2, 138:3, 138:6, 138:8, 138:9, 140:2, 144:8, 144:15, 145:16, 145:27, 147:14, 150:15, 150:26, 151:14, 158:19, 160:4, 160:7, 160:15, 160:19, 182:28, 184:23, 185:23, 185:24, 185:26, 186:1

**collection"**<sup>[1]</sup> - 53:27

**collection'**<sup>[1]</sup> - 56:8

**collective**<sup>[1]</sup> - 42:6

**collectively**<sup>[3]</sup> - 47:20, 129:27, 153:6

**collects**<sup>[1]</sup> - 152:16

**COLLINS**<sup>[4]</sup> - 2:5, 2:26, 33:22, 94:8

**Collins**<sup>[6]</sup> - 5:25, 12:23, 22:20, 70:5, 122:6, 176:3

**COLM**<sup>[1]</sup> - 3:7

**colour**<sup>[1]</sup> - 5:26

**column**<sup>[4]</sup> - 15:28, 19:11, 21:6, 22:23

**combination**<sup>[1]</sup> - 102:24

**comfort**<sup>[2]</sup> - 156:15, 156:17

**coming**<sup>[3]</sup> - 6:18, 6:20, 97:29

**comment**<sup>[6]</sup> - 11:2, 14:29, 28:26, 32:28, 121:22, 183:18

**commenting**<sup>[1]</sup> - 139:22

**comments**<sup>[1]</sup> - 176:14

**COMMERCIAL**<sup>[1]</sup> - 1:3

**commercial**<sup>[1]</sup> - 151:15

**Commission**<sup>[28]</sup> - 16:28, 44:14, 44:19, 46:8, 46:9, 58:22, 58:24, 58:25, 58:29, 59:1, 59:3, 59:8, 133:8, 133:24, 134:21, 134:25, 138:29, 143:23, 144:4, 145:11, 145:24, 146:2, 146:6, 148:22, 155:7, 155:16, 155:18, 187:21

**Commission's**<sup>[7]</sup> - 16:26, 45:10, 139:5, 139:12, 139:20, 146:10, 154:17

**Commissioner**<sup>[2]</sup> - 5:6, 94:9

**COMMISSIONER**<sup>[1]</sup> - 1:7

**committed**<sup>[1]</sup> - 157:6

**Committee**<sup>[1]</sup> - 32:10

**common**<sup>[1]</sup> - 104:1

**communicate**<sup>[4]</sup> - 19:25, 36:11, 113:12, 127:24

**communicates**<sup>[1]</sup> - 19:29

**communication**<sup>[19]</sup> - 30:27, 48:22, 56:17, 57:21, 57:22, 68:14, 69:10, 70:1, 71:3, 97:3, 114:2, 114:24, 114:25, 115:6, 118:14, 118:18, 126:21, 132:25, 156:27

**communications**<sup>[179]</sup> - 10:20, 10:21, 14:7, 15:15, 16:16, 16:20, 17:15, 18:17, 18:26, 19:7, 20:2, 20:8, 20:14, 20:16, 20:17, 20:18, 20:20, 20:22, 20:26, 21:1, 31:10, 31:14, 31:15, 37:19, 48:20, 48:25, 48:26, 48:27, 48:29, 49:1, 49:4, 50:8, 50:12, 50:13, 50:18, 50:22, 50:24, 52:20, 53:7, 55:12, 56:2, 56:17, 63:21, 64:2, 64:9, 64:19, 64:21, 64:27, 67:9, 67:21, 67:25, 68:3, 68:4, 68:7, 68:9, 68:16, 68:17, 68:21, 68:22, 68:25, 69:2, 69:3, 69:4, 69:6, 69:8, 69:9, 69:20, 69:21, 69:25, 69:26, 70:8, 70:25, 70:29, 71:2, 71:8, 71:21, 71:25, 72:3, 72:5, 72:6, 72:21, 72:22, 72:24, 73:13, 73:14, 73:16, 73:20, 73:24, 76:21, 76:22, 76:25, 77:19, 78:8, 81:1, 82:10, 82:29, 87:5, 87:19, 88:8, 89:8, 90:28, 92:5, 92:9, 93:5, 95:17, 95:18, 95:22, 96:7, 96:29, 97:2, 97:21, 98:18, 99:4, 99:13, 99:29, 100:1, 100:20, 101:11, 113:3, 113:13, 113:21, 114:3, 114:5, 114:7, 114:9, 114:14, 114:17, 115:3, 115:12, 115:14, 115:15, 115:19, 115:20, 115:24, 116:4, 116:5, 116:7, 116:8, 116:10, 116:16, 116:26, 116:29, 117:1, 117:7, 117:25, 117:28, 118:4, 118:10, 118:20, 118:25, 134:18, 135:7, 135:10, 135:11, 138:7, 145:18, 147:18, 147:20, 150:16, 156:2, 156:5, 156:7, 157:17, 158:11, 158:12, 159:25, 170:25, 170:26, 171:19, 172:10, 181:17, 182:10, 183:2, 183:4, 185:15, 188:22

**Community**<sup>[1]</sup> - 133:9

**companies**<sup>[41]</sup> - 15:8, 15:18, 15:19, 16:2, 55:9, 55:19, 55:20, 64:22, 64:25, 81:2, 81:12, 83:9, 83:11, 83:13, 83:26, 83:28, 84:3, 84:5, 84:8, 84:9, 84:20, 85:11, 85:22, 85:28, 87:6, 88:1, 88:14, 89:9, 89:15, 90:29, 92:3, 92:10, 93:4, 93:7, 113:8, 182:11, 184:11, 185:9

**companies"**<sup>[1]</sup> - 88:13

**companies'**<sup>[1]</sup> - 64:26

**company**<sup>[4]</sup> - 84:5, 84:20, 88:18, 184:25

**comparator**<sup>[2]</sup> - 135:8, 139:10

**compared**<sup>[1]</sup> - 133:16

**compelled**<sup>[7]</sup> - 55:10, 76:26, 76:27, 77:7, 89:16, 113:16, 183:4

**compelling**<sup>[1]</sup> - 76:21

**competitive**<sup>[1]</sup> - 151:20

**complain**<sup>[1]</sup> - 65:20

**complainant**<sup>[1]</sup> - 27:13

**complaint**<sup>[5]</sup> - 10:9, 162:19, 162:20, 176:23, 179:20

**complete**<sup>[3]</sup> - 107:29, 108:3, 131:25

**completely**<sup>[1]</sup> - 119:29

**compliance**<sup>[5]</sup> - 27:20, 131:17, 131:20, 179:3, 179:22

**complied**<sup>[4]</sup> - 179:8, 179:16, 179:19, 180:7

**comprehensive**<sup>[1]</sup> - 40:22

**computer**<sup>[8]</sup> - 68:10, 68:19, 69:17, 74:22, 74:28, 75:4, 78:9, 82:11

**computerised**<sup>[1]</sup> - 68:11

**computers**<sup>[6]</sup> - 67:28, 70:27, 70:28, 72:4, 73:15, 75:6

**conceivable**<sup>[1]</sup> - 165:19

**conceive**<sup>[1]</sup> - 173:24

**concept**<sup>[2]</sup> - 14:22, 97:28

**concepts**<sup>[1]</sup> - 161:17

**conceptualised**<sup>[1]</sup> - 180:4

**concern**<sup>[5]</sup> - 50:21, 123:16, 133:15, 134:17, 137:12

**concerned**<sup>[7]</sup> - 35:1, 38:24, 39:13, 39:29, 48:19, 49:2, 59:10

**concerning**<sup>[8]</sup> - 29:29, 41:8, 122:23, 122:27, 128:12,

141:15, 141:27,  
158:11  
**concerns** [6] - 33:1,  
123:22, 133:21,  
146:25, 186:24, 187:3  
**conclude** [1] - 52:15  
**concludes** [1] -  
184:25  
**concluding** [2] -  
177:23, 177:25  
**conclusion** [2] -  
21:11, 26:11  
**concrete** [1] - 124:13  
**concur** [3] - 23:22,  
23:25, 173:5  
**concurrent** [2] -  
23:27, 92:25  
**concurs** [2] - 21:11,  
22:1  
**conduct** [12] - 16:23,  
18:13, 58:1, 70:28,  
74:4, 78:3, 119:2,  
119:3, 123:27, 124:2,  
177:4, 180:21  
**conducted** [18] -  
17:12, 31:12, 32:7,  
55:14, 56:14, 58:20,  
74:21, 75:6, 79:13,  
97:19, 110:25, 119:1,  
121:23, 123:12,  
131:11, 139:26,  
151:4, 172:7  
**conducting** [5] -  
20:22, 29:26, 68:11,  
73:18, 96:15  
**conducts** [5] - 60:22,  
77:7, 114:27, 125:24,  
187:26  
**conference** [2] -  
7:27, 8:5  
**confident** [1] - 99:2  
**confined** [2] -  
166:10, 166:13  
**confirm** [6] - 27:13,  
46:7, 145:11, 146:3,  
146:7, 176:23  
**confirmation** [1] -  
145:25  
**confirmed** [2] -  
99:17, 144:12  
**confirming** [1] -  
144:29  
**confirms** [1] - 106:17  
**conform** [1] - 126:16  
**Congress** [6] - 32:9,  
32:11, 65:8, 65:10,  
65:12, 125:25  
**congressional** [1] -  
78:21  
**conjunction** [3] -  
72:25, 90:6, 119:12  
**connection** [8] -  
10:27, 19:19, 19:20,  
21:19, 48:28, 65:5,  
111:20, 134:4  
**connections** [3] -  
21:14, 22:4, 94:19  
**connector** [2] -  
124:8, 124:10  
**conscious** [1] -  
35:20  
**consensus** [4] -  
81:15, 84:29, 85:2,  
157:28  
**consequence** [1] -  
74:24  
**consequences** [2] -  
180:13, 180:17  
**consider** [7] - 28:16,  
28:17, 73:16, 148:20,  
152:4, 153:1, 188:17  
**considerable** [2] -  
155:18, 175:4  
**considerably** [1] -  
155:21  
**considerations** [4] -  
149:29, 150:11,  
150:13, 151:9  
**considered** [5] -  
22:10, 22:14, 72:17,  
108:9, 176:20  
**considering** [1] -  
10:12  
**consistent** [13] -  
43:3, 43:7, 44:8,  
63:11, 80:6, 81:17,  
95:9, 95:14, 120:18,  
146:10, 183:27,  
186:9, 186:11  
**consists** [2] - 51:23,  
136:24  
**constellation** [1] -  
169:25  
**constitute** [2] - 93:6,  
151:29  
**constitutes** [5] -  
13:28, 107:28,  
115:26, 121:28,  
178:18  
**Constitution** [3] -  
160:12, 167:15,  
167:18  
**constitutional** [1] -  
160:9  
**constrain** [1] -  
129:10  
**constrained** [2] -  
121:2, 124:24  
**constraining** [1] -  
72:11  
**constraint** [7] -  
12:25, 33:4, 33:8,  
124:7, 124:23, 131:9,  
150:23  
**constraints** [7] -  
13:24, 14:11, 53:20,  
53:23, 149:8, 155:25,  
155:28  
**constructive** [1] -  
183:20  
**construe** [1] - 30:5  
**consultation** [1] -  
81:9  
**consulted** [1] -  
132:13  
**contain** [9] - 14:8,  
43:20, 80:12, 99:29,  
100:2, 150:7, 156:7,  
157:17, 159:26  
**contained** [10] -  
12:21, 51:2, 53:14,  
53:20, 66:4, 79:19,  
82:9, 89:26, 91:5,  
93:14  
**containing** [1] -  
81:27  
**contains** [15] - 8:24,  
43:16, 43:27, 43:29,  
51:10, 53:5, 65:29,  
76:1, 76:3, 80:10,  
102:7, 103:12,  
156:25, 159:4, 182:6  
**contemplate** [2] -  
179:11, 180:20  
**contemplated** [1] -  
147:13  
**contemplates** [2] -  
125:14, 145:28  
**contend** [1] - 24:8  
**contended** [1] -  
168:29  
**contending** [1] -  
47:9  
**content** [16] - 67:23,  
81:1, 87:20, 88:8,  
89:9, 90:28, 92:9,  
105:6, 105:14,  
105:29, 110:10,  
113:21, 113:23,  
129:24, 181:17,  
182:10  
**contention** [12] -  
31:20, 86:26, 89:6,  
89:7, 89:20, 93:19,  
105:9, 106:3, 107:4,  
110:1, 110:3, 110:19  
**contentions** [6] -  
106:8, 106:10,  
107:10, 107:11,  
107:15, 110:21  
**contents** [17] - 7:14,  
7:17, 20:29, 54:26,  
67:10, 68:14, 68:15,  
70:28, 73:15, 73:25,  
75:8, 78:10, 87:5,  
96:28, 114:13, 115:2,  
145:18  
**contest** [1] - 89:22  
**contesting** [2] - 47:5,  
83:13  
**context** [50] - 6:17,  
6:25, 9:21, 11:26,  
22:11, 23:13, 25:5,  
26:20, 27:2, 46:5,  
46:7, 50:7, 50:10,  
50:11, 51:13, 54:6,  
70:11, 86:28, 91:18,  
109:1, 109:9, 109:18,  
110:29, 111:14,  
133:28, 134:27,  
140:11, 142:27,  
148:21, 150:19,  
153:2, 159:18,  
159:24, 161:9,  
163:28, 164:21,  
164:24, 165:3,  
165:23, 166:9,  
166:13, 166:29,  
168:10, 168:29,  
169:11, 173:29,  
174:7, 175:12,  
182:13, 185:18  
**contexts** [3] -  
142:15, 168:8, 175:15  
**contingencies** [1] -  
178:17  
**continuance** [1] -  
178:20  
**CONTINUATION** [1]  
- 94:4  
**continuation** [1] -  
178:28  
**continue** [2] -  
103:15, 135:13  
**continues** [2] -  
88:13, 184:26  
**continuous** [1] -  
74:4  
**contradict** [1] -  
142:6  
**contradicting** [1] -  
142:20  
**contrary** [2] - 74:21,  
153:27  
**contrast** [4] - 21:15,  
49:29, 55:17, 56:13  
**controversial** [1] -  
85:9  
**convenient** [1] -  
94:13  
**conversation** [1] -  
97:20  
**conversations** [1] -  
96:13  
**conversed** [1] -  
17:11  
**convey** [5] - 84:11,  
90:17, 90:19, 93:12,  
93:13  
**conveys** [1] - 85:8  
**copied** [2] - 94:26,  
94:29  
**copies** [3] - 100:6,  
113:22, 113:25  
**copy** [30] - 7:19,  
7:24, 60:1, 74:5, 74:6,  
74:18, 76:9, 76:16,  
84:20, 92:3, 92:7,  
96:18, 96:19, 96:23,  
96:27, 97:1, 97:21,  
98:17, 99:3, 99:12,  
99:13, 100:12,  
100:13, 100:21,  
101:12, 101:14,  
132:8, 132:12, 184:4  
**copy"** [2] - 101:5,  
102:7  
**copying** [26] - 94:18,  
94:28, 95:25, 95:26,  
96:10, 97:9, 97:13,  
97:24, 98:1, 98:23,  
98:26, 99:24, 99:25,  
100:16, 101:24,  
109:5, 109:9, 109:14,  
109:25, 109:27,  
110:2, 112:2, 112:6,  
112:12, 185:15,  
185:23  
**COPYRIGHT** [1] -  
3:23  
**core** [1] - 132:5  
**correct** [243] - 6:27,  
8:6, 14:16, 22:13,  
25:23, 25:24, 35:2,  
35:12, 35:17, 36:2,  
36:6, 36:9, 36:14,  
36:17, 37:5, 37:8,  
37:15, 37:21, 37:26,  
38:1, 38:16, 39:3,  
39:15, 40:8, 41:4,  
41:5, 41:14, 41:22,  
42:16, 42:23, 42:29,  
43:9, 43:17, 43:28,  
44:6, 44:16, 44:21,  
44:24, 44:27, 45:6,  
45:9, 45:16, 45:17,  
45:28, 46:5, 46:14,  
47:3, 47:16, 48:4,  
48:11, 49:6, 49:11,  
49:21, 50:9, 50:29,

51:3, 51:7, 51:15,  
 51:21, 51:29, 52:22,  
 52:27, 53:15, 53:25,  
 54:23, 55:1, 55:27,  
 56:26, 59:11, 60:4,  
 60:16, 60:27, 61:10,  
 62:1, 62:20, 62:29,  
 63:16, 63:21, 63:22,  
 65:9, 65:16, 66:1,  
 66:12, 66:17, 66:20,  
 67:5, 67:23, 68:1,  
 68:23, 68:28, 68:29,  
 69:17, 70:17, 71:7,  
 72:23, 74:15, 76:2,  
 76:23, 77:14, 77:22,  
 79:7, 81:23, 81:27,  
 82:2, 82:14, 83:10,  
 83:22, 83:26, 85:4,  
 85:27, 86:5, 86:9,  
 88:18, 90:11, 92:13,  
 92:18, 95:6, 97:9,  
 97:10, 98:7, 98:11,  
 99:22, 100:25,  
 101:21, 101:25,  
 102:22, 103:1, 104:6,  
 104:11, 104:22,  
 106:6, 106:15,  
 107:27, 108:10,  
 109:26, 110:3, 110:7,  
 111:11, 111:22,  
 112:15, 113:4, 113:7,  
 113:10, 113:11,  
 113:28, 114:21,  
 114:26, 115:8,  
 115:17, 115:24,  
 116:17, 116:27,  
 117:10, 117:26,  
 118:6, 118:21, 120:8,  
 120:9, 121:6, 121:7,  
 121:10, 122:14,  
 124:18, 125:11,  
 126:4, 128:8, 130:5,  
 130:13, 130:22,  
 131:2, 131:15,  
 131:18, 132:18,  
 136:29, 137:23,  
 138:12, 138:18,  
 139:1, 139:29, 140:5,  
 140:15, 140:27,  
 141:9, 141:17,  
 141:25, 145:2, 145:3,  
 145:26, 146:5,  
 146:24, 147:8,  
 148:13, 149:1,  
 150:29, 152:9,  
 152:25, 153:23,  
 154:9, 154:15,  
 156:20, 156:22,  
 158:18, 158:22,  
 159:19, 160:5,  
 160:13, 160:22,

160:28, 161:8,  
 161:22, 162:15,  
 162:29, 163:25,  
 164:12, 164:22,  
 165:14, 166:10,  
 166:21, 167:10,  
 167:17, 168:1, 168:6,  
 168:24, 169:5,  
 169:10, 170:7, 171:6,  
 171:7, 171:20,  
 171:28, 173:13,  
 174:18, 175:10,  
 176:15, 176:24,  
 177:19, 177:20,  
 178:9, 178:23,  
 178:29, 179:17, 186:7  
**correction** [2] - 7:11,  
 86:5  
**correlation** [1] -  
 183:24  
**correspond** [1] -  
 93:2  
**corresponds** [2] -  
 63:14, 64:5  
**corroborated** [2] -  
 97:24, 100:17  
**COSTELLO** [50] -  
 1:17, 5:4, 5:9, 7:23,  
 33:23, 34:10, 34:15,  
 34:17, 41:27, 42:2,  
 42:7, 42:12, 59:18,  
 62:9, 69:29, 70:3,  
 70:6, 70:10, 70:13,  
 75:24, 93:23, 94:7,  
 103:27, 117:14,  
 122:5, 122:8, 122:11,  
 127:3, 132:1, 132:16,  
 144:18, 144:22,  
 144:26, 144:28,  
 153:15, 153:20,  
 159:6, 175:19,  
 175:25, 176:1, 176:6,  
 176:9, 176:11,  
 182:16, 182:22,  
 183:15, 188:3, 188:8,  
 188:14, 188:29  
**could've** [4] -  
 139:28, 140:1, 140:4,  
 140:13  
**counsel** [1] - 158:6  
**Counsel** [6] - 139:15,  
 140:25, 140:28,  
 141:23, 142:10,  
 142:13  
**counsel's** [1] - 73:9  
**countering** [1] -  
 152:19  
**counterintelligence**  
 [1] - 151:19  
**countless** [1] - 52:20

**countries** [2] - 8:14,  
 46:29  
**country** [8] - 16:13,  
 16:15, 21:15, 46:22,  
 55:13, 125:1, 125:4,  
 172:10  
**couple** [1] - 12:16  
**course** [20] - 5:29,  
 6:16, 13:2, 19:13,  
 26:18, 28:9, 35:3,  
 41:29, 48:23, 51:13,  
 71:11, 79:28, 103:29,  
 131:1, 155:26,  
 158:16, 161:11,  
 169:22, 180:29, 185:7  
**COURT** [1] - 1:2  
**Court** [21] - 6:9, 9:16,  
 10:19, 12:1, 16:11,  
 16:12, 18:7, 20:7,  
 21:16, 22:10, 22:13,  
 38:13, 39:8, 95:16,  
 101:9, 105:5, 146:29,  
 168:16, 169:13,  
 169:26, 170:27  
**court** [130] - 5:25,  
 5:28, 9:11, 10:3, 11:6,  
 11:19, 12:4, 17:22,  
 25:17, 32:8, 35:25,  
 35:27, 39:12, 40:1,  
 40:12, 40:17, 46:13,  
 46:16, 46:19, 46:23,  
 47:14, 47:23, 47:26,  
 47:29, 48:1, 48:8,  
 48:9, 48:12, 48:13,  
 48:17, 48:19, 49:2,  
 49:5, 49:27, 50:2,  
 60:19, 61:29, 64:28,  
 65:2, 66:5, 75:15,  
 79:18, 80:1, 80:8,  
 84:11, 87:15, 90:17,  
 91:6, 91:19, 97:11,  
 98:21, 98:25, 100:22,  
 102:10, 102:19,  
 102:23, 102:28,  
 103:4, 103:18,  
 104:10, 104:19,  
 104:24, 105:25,  
 105:28, 106:10,  
 106:13, 106:17,  
 106:23, 106:28,  
 107:3, 107:6, 107:9,  
 108:25, 109:16,  
 110:5, 110:8, 110:9,  
 110:15, 110:17,  
 110:20, 110:24,  
 111:15, 111:27,  
 112:2, 112:7, 112:17,  
 112:21, 112:25,  
 114:9, 134:2, 134:23,  
 134:27, 135:2,

136:22, 139:1,  
 139:28, 140:1,  
 142:17, 142:25,  
 142:28, 143:1, 143:5,  
 159:1, 160:17,  
 161:26, 162:13,  
 162:26, 162:27,  
 163:1, 164:4, 164:14,  
 166:20, 166:22,  
 167:1, 167:5, 169:29,  
 171:14, 171:22,  
 171:24, 171:27,  
 174:3, 178:3, 188:12,  
 188:16, 188:17,  
 188:26, 188:27  
**court's** [12] - 18:7,  
 47:25, 104:17,  
 105:22, 109:7,  
 111:17, 112:3,  
 112:16, 112:19,  
 128:7, 142:18, 166:28  
**Court's** [2] - 10:24,  
 18:4  
**courts** [5] - 6:3,  
 11:13, 167:12,  
 172:23, 173:9  
**Courts** [1] - 66:8  
**courts'** [1] - 168:12  
**covered** [1] - 8:14  
**covers** [2] - 91:16,  
 176:3  
**covert** [2] - 155:6,  
 187:20  
**create** [4] - 22:27,  
 23:4, 96:18, 178:8  
**created** [1] - 100:21  
**creates** [3] - 99:11,  
 99:13, 172:14  
**creating** [1] - 96:22  
**creation** [4] - 97:20,  
 99:3, 105:4, 141:13  
**credence** [6] - 111:3,  
 111:4, 111:5, 111:6,  
 111:9, 111:14  
**crimes** [1] - 157:6  
**criminal** [8] - 19:19,  
 23:13, 25:13, 49:24,  
 60:8, 161:13, 173:29,  
 174:20  
**criteria** [6] - 13:28,  
 19:14, 31:9, 54:12,  
 55:22, 121:28  
**criterion** [1] - 161:20  
**critical** [4] - 29:13,  
 152:7, 159:23, 165:6  
**critically** [3] - 13:8,  
 27:15, 156:8  
**criticised** [1] - 82:12  
**criticism** [1] - 149:17  
**criticisms** [1] -

176:17  
**CROSS** [3] - 4:7,  
 34:1, 94:4  
**cross** [4] - 180:29,  
 181:12, 188:1, 188:5  
**CROSS-**  
**EXAMINATION** [1] -  
 94:4  
**cross-examination**  
 [4] - 180:29, 181:12,  
 188:1, 188:5  
**CROSS-EXAMINED**  
 [1] - 34:1  
**CURRAN** [1] - 2:12  
**curtailment** [1] -  
 124:19  
**CUSH** [1] - 3:1  
**customers** [3] - 12:3,  
 30:1, 160:25  
**cut** [1] - 175:21  
**cyber** [3] - 175:5,  
 175:6, 181:3

## D

**d** [1] - 152:7  
**daily** [4] - 50:9,  
 50:12, 117:5, 117:7  
**DAMIEN** [1] - 2:7  
**danced** [1] - 83:15  
**Data** [2] - 5:5, 94:9  
**DATA** [1] - 1:7  
**data** [114] - 14:27,  
 15:19, 16:2, 16:14,  
 17:2, 18:17, 21:17,  
 21:18, 22:11, 25:1,  
 26:12, 26:19, 31:1,  
 31:6, 31:19, 54:21,  
 54:24, 54:26, 55:6,  
 56:2, 58:9, 63:23,  
 67:20, 68:12, 70:22,  
 71:7, 71:9, 71:10,  
 72:20, 73:3, 73:5,  
 77:29, 78:1, 78:3,  
 78:6, 78:10, 81:1,  
 84:4, 84:7, 87:5,  
 87:20, 88:8, 89:9,  
 89:23, 90:28, 92:10,  
 92:23, 95:28, 96:3,  
 105:10, 106:9,  
 106:15, 106:24,  
 107:5, 107:18,  
 107:21, 107:23,  
 107:27, 108:4,  
 110:19, 111:12,  
 112:6, 114:10,  
 115:11, 118:21,  
 133:12, 133:17,  
 143:25, 144:7, 144:9,

145:20, 145:27,  
146:9, 146:12,  
146:17, 146:20,  
146:24, 146:26,  
146:27, 147:2, 147:6,  
147:7, 147:9, 147:12,  
147:13, 152:18,  
156:18, 156:19,  
156:21, 156:24,  
157:3, 160:22,  
160:25, 160:27,  
161:1, 161:2, 161:6,  
161:7, 161:25, 162:2,  
162:13, 162:22,  
162:28, 173:19,  
182:10, 186:16,  
186:21, 186:24,  
186:26, 186:27, 187:2  
**data**" [1] - 77:26  
**data**' [3] - 161:19,  
163:4  
**database** [2] - 30:6,  
128:15  
**date** [9] - 28:11,  
41:19, 47:11, 138:25,  
141:22, 141:29,  
143:2, 143:4, 161:14  
**David** [1] - 97:26  
**Davis** [1] - 6:4  
**DAY** [1] - 1:18  
**days** [3] - 9:20,  
66:11, 174:2  
**deal** [3] - 14:14,  
50:11, 159:29  
**dealing** [8] - 8:8,  
14:18, 22:16, 26:5,  
45:20, 123:24,  
143:19, 170:29  
**dealings** [1] - 187:21  
**deals** [2] - 102:5,  
185:25  
**dealt** [4] - 9:18,  
10:11, 113:25, 113:26  
**debate** [2] - 14:21,  
23:20  
**December** [2] -  
60:29, 65:12  
**decided** [1] - 168:16  
**decides** [1] - 50:1  
**decision** [52] - 9:16,  
9:23, 9:29, 10:1,  
11:27, 16:11, 16:27,  
44:15, 44:17, 44:18,  
44:24, 44:29, 45:3,  
45:4, 45:5, 45:16,  
45:24, 46:8, 46:9,  
59:13, 59:16, 59:29,  
101:23, 101:28,  
102:1, 102:14,  
102:17, 102:19,  
102:23, 102:27,  
103:16, 103:22,  
104:4, 104:7, 108:8,  
108:11, 108:13,  
108:14, 131:27,  
132:12, 132:17,  
133:20, 139:20,  
160:3, 166:21,  
169:29, 173:8, 188:27  
**Decision** [11] -  
58:23, 58:24, 58:25,  
58:29, 143:19,  
143:24, 144:20,  
148:12, 148:13,  
148:21, 153:17  
**decisions** [18] - 9:28,  
10:3, 11:6, 13:24,  
17:26, 18:5, 18:10,  
18:20, 47:1, 47:14,  
48:2, 52:26, 52:28,  
101:29, 129:10,  
129:15, 130:27, 185:4  
**declaration** [4] -  
100:17, 105:1, 105:3,  
108:12  
**declarations** [1] -  
9:12  
**declassified** [2] -  
120:17, 120:19  
**declassify** [2] - 47:7,  
184:22  
**dedicated** [1] -  
131:13  
**deem** [2] - 43:21,  
43:24  
**deemed** [3] - 30:28,  
48:14, 111:15  
**deep** [1] - 20:25  
**default** [1] - 156:23  
**defences** [1] - 160:1  
**Defendant** [1] - 36:1  
**DEFENDANT** [2] -  
2:10, 2:16  
**defendant** [1] - 10:5  
**defendants** [2] -  
25:13, 161:13  
**DEFENDANTS** [1] -  
1:13  
**defined** [10] - 13:9,  
30:26, 33:5, 118:28,  
120:28, 153:7, 156:2,  
156:9, 157:28, 158:14  
**defines** [3] - 56:20,  
125:1, 157:26  
**defining** [1] - 13:28  
**definition** [32] - 14:9,  
30:23, 30:24, 31:23,  
47:27, 50:28, 51:2,  
51:4, 51:9, 51:11,  
51:12, 54:22, 71:15,  
71:18, 122:22, 123:4,  
123:13, 123:14,  
123:16, 123:20,  
124:12, 138:6,  
156:12, 156:14,  
159:1, 159:4, 159:15,  
159:17, 159:21,  
159:23, 159:27,  
181:10  
**definitions** [3] -  
134:13, 181:4, 181:7  
**definitive** [1] -  
140:17  
**definitively** [2] -  
22:6, 44:29  
**degree** [3] - 6:1,  
11:4, 50:26  
**delay** [1] - 138:16  
**delayed** [9] - 23:12,  
23:14, 174:1, 174:7,  
174:8, 174:25,  
174:26, 175:17,  
177:12  
**deletes** [1] - 97:1  
**DeLong** [2] - 28:19,  
31:2  
**demonstrated** [2] -  
28:18, 28:20  
**demonstrates** [1] -  
19:6  
**deny** [3] - 27:13,  
145:11, 176:23  
**Department** [1] -  
137:9  
**depositions** [1] -  
164:12  
**derived** [2] - 60:12,  
60:13  
**describe** [21] -  
42:28, 46:16, 47:23,  
47:26, 49:10, 49:21,  
52:1, 52:4, 54:4,  
57:20, 65:24, 73:3,  
77:18, 78:14, 86:9,  
91:1, 97:11, 121:4,  
131:1, 139:24, 141:4  
**described** [21] -  
54:7, 74:28, 86:11,  
90:16, 92:17, 95:15,  
95:24, 98:1, 99:10,  
99:12, 119:14,  
119:16, 120:3,  
121:18, 124:16,  
126:7, 127:13,  
129:28, 145:22,  
183:10, 184:6  
**describes** [10] -  
51:29, 52:3, 52:5,  
53:29, 77:2, 77:28,  
78:27, 115:28,  
120:12, 128:6  
**describing** [9] - 15:3,  
40:15, 79:29, 84:28,  
120:7, 140:21,  
143:12, 183:7, 187:25  
**description** [79] -  
37:20, 37:23, 37:28,  
41:4, 42:25, 43:8,  
43:16, 43:18, 43:19,  
43:27, 43:29, 44:2,  
44:4, 44:10, 44:26,  
53:10, 65:29, 66:3,  
66:4, 66:19, 66:21,  
73:22, 74:27, 75:13,  
75:16, 76:1, 76:3,  
76:7, 77:13, 77:16,  
78:22, 79:2, 79:6,  
79:19, 79:20, 80:2,  
80:6, 80:7, 81:10,  
82:7, 83:8, 83:24,  
84:12, 85:8, 86:19,  
88:29, 89:26, 89:29,  
93:1, 93:13, 99:26,  
102:20, 102:29,  
106:29, 109:4, 109:6,  
109:8, 110:6, 110:9,  
126:29, 128:23,  
128:25, 130:3, 130:6,  
130:20, 138:23,  
138:25, 138:27,  
139:29, 140:6,  
140:14, 140:17,  
140:18, 141:7,  
141:11, 142:19,  
183:29  
**description**" [1] -  
79:9  
**descriptions** [6] -  
37:13, 66:26, 75:18,  
141:8, 141:12, 141:13  
**design** [2] - 63:25,  
63:29  
**designated** [2] -  
8:16, 8:19  
**designation** [3] -  
8:11, 8:13, 8:16  
**designed** [6] - 8:23,  
17:16, 30:16, 67:24,  
75:3, 75:19  
**despite** [1] - 74:7  
**destroy** [1] - 156:19  
**detail** [13] - 52:2,  
78:23, 84:23, 99:10,  
112:20, 112:22,  
120:7, 120:12, 130:9,  
130:11, 145:10,  
153:22, 153:24  
**detailed** [8] - 28:20,  
37:23, 128:23,  
128:25, 129:5, 130:4,  
130:8, 163:10  
**details** [15] - 22:28,  
44:11, 80:10, 99:19,  
103:2, 104:13,  
104:15, 104:18,  
106:18, 106:19,  
125:14, 126:14,  
130:12, 155:11,  
155:12  
**detainees** [2] -  
169:20, 169:23  
**detainees'** [1] -  
169:21  
**detask** [1] - 185:10  
**detasking** [2] -  
185:6  
**detasks** [1] - 184:26  
**detect** [1] - 135:15  
**detecting** [1] -  
152:18  
**determination** [9] -  
127:21, 128:13,  
128:15, 133:4,  
133:28, 133:29,  
134:2, 134:26, 136:26  
**determinations** [3] -  
130:26, 134:22,  
156:21  
**determine** [2] -  
156:25, 157:3  
**determining** [1] -  
171:19  
**develop** [1] - 36:25  
**developed** [1] - 35:4  
**Developments** [1] -  
8:9  
**developments** [1] -  
6:23  
**device** [2] - 68:11,  
95:18  
**devices** [11] - 68:5,  
68:6, 70:26, 72:26,  
74:17, 95:17, 95:21,  
96:3, 101:10, 101:11  
**devil** [1] - 125:13  
**devise** [1] - 159:15  
**difference** [7] -  
43:13, 57:13, 64:14,  
74:26, 100:3, 174:14,  
174:18  
**different** [25] - 8:4,  
8:15, 25:8, 27:29,  
36:29, 44:4, 44:7,  
62:5, 63:17, 71:23,  
109:25, 112:8,  
128:20, 131:6, 131:7,  
151:5, 157:20,  
170:13, 170:17,  
181:4, 182:14,  
183:14, 183:20,

188:13  
**differentiating** [2] - 36:20, 36:22  
**differently** [4] - 40:2, 55:8, 98:4, 123:15  
**difficult** [13] - 11:25, 12:10, 23:9, 25:14, 26:3, 107:14, 135:15, 150:8, 150:12, 166:7, 173:22, 174:12, 177:5  
**digital** [6] - 74:2, 74:16, 117:19, 117:22, 117:28, 118:14  
**DIGITAL** [1] - 3:1  
**digitally** [1] - 117:26  
**diplomatic** [2] - 151:29, 152:6  
**DIRECT** [3] - 4:6, 4:8, 33:20  
**direct** [48] - 6:14, 8:18, 14:22, 28:8, 33:7, 36:24, 61:23, 79:16, 81:8, 82:1, 82:3, 82:5, 82:10, 82:20, 82:21, 82:24, 83:18, 83:25, 84:27, 85:15, 85:23, 86:2, 86:26, 89:20, 89:25, 89:26, 89:29, 90:2, 90:10, 90:13, 90:15, 90:25, 92:17, 93:2, 93:12, 93:13, 93:14, 93:18, 98:9, 98:19, 98:26, 104:21, 104:25, 119:22, 139:4, 181:16, 181:29, 184:6  
**direct"** [1] - 89:21  
**directed** [4] - 52:15, 61:22, 126:2, 152:20  
**direction** [2] - 54:27, 54:28  
**Directive** [7] - 29:10, 56:19, 84:2, 134:13, 154:7, 183:3  
**directive** [3] - 29:11, 95:29, 130:21  
**directives** [8] - 15:3, 15:5, 76:20, 83:26, 83:27, 154:24, 184:23, 185:5  
**Directives** [1] - 154:22  
**directly** [25] - 10:16, 47:21, 64:9, 65:13, 81:1, 81:21, 83:7, 83:13, 87:5, 88:13, 88:17, 89:10, 89:11, 89:17, 90:18, 90:29, 92:10, 93:7, 93:8, 100:18, 112:27, 148:16, 181:17, 182:6, 182:10  
**directly"** [3] - 81:5, 87:22, 182:7  
**Director** [6] - 18:11, 39:10, 140:29, 141:1, 141:24, 171:17  
**disadvantaging** [1] - 149:18  
**disagree** [21] - 12:24, 12:26, 19:10, 19:12, 23:1, 23:2, 23:18, 25:7, 26:10, 31:4, 43:1, 72:2, 134:4, 139:25, 140:3, 140:7, 140:14, 140:20, 141:6, 150:4, 175:15  
**disagreed** [2] - 79:20, 80:3  
**disagreeing** [1] - 142:19  
**disagreement** [9] - 12:16, 13:1, 26:7, 26:17, 27:5, 79:21, 80:4, 80:5, 140:13  
**discharge** [4] - 118:5, 118:11, 118:15, 118:23  
**discharging** [1] - 118:8  
**disclose** [2] - 48:13, 58:26  
**disclosed** [7] - 24:17, 29:29, 35:6, 48:16, 85:20, 86:16, 93:20  
**disclosure** [6] - 60:21, 86:25, 88:5, 91:4, 94:15, 161:5  
**disclosures** [35] - 35:7, 39:19, 41:17, 41:18, 41:20, 57:29, 64:19, 80:28, 81:23, 81:27, 86:12, 86:23, 87:3, 87:16, 87:17, 87:25, 89:18, 90:5, 90:22, 90:23, 90:26, 91:17, 91:20, 91:23, 91:24, 91:26, 92:1, 92:7, 98:13, 109:21, 141:15, 141:18, 160:23, 173:7, 183:11  
**discount** [2] - 39:17, 155:2  
**discovers** [1] - 127:10  
**discovery** [4] - 164:11, 164:13, 164:15, 164:16  
**discretion** [5] - 47:28, 130:28, 164:14, 171:18, 174:3  
**discriminants** [4] - 113:27, 113:29, 137:22, 137:23  
**discriminate** [1] - 95:5  
**discriminators** [1] - 95:5  
**discuss** [3] - 21:4, 43:13, 49:19  
**discussed** [8] - 22:25, 31:6, 32:16, 35:5, 58:28, 59:8, 99:20, 148:19  
**discusses** [4] - 58:16, 79:14, 148:15  
**discussing** [8] - 17:22, 18:25, 22:19, 81:14, 139:7, 143:11, 149:6, 182:25  
**discussion** [13] - 12:19, 15:23, 15:26, 24:27, 43:2, 43:3, 97:18, 104:8, 108:18, 109:8, 148:14, 148:17, 185:23  
**discussions** [1] - 22:17  
**dismiss** [9] - 10:6, 10:7, 11:15, 162:26, 163:27, 164:4, 164:9, 170:13, 173:10  
**dismissal** [1] - 167:7  
**dismissals** [1] - 162:18  
**dismissed** [5] - 24:13, 162:24, 167:26, 169:17, 170:27  
**displayed** [1] - 42:1  
**dispute** [4] - 25:18, 109:18, 164:2, 165:7  
**disruptive** [2] - 96:25, 97:22  
**disseminate** [1] - 64:1  
**disseminated** [1] - 156:6  
**dissemination** [2] - 156:1, 157:26  
**dissent** [1] - 149:18  
**distilled** [1] - 8:4  
**distinct** [1] - 109:27  
**distinction** [19] - 68:19, 73:2, 73:7, 75:1, 75:2, 89:14, 100:7, 100:8, 100:9, 100:23, 112:26, 126:11, 126:12, 147:16, 168:3, 171:2, 172:1, 172:2, 173:2  
**distinctions** [3] - 172:8, 173:5, 173:9  
**distinguish** [1] - 56:25  
**distinguished** [1] - 101:19  
**distinguishes** [1] - 173:3  
**District** [5] - 6:7, 9:16, 10:19, 10:24, 170:27  
**divide** [12] - 75:23, 75:28, 122:3, 122:4, 127:1, 132:12, 149:3, 149:11, 149:24, 153:13, 153:14, 158:25  
**divisions** [1] - 131:13  
**Doctor** [1] - 6:1  
**doctrine** [11] - 9:21, 11:4, 23:15, 24:11, 26:5, 26:11, 26:18, 104:8, 108:18, 160:1, 172:19  
**doctrines** [1] - 102:25  
**document** [20] - 8:2, 11:28, 52:3, 65:1, 65:24, 65:27, 66:7, 70:9, 73:23, 84:29, 85:3, 114:24, 121:26, 129:22, 131:24, 135:14, 147:26, 150:14, 153:19, 157:28  
**document)** [1] - 128:11  
**documentation** [3] - 126:27, 128:21, 137:8  
**documented** [4] - 128:15, 129:6, 137:8, 145:13  
**documents** [31] - 8:9, 39:9, 39:11, 39:14, 39:23, 40:28, 43:23, 65:5, 66:22, 66:23, 67:27, 67:29, 68:2, 68:20, 68:21, 68:25, 71:24, 74:27, 74:29, 75:14, 82:22, 82:26, 82:27, 103:11, 103:21, 115:6, 115:7, 129:28, 141:26, 151:13, 155:15  
**DOHERTY** [24] - 2:16, 4:6, 4:8, 5:7, 5:12, 5:14, 7:25, 33:17, 33:20, 79:24, 86:27, 103:9, 103:17, 103:23, 176:8, 180:25, 180:27, 182:18, 182:23, 183:19, 188:6, 188:12, 188:16, 188:26  
**Doherty** [2] - 103:15, 104:1  
**domestic** [3] - 48:20, 49:1, 49:3  
**done** [14] - 46:20, 59:4, 84:14, 86:14, 88:3, 88:25, 98:22, 101:29, 114:11, 114:12, 115:16, 117:25, 175:27, 175:29  
**DONNELLY** [1] - 2:6  
**double** [1] - 76:13  
**double-sided** [1] - 76:13  
**doubt** [1] - 31:3  
**down** [5] - 62:6, 69:14, 99:15, 162:25, 189:1  
**dozens** [1] - 19:29  
**DPC** [2] - 28:11, 28:14  
**DPC's** [1] - 26:11  
**draft** [1] - 45:3  
**dramatically** [1] - 150:17  
**draw** [3] - 127:5, 132:15, 142:18  
**drawing** [2] - 89:14, 91:3  
**drawn** [5] - 55:29, 87:25, 99:25, 104:2, 145:29  
**drew** [1] - 138:11  
**DUBLIN** [7] - 2:8, 2:14, 2:19, 2:24, 2:29, 3:4, 3:11  
**due** [4] - 19:2, 102:24, 162:5, 186:28  
**during** [2] - 143:26, 144:10  
**duties** [1] - 35:20  
**duty** [7] - 30:18, 34:19, 35:22, 35:24, 35:25, 86:18, 142:16

## E

- e-mail** [2] - 54:7, 183:1
- early** [1] - 164:4
- earth** [2] - 10:18, 172:11
- ease** [1] - 188:26
- easier** [1] - 122:4
- easily** [1] - 131:24
- easy** [1] - 122:10
- economic** [2] - 35:29, 36:1
- Edward** [4] - 11:29, 40:29, 43:23, 93:20
- effect** [1] - 96:11, 98:21, 109:22, 163:29, 169:8, 169:9, 169:13, 170:16, 170:18, 177:17, 177:22
- effective** [1] - 177:4
- effectively** [5] - 9:4, 57:20, 150:14, 161:10, 184:12
- effectiveness** [2] - 12:21, 97:18
- effectuated** [2] - 84:25, 109:28
- efficient** [1] - 177:3
- eight** [3] - 75:27, 149:3, 161:14
- EILEEN** [1] - 2:21
- either** [5] - 86:7, 115:28, 131:4, 148:24, 162:22
- elaborate** [5] - 12:29, 19:12, 25:6, 26:16, 27:8
- electron** [1] - 183:1
- ELECTRONIC** [1] - 3:7
- electronic** [2] - 50:13, 76:20
- element** [1] - 162:1
- elements** [4] - 11:16, 159:11, 161:29, 166:2
- elephants** [1] - 160:18
- eleven** [1] - 189:2
- elsewhere** [1] - 7:7
- emerges** [1] - 28:20
- emphasise** [1] - 75:7
- empirical** [2] - 133:13, 135:6
- employ** [1] - 56:16
- employed** [3] - 59:20, 98:12, 159:24
- employment** [1] - 6:10
- employs** [1] - 71:17
- enable** [1] - 118:10
- enactment** [2] - 50:6, 170:6
- encompass** [1] - 93:8
- encompasses** [2] - 82:28, 84:26
- encompassing** [1] - 54:1
- encyclopedic** [1] - 80:19
- end** [16] - 26:5, 38:4, 65:8, 67:13, 67:16, 67:17, 67:19, 87:23, 102:1, 102:3, 113:19, 116:8, 137:25, 143:10, 154:13, 186:13
- END** [1] - 33:20
- enforcement** [1] - 174:16
- engage** [3] - 56:7, 133:10, 134:6
- engaged** [6] - 23:21, 33:14, 56:21, 65:15, 92:11, 169:2
- engagement** [2] - 7:28, 150:15
- engages** [7] - 20:13, 31:13, 134:14, 152:3, 164:5, 170:24, 172:9
- engineer** [2] - 101:1, 102:9
- enormous** [1] - 117:29
- ensure** [1] - 88:21
- ensures** [4] - 16:13, 16:17, 147:1
- entering** [1] - 21:2
- entire** [3] - 24:5, 138:3, 165:4
- entirely** [12] - 56:23, 56:24, 120:17, 129:16, 130:28, 133:3, 134:1, 136:24, 146:10, 154:24, 155:1, 183:27
- entities** [3] - 82:2, 113:6, 187:26
- entitled** [3] - 164:13, 165:11, 175:1
- envelope** [2] - 20:23, 68:13
- envelopes** [2] - 75:10, 75:11
- environment** [1] - 87:27
- EO** [12] - 16:10, 16:22, 16:23, 17:4, 17:9, 17:11, 32:11, 37:18, 45:20, 57:15, 57:17, 145:21
- EO12333** [6] - 55:26, 56:29, 147:17, 147:19, 147:22, 153:28
- EOIN** [1] - 2:16
- equal** [1] - 156:16
- equipment** [1] - 100:19
- equivalent** [1] - 27:11
- error** [2] - 21:7, 108:24
- especially** [1] - 25:15
- espionage** [1] - 152:19
- essence** [6] - 30:29, 31:5, 31:18, 75:15, 153:4, 163:15
- essential** [3] - 24:12, 143:6, 143:7
- essentially** [1] - 62:5
- establish** [19] - 11:16, 12:10, 23:9, 25:15, 25:27, 26:3, 49:23, 49:25, 105:5, 105:13, 105:28, 110:10, 161:23, 162:7, 162:12, 162:16, 163:22, 165:12, 173:23
- established** [11] - 11:20, 88:16, 88:19, 91:21, 91:22, 116:20, 125:16, 132:14, 161:21, 171:5, 173:17
- establishing** [1] - 9:26
- estimate** [1] - 117:13
- estimated** [1] - 117:9
- ethnicity** [1] - 149:19
- EU** [21] - 8:11, 8:14, 8:22, 16:1, 16:14, 16:19, 16:25, 17:2, 22:11, 26:13, 26:20, 55:13, 132:4, 143:25, 144:7, 145:15, 146:9, 146:22, 146:26, 146:28, 147:14
- EU-US** [1] - 144:7
- EUROPE** [1] - 3:1
- Europe** [1] - 28:24
- European** [24] - 16:26, 16:28, 19:5, 132:7, 133:8, 133:11, 133:24, 134:7, 134:17, 136:11, 138:29, 139:5, 139:12, 139:20, 143:23, 145:10, 146:6, 148:22, 153:14, 154:8, 154:12, 154:16, 155:7, 167:20
- Europeans** [1] - 156:15
- evaluated** [1] - 156:24
- evening** [1] - 138:17
- event** [4] - 23:14, 23:22, 33:13, 179:9
- events** [1] - 107:12
- eventually** [1] - 174:24
- everywhere** [1] - 88:25
- evidence** [46] - 5:28, 7:16, 7:18, 11:17, 11:21, 19:2, 24:11, 25:16, 28:19, 60:11, 91:5, 97:13, 97:15, 98:5, 98:6, 98:21, 100:24, 101:1, 102:8, 102:10, 102:28, 106:23, 106:29, 109:7, 109:10, 111:9, 111:12, 111:21, 111:23, 111:29, 112:13, 113:9, 113:15, 133:13, 135:6, 140:4, 140:8, 142:21, 142:24, 160:21, 165:6, 167:5, 171:4, 171:15, 173:17, 183:17
- evidenced** [1] - 58:8
- evolution** [2] - 21:26, 22:5
- ex** [3] - 18:9, 50:5, 130:27
- exact** [1] - 80:9
- exactly** [9] - 41:27, 90:16, 108:29, 120:6, 123:3, 135:2, 141:2, 158:9, 179:24
- examination** [22] - 46:18, 67:9, 67:23, 68:28, 70:21, 70:24, 71:1, 71:23, 71:27, 73:5, 73:10, 73:11, 73:16, 78:6, 78:9, 95:24, 96:2, 176:5, 180:29, 181:12, 188:1, 188:5
- EXAMINATION** [2] - 33:20, 94:4
- examination** [1] - 71:5
- examine** [4] - 68:7, 72:5, 95:28, 115:6
- EXAMINED** [3] - 5:11, 34:1, 180:25
- examined** [4] - 69:15, 69:16, 71:25, 71:28
- examines** [4] - 48:9, 69:2, 78:6, 96:28
- examining** [6] - 70:27, 73:3, 73:24, 74:27, 74:28, 78:1
- example** [20] - 27:21, 29:8, 29:14, 29:24, 33:1, 43:17, 55:12, 58:8, 73:29, 95:15, 113:8, 121:27, 139:8, 149:6, 154:22, 155:29, 167:25, 168:13, 177:29, 184:24
- examples** [8] - 76:29, 121:28, 126:25, 132:28, 169:14, 181:2, 181:8, 181:10
- except** [1] - 161:12
- excepting** [1] - 161:11
- exception** [10] - 11:24, 12:11, 14:6, 16:7, 20:17, 25:12, 125:5, 147:17, 172:19, 173:16
- exceptional** [3] - 161:12, 162:5, 173:20
- exceptionally** [1] - 174:12
- exceptions** [4] - 12:28, 20:19, 63:27, 156:4
- excess** [1] - 44:20
- exchange** [1] - 184:3
- exchanged** [1] - 184:4
- exclusion** [1] - 24:5
- excuse** [15] - 37:25, 54:15, 57:1, 68:4, 68:21, 80:26, 103:14, 108:16, 120:11, 128:2, 133:1, 139:19, 158:28, 159:28, 167:20
- executed** [1] - 105:2
- execution** [1] - 151:10
- executive** [27] - 8:27, 13:17, 16:1, 18:21, 27:16, 29:9, 29:11,



30:26, 35:8, 50:1,  
50:15, 52:28, 75:29,  
76:4, 76:6, 78:20,  
98:12, 125:24,  
125:26, 130:25,  
130:29, 134:1,  
172:21, 172:23,  
172:27, 177:16,  
179:13  
**Executive** [29] -  
15:24, 15:27, 17:19,  
29:8, 30:25, 31:7,  
32:5, 32:7, 33:13,  
45:13, 56:11, 56:15,  
56:21, 57:5, 119:6,  
125:22, 134:12,  
145:5, 147:6, 154:19,  
156:3, 156:8, 157:15,  
157:29, 158:2, 181:7,  
186:19, 186:22,  
186:24  
**exempt** [1] - 9:8  
**exempted** [1] - 9:4  
**exemption** [1] - 8:25  
**exemptions** [1] -  
8:25  
**exercise** [4] - 129:7,  
150:24, 159:23,  
171:18  
**exercised** [2] -  
125:10, 169:9  
**exhibited** [1] - 6:26  
**exhibits** [2] - 75:23,  
75:27  
**exist** [2] - 124:21,  
146:15  
**existed** [1] - 171:25  
**existence** [4] -  
112:18, 154:7, 166:5,  
172:28  
**existing** [1] - 151:12  
**exists** [4] - 12:25,  
142:3, 173:3, 179:5  
**expansive** [1] -  
160:15  
**expect** [5] - 46:18,  
130:18, 130:19,  
159:18  
**experience** [10] -  
5:24, 5:27, 23:26,  
26:22, 79:16, 79:27,  
86:10, 163:8, 168:9,  
187:4  
**expert** [33] - 7:5,  
9:12, 9:19, 31:1,  
34:19, 34:20, 35:21,  
35:22, 36:21, 62:29,  
75:16, 84:13, 85:7,  
86:18, 86:19, 97:12,  
97:13, 97:15, 98:5,  
98:7, 98:21, 102:10,  
110:22, 110:23,  
138:25, 139:11,  
139:28, 140:12,  
141:13, 141:20,  
142:16, 143:8, 157:27  
**expertise** [6] - 35:5,  
86:8, 86:15, 86:17,  
97:7, 98:9  
**experts** [19] - 6:24,  
7:13, 7:20, 7:26, 8:10,  
11:3, 12:14, 17:22,  
17:28, 18:25, 21:4,  
22:10, 24:2, 28:16,  
32:22, 47:20, 81:9,  
129:27, 184:13  
**experts'** [1] - 14:28  
**explain** [12] - 9:22,  
11:5, 16:7, 17:28,  
25:6, 28:11, 79:21,  
80:4, 92:1, 114:8,  
127:16, 138:29  
**explained** [11] -  
19:11, 24:2, 70:5,  
97:6, 97:8, 129:25,  
140:1, 155:23,  
155:27, 183:13  
**explaining** [3] -  
47:24, 60:7, 61:1  
**explains** [5] - 7:26,  
57:12, 57:14, 170:4,  
182:2  
**explanation** [12] -  
39:1, 40:17, 83:6,  
104:15, 106:13,  
141:21, 141:22,  
142:6, 148:11,  
153:21, 153:25, 182:4  
**explicit** [1] - 133:9  
**explicitly** [1] - 56:19  
**exposing** [1] - 57:20  
**express** [2] - 23:20,  
25:20  
**expressed** [10] - 8:4,  
22:23, 24:28, 26:25,  
27:3, 48:12, 123:15,  
146:4, 171:23  
**expresses** [1] -  
32:24  
**extend** [2] - 8:23,  
9:13  
**extends** [1] - 177:27  
**extensive** [4] -  
78:17, 78:19, 136:15,  
165:28  
**extensively** [3] -  
39:19, 41:1, 145:13  
**extent** [11] - 21:21,  
22:6, 35:22, 47:8,  
51:12, 62:24, 72:17,  
82:15, 154:16,  
171:26, 187:4  
**extra** [1] - 189:4  
**extract** [2] - 55:5,  
67:20  
**extracted** [1] - 98:15  
**extraction** [1] - 98:22  
**extracts** [5] - 69:19,  
69:21, 69:25, 98:10,  
182:15  
**extraordinarily** [14] -  
10:12, 11:25, 12:10,  
13:9, 13:12, 23:9,  
25:14, 26:21, 30:12,  
33:16, 54:14, 124:27,  
161:13, 173:22  
**extraordinary** [3] -  
29:22, 37:19, 56:1  
**extremely** [11] -  
26:3, 39:7, 119:20,  
122:24, 123:4, 124:4,  
125:23, 150:12,  
155:29, 158:5, 177:4

---

**F**

---

**FAA** [3] - 60:22,  
61:19, 63:4  
**face** [9] - 31:27,  
58:12, 119:18,  
120:24, 128:27,  
129:13, 158:1, 165:29  
**Facebook** [8] - 5:6,  
28:5, 64:11, 83:21,  
94:10, 113:9, 113:12,  
113:15  
**FACEBOOK** [1] -  
1:12  
**facial** [9] - 10:8,  
10:11, 11:15, 162:19,  
162:26, 164:9,  
164:10, 170:13,  
170:14  
**facilities** [5] - 52:13,  
61:21, 61:24, 62:12,  
132:26  
**facility** [3] - 105:5,  
112:28, 113:1  
**facing** [1] - 66:23  
**fact** [45] - 12:8,  
12:24, 16:29, 22:21,  
25:12, 26:24, 34:13,  
44:3, 46:26, 56:18,  
74:7, 75:5, 75:7,  
82:21, 82:27, 90:7,  
91:26, 93:10, 96:22,  
100:16, 113:26,  
120:6, 137:12, 154:2,  
154:28, 160:26,  
160:27, 161:1, 161:7,  
161:22, 161:25,  
161:27, 162:5,  
162:21, 162:27,  
163:2, 163:22,  
169:18, 170:24,  
173:27, 176:22,  
184:2, 184:9, 187:14  
**factor** [2] - 178:27,  
179:1  
**facts** [8] - 110:17,  
163:16, 163:19,  
163:21, 164:1,  
170:23, 173:4  
**factual** [8] - 10:9,  
11:18, 162:17,  
163:27, 163:28,  
164:3, 164:5, 164:6  
**failed** [4] - 28:11,  
170:4, 171:15, 178:10  
**failing** [1] - 48:13  
**failure** [2] - 178:7,  
178:25  
**fair** [16] - 13:13,  
47:23, 47:26, 47:29,  
57:6, 61:3, 61:5,  
67:11, 69:1, 71:19,  
87:11, 103:13,  
103:25, 137:18,  
142:25, 176:18  
**fairly** [2] - 148:27,  
157:9  
**fairness** [1] - 103:9  
**faith** [1] - 35:18  
**fake** [1] - 184:24  
**falls** [4] - 81:6, 87:22,  
88:22, 88:23  
**familiar** [3] - 117:13,  
128:9, 128:10  
**familiarity** [1] - 86:10  
**families** [1] - 169:22  
**far** [11] - 20:21,  
34:29, 38:24, 39:12,  
39:29, 59:10, 69:2,  
70:19, 72:3, 99:28,  
108:22  
**fashion** [1] - 121:24  
**favourable** [4] -  
168:6, 168:9, 168:23,  
168:27  
**FBI** [3] - 120:16,  
182:29, 186:2  
**fear** [1] - 118:12  
**feasibility** [3] - 33:4,  
33:6  
**feasible** [5] - 23:15,  
32:26, 33:7, 151:24,  
174:26  
**FEBRUARY** [3] -  
1:18, 5:1, 189:8  
**February** [1] - 7:27  
**federal** [4] - 6:3, 6:6,  
23:23, 49:6  
**Federal** [3] - 154:20,  
177:18, 178:6  
**few** [9] - 8:7, 34:6,  
40:18, 61:15, 65:4,  
66:11, 122:9, 127:5,  
146:3  
**figure** [1] - 116:5  
**figures** [1] - 116:14  
**file** [1] - 60:5  
**filed** [7] - 28:4,  
59:16, 59:18, 60:28,  
99:8, 100:17, 102:8  
**files** [2] - 8:29,  
181:28  
**filing** [1] - 8:10  
**filtered** [2] - 72:21,  
139:4  
**final** [3] - 21:6, 22:9,  
27:27  
**finally** [2] - 26:9,  
27:1  
**financial** [2] - 35:29,  
145:18  
**findings** [3] - 11:19,  
178:6, 178:26  
**finger** [1] - 157:22  
**firm** [2] - 6:4, 6:5  
**firmly** [3] - 31:4,  
36:26, 100:16  
**first** [50] - 19:11,  
20:21, 32:5, 39:2,  
55:26, 56:27, 61:16,  
65:24, 70:19, 70:24,  
72:27, 73:17, 76:19,  
81:7, 82:4, 82:19,  
85:13, 85:14, 86:1,  
90:1, 90:8, 90:19,  
93:16, 93:18, 95:12,  
95:24, 95:26, 95:27,  
96:2, 106:22, 114:1,  
122:7, 123:18,  
133:25, 135:28,  
137:4, 149:14, 150:9,  
151:8, 156:6, 170:3,  
174:29, 182:5, 182:8,  
183:23, 183:26,  
184:20, 186:25, 188:4  
**First** [19] - 151:4,  
167:19, 167:21,  
167:24, 167:25,  
168:1, 168:4, 168:5,  
168:7, 168:10,  
168:18, 168:22,  
168:26, 169:1, 169:7,  
169:8, 169:10,  
169:16, 170:1  
**firsthand** [9] -

104:26, 104:27,  
105:8, 105:19, 106:2,  
107:2, 107:3, 110:16,  
110:18  
**firstly** [11] - 8:8, 65:7,  
97:5, 99:16, 113:25,  
118:18, 121:3,  
122:12, 122:25,  
124:16, 178:7  
**FISA** [25] - 13:9,  
17:22, 18:8, 24:29,  
25:1, 25:10, 29:16,  
30:23, 49:15, 49:19,  
49:20, 49:27, 51:2,  
51:4, 51:9, 51:18,  
60:11, 132:21,  
133:14, 135:1, 136:1,  
139:9, 156:10, 181:6  
**FISC** [37] - 17:25,  
18:12, 40:12, 40:17,  
46:13, 46:19, 46:24,  
47:1, 47:8, 47:13,  
47:14, 47:21, 47:28,  
48:2, 48:8, 50:19,  
51:22, 52:13, 52:19,  
52:21, 61:11, 61:20,  
62:12, 87:20, 87:21,  
88:9, 88:15, 101:23,  
101:28, 101:29,  
102:1, 116:2, 116:19,  
171:27, 172:5,  
188:17, 188:23  
**FISC's** [3] - 46:27,  
51:19, 63:3  
**FISCR** [1] - 171:26  
**fit** [1] - 73:21  
**FITZGERALD** [1] -  
2:22  
**five** [14] - 61:16,  
62:17, 62:23, 76:8,  
76:10, 149:3, 149:11,  
149:12, 149:24,  
153:8, 156:19,  
156:23, 169:28,  
175:27  
**five-year** [1] - 156:23  
**flawed** [1] - 8:22  
**flow** [1] - 133:17  
**flowing** [11] - 55:12,  
68:8, 68:17, 70:25,  
73:13, 75:10, 94:19,  
96:3, 96:17, 96:27,  
96:29  
**flows** [1] - 97:22  
**focus** [2] - 46:27,  
75:3  
**focused** [1] - 136:2  
**focusing** [2] - 89:16,  
166:28  
**focussed** [1] - 6:13

**following** [9] - 1:23,  
6:5, 6:9, 28:27, 72:19,  
137:14, 140:3,  
140:15, 170:6  
**follows** [3] - 28:21,  
56:24, 85:3  
**FOLLOWS** [5] - 5:1,  
5:12, 34:2, 94:2,  
180:25  
**footing** [1] - 156:16  
**footnote** [6] - 43:15,  
45:17, 45:21, 50:28,  
181:21, 182:15  
**footnotes** [3] -  
88:29, 102:3, 108:7  
**FOR** [4] - 2:21, 2:26,  
3:1, 3:7  
**force** [3] - 9:10, 20:1,  
154:21  
**foreign** [105] - 8:28,  
11:7, 11:23, 11:26,  
13:7, 13:8, 13:11,  
13:28, 14:8, 14:9,  
17:16, 19:16, 19:21,  
22:26, 25:28, 26:19,  
30:21, 30:22, 30:23,  
30:24, 30:26, 30:28,  
31:4, 31:23, 49:26,  
50:22, 50:24, 52:11,  
72:14, 120:27,  
121:28, 122:13,  
122:18, 122:20,  
122:22, 122:26,  
123:1, 123:16,  
123:27, 124:1, 124:2,  
124:3, 124:5, 124:6,  
124:7, 124:12,  
124:25, 125:6,  
127:10, 127:13,  
127:25, 147:18,  
147:23, 148:9,  
150:20, 150:23,  
150:26, 151:15,  
151:18, 152:20,  
155:26, 156:7, 156:9,  
156:11, 156:25,  
157:4, 157:17,  
158:12, 158:13,  
158:27, 159:1,  
159:11, 159:12,  
159:15, 159:18,  
159:26, 168:10,  
172:18, 172:22,  
172:26, 173:15,  
173:25, 174:6,  
174:15, 174:19,  
174:22, 175:2, 175:7,  
175:10, 177:4,  
180:14, 180:29,  
181:3, 181:5, 181:8

**Foreign** [9] - 11:29,  
18:3, 18:6, 20:6,  
38:13, 39:8, 95:15,  
101:8, 135:22  
**foreigner** [1] - 30:28  
**foreignness** [1] -  
128:13  
**foremost** [2] - 30:18,  
156:6  
**form** [18] - 19:11,  
27:26, 31:13, 49:22,  
54:12, 54:28, 56:13,  
58:19, 62:25, 75:16,  
81:13, 82:10, 118:29,  
134:11, 164:27,  
184:4, 184:6, 188:1  
**formally** [2] - 82:14,  
138:28  
**former** [6] - 32:9,  
38:12, 97:27, 99:9,  
105:2, 160:4  
**forming** [1] - 112:5  
**forms** [2] - 48:10,  
60:26  
**formulations** [2] -  
87:8, 133:22  
**forth** [10] - 7:3, 29:7,  
29:11, 30:10, 111:2,  
124:14, 126:17,  
126:26, 140:18,  
146:29  
**forthcoming** [1] -  
188:24  
**forward** [12] - 60:25,  
86:19, 91:6, 102:21,  
102:29, 103:20,  
104:11, 106:13,  
107:7, 109:10,  
112:11, 165:8  
**four** [4] - 7:29, 8:1,  
158:25, 169:29  
**fourfold** [1] - 156:29  
**Fourth** [22] - 21:5,  
21:12, 21:16, 21:22,  
21:28, 22:2, 27:23,  
27:26, 66:10, 74:22,  
124:22, 167:19,  
167:21, 167:24,  
167:26, 168:4,  
168:18, 168:27,  
169:16, 170:2, 178:2,  
178:4  
**fourth** [1] - 58:27  
**fraction** [1] - 19:5  
**frame** [1] - 140:8  
**framed** [1] - 141:28  
**framework** [4] -  
52:26, 53:3, 53:4,  
177:28  
**FRANCIS** [1] - 2:11

**Francisco** [1] - 99:10  
**frankly** [4] - 150:4,  
151:27, 154:16,  
165:18  
**Freedom** [4] - 47:7,  
47:12, 147:27, 160:6  
**freedoms** [1] - 30:15  
**frequently** [1] -  
87:29  
**FRIDAY** [2] - 1:18,  
5:1  
**frustration** [1] -  
48:12  
**FRY** [1] - 2:28  
**full** [12] - 23:16,  
67:10, 73:25, 76:19,  
120:17, 125:17,  
129:24, 146:19,  
148:29, 177:10,  
180:18, 184:20  
**fully** [1] - 121:21  
**function** [7] - 88:20,  
105:6, 105:14,  
105:29, 110:10,  
150:22, 184:5  
**functions** [5] -  
105:21, 118:11,  
118:16, 118:23,  
118:28  
**fundamental** [1] -  
124:22  
**fundamentals** [1] -  
44:10

---

## G

---

**Gallagher** [19] - 24:1,  
33:23, 86:29, 87:9,  
103:10, 103:17,  
103:23, 103:28,  
132:16, 144:18,  
153:15, 175:19,  
180:28, 181:8,  
181:12, 181:14,  
183:17, 183:21,  
187:18  
**GALLAGHER** [55] -  
2:10, 4:7, 34:1, 34:4,  
34:11, 34:13, 34:16,  
34:18, 41:26, 42:14,  
59:21, 62:10, 70:1,  
70:4, 70:8, 70:12,  
70:14, 75:26, 79:26,  
87:14, 93:22, 94:5,  
94:11, 103:8, 103:14,  
103:18, 103:26,  
104:4, 117:16, 122:1,  
122:6, 122:9, 122:12,  
127:4, 131:23, 132:3,  
132:6, 132:11,

132:18, 144:20,  
144:24, 144:27,  
144:29, 153:17,  
153:21, 159:7,  
175:23, 175:27,  
176:4, 176:10,  
176:13, 180:23,  
183:12, 187:28, 189:3  
**Gallagher's** [1] -  
188:5  
**gateway** [1] - 62:18  
**gather** [1] - 120:27  
**gathering** [4] -  
125:7, 148:9, 150:24,  
159:17  
**gathers** [1] - 147:23  
**gender** [1] - 149:19  
**General** [8] - 18:12,  
139:15, 140:24,  
140:28, 141:23,  
142:10, 142:13,  
171:17  
**general** [26] - 26:12,  
26:18, 33:12, 34:27,  
42:26, 51:24, 57:10,  
66:4, 94:22, 94:24,  
97:27, 97:28, 111:1,  
118:12, 119:19,  
121:25, 122:19,  
123:7, 131:22,  
154:27, 155:24,  
157:9, 172:6, 172:20,  
173:20  
**generalised** [2] -  
73:12, 113:20  
**generality** [1] - 18:16  
**generally** [6] - 12:9,  
22:12, 40:23, 104:2,  
134:15, 187:24  
**genuine** [1] - 30:14  
**GILMORE** [1] - 3:8  
**gist** [1] - 83:16  
**given** [58] - 13:11,  
14:9, 15:12, 15:13,  
16:27, 19:13, 25:7,  
30:22, 30:24, 31:10,  
31:15, 31:16, 44:3,  
54:13, 54:27, 55:22,  
61:2, 72:15, 72:21,  
72:24, 78:23, 79:16,  
79:26, 83:24, 84:25,  
86:10, 91:16, 91:29,  
102:10, 105:18,  
111:3, 111:4, 111:5,  
111:6, 111:9, 111:14,  
120:29, 131:10,  
131:28, 133:8,  
138:29, 142:6,  
142:28, 151:27,  
152:1, 154:2, 154:27,

156:14, 159:16,  
166:5, 166:14,  
172:13, 179:12,  
180:20, 183:20,  
184:16, 184:17, 185:1  
**glad** [1] - 103:23  
**glaring** [1] - 67:1  
**Glenn** [1] - 41:7  
**global** [1] - 19:6  
**globally** [3] - 117:14,  
117:16, 117:17  
**gloss** [1] - 38:9  
**Goldman** [1] - 6:7  
**GOODBODY** [1] -  
3:3  
**Google** [1] - 64:10  
**Gorski** [51] - 5:7,  
5:14, 6:15, 34:4,  
34:22, 35:23, 38:19,  
42:15, 49:17, 51:6,  
57:2, 68:19, 74:11,  
74:25, 81:20, 82:7,  
86:15, 88:23, 92:11,  
94:11, 95:23, 97:5,  
98:3, 99:16, 100:3,  
101:16, 101:19,  
103:9, 104:23, 107:1,  
109:23, 110:22,  
112:8, 115:22,  
125:28, 128:9, 129:1,  
131:26, 132:6,  
134:20, 135:13,  
139:17, 162:8,  
163:15, 174:14,  
176:13, 180:23,  
180:27, 188:13,  
188:28, 188:29  
**GORSKI** [6] - 4:5,  
5:11, 33:20, 34:1,  
94:4, 180:25  
**Gorski's** [1] - 87:1  
**governing** [2] - 56:5,  
150:26  
**government** [237] -  
13:3, 13:5, 13:16,  
13:19, 13:26, 14:6,  
14:26, 14:28, 15:8,  
15:10, 15:14, 15:17,  
15:20, 16:23, 17:1,  
17:15, 17:18, 19:17,  
19:26, 20:7, 20:13,  
20:21, 20:28, 23:7,  
24:3, 24:7, 24:11,  
24:19, 24:22, 24:23,  
25:2, 29:16, 29:18,  
29:22, 29:25, 30:1,  
30:2, 30:4, 30:11,  
30:20, 31:9, 31:12,  
33:4, 33:8, 33:10,  
33:14, 35:6, 35:9,

35:12, 37:18, 37:29,  
38:7, 38:9, 38:12,  
38:14, 38:17, 39:6,  
40:2, 41:3, 42:18,  
43:21, 43:24, 44:19,  
47:4, 47:9, 49:22,  
49:24, 50:15, 50:23,  
51:24, 52:10, 52:12,  
52:17, 52:18, 53:13,  
54:5, 54:7, 54:25,  
55:18, 56:1, 56:15,  
56:21, 57:29, 58:10,  
58:11, 58:13, 60:10,  
60:21, 61:19, 61:23,  
62:11, 63:29, 64:8,  
67:14, 67:18, 71:17,  
71:20, 72:11, 73:23,  
74:8, 74:20, 75:7,  
75:8, 75:10, 76:20,  
76:28, 77:5, 77:6,  
78:2, 78:5, 79:14,  
80:28, 82:1, 82:8,  
84:19, 84:22, 86:12,  
86:22, 86:25, 87:3,  
87:16, 87:17, 87:27,  
88:5, 89:18, 90:21,  
90:23, 91:4, 91:17,  
91:20, 91:23, 91:24,  
91:26, 91:29, 92:3,  
94:15, 94:17, 95:2,  
98:13, 99:13, 99:28,  
100:4, 101:7, 101:15,  
101:21, 109:21,  
113:16, 114:5, 114:6,  
114:14, 114:27,  
115:12, 115:18,  
115:23, 116:9,  
116:11, 116:15,  
119:23, 119:26,  
120:1, 120:2, 120:14,  
121:6, 124:23,  
124:24, 125:16,  
125:18, 126:20,  
129:18, 129:23,  
129:28, 133:8,  
133:23, 134:14,  
138:28, 140:18,  
140:21, 140:23,  
141:15, 141:21,  
141:22, 141:26,  
142:28, 145:7,  
147:19, 151:13,  
152:2, 153:2, 159:11,  
159:29, 160:26,  
161:2, 161:19,  
161:25, 162:13,  
162:19, 162:22,  
162:28, 163:3, 163:4,  
163:7, 163:29, 164:3,  
164:17, 164:21,  
164:26, 165:1, 165:4,

165:17, 165:18,  
165:19, 165:22,  
165:28, 166:7,  
166:18, 166:23,  
171:5, 171:11, 174:8,  
174:22, 181:3,  
181:29, 182:9,  
182:28, 183:5, 183:8,  
183:11, 184:10,  
184:12, 184:17,  
184:21, 184:26,  
185:10, 187:19,  
188:18  
**Government** [13] -  
56:7, 140:9, 140:17,  
140:19, 143:24,  
145:7, 145:21, 146:8,  
146:11, 146:13,  
146:16, 146:26, 181:1  
**government's** [19] -  
7:3, 12:14, 13:24,  
14:3, 14:12, 19:13,  
25:11, 35:4, 48:3,  
92:7, 105:19, 114:28,  
134:5, 145:4, 155:25,  
160:29, 163:12,  
165:26, 167:2  
**Government's** [7] -  
50:21, 63:14, 146:20,  
150:15, 150:23,  
151:28, 187:25  
**governments** [2] -  
77:10, 175:7  
**governs** [1] - 158:17  
**graduated** [1] - 5:29  
**GRAINNE** [1] - 3:8  
**GRAND** [1] - 2:28  
**grant** [2] - 125:13,  
125:23  
**grapple** [1] - 175:18  
**grave** [1] - 122:29  
**great** [5] - 99:10,  
120:6, 123:8, 123:10,  
135:27  
**greater** [7] - 20:21,  
70:20, 72:3, 99:28,  
116:10, 172:24,  
172:25  
**greatest** [1] - 79:15  
**Greenwald's** [1] -  
41:8  
**ground** [1] - 162:24  
**grounds** [3] - 167:7,  
167:27, 168:1  
**group** [3] - 92:15,  
92:19, 92:24  
**group's** [1] - 92:20  
**Guantanamo** [1] -  
169:20  
**Guardian** [1] -

181:28  
**guess** [1] - 42:3  
**guidelines** [2] - 56:5,  
121:25  
**guiding** [1] - 131:14

## H

**half** [2] - 6:12, 8:1  
**hand** [12] - 60:1,  
65:6, 66:7, 101:17,  
135:16, 135:18,  
135:19, 135:20,  
159:3, 174:16  
**handed** [10] - 5:14,  
7:19, 7:24, 27:29,  
65:1, 65:7, 65:25,  
76:15, 81:11, 160:22  
**HANDED** [3] - 5:16,  
102:18, 132:8  
**Handed** [4] - 60:1,  
65:6, 66:9, 76:16  
**handful** [1] - 25:13  
**hang** [1] - 144:22  
**happy** [5] - 7:14,  
43:13, 74:16, 80:24,  
84:16  
**hard** [5] - 33:8,  
84:20, 92:3, 92:7,  
184:4  
**Harvard** [1] - 6:1  
**harvest** [1] - 56:17  
**Hasbajrami** [1] -  
59:15  
**hasten** [1] - 188:15  
**HAVING** [1] - 5:11  
**HAYES** [1] - 2:12  
**head** [1] - 32:9  
**header** [1] - 135:25  
**headers** [1] - 115:3  
**heading** [1] - 135:21  
**heard** [2] - 9:20,  
187:11  
**HEARD** [1] - 1:17  
**hearing** [1] - 66:10  
**HEARING** [4] - 1:17,  
5:1, 94:1, 189:7  
**hearings** [1] - 65:14  
**held** [11] - 10:19,  
14:22, 16:2, 48:3,  
48:17, 102:23, 160:3,  
160:7, 160:10,  
160:14, 161:26  
**help** [3] - 36:27,  
110:22, 142:25  
**helpful** [2] - 6:15,  
79:18  
**helpfully** [1] - 24:1  
**hence** [1] - 66:11

**hesitate** [7] - 39:16,  
40:20, 44:7, 45:29,  
70:23, 71:11, 72:24  
**Hide** [1] - 41:8  
**hide** [1] - 160:18  
**hierarchy** [3] - 39:26,  
39:27, 40:1  
**high** [2] - 18:16, 96:5  
**HIGH** [1] - 1:2  
**higher** [1] - 11:17  
**highly** [3] - 15:4,  
112:27, 171:23  
**historic** [1] - 150:18  
**historical** [4] - 47:11,  
150:21, 150:27,  
188:25  
**historically** [2] -  
58:11, 186:25  
**history** [1] - 76:7  
**hit** [1] - 16:17  
**hmm** [9] - 14:24,  
35:28, 38:3, 40:25,  
46:6, 117:27, 123:26,  
127:29, 129:3  
**holes** [1] - 160:18  
**Honourable** [2] - 6:6,  
6:8  
**hostile** [7] - 22:28,  
23:4, 122:29, 123:8,  
123:10, 175:7, 181:3  
**hours** [2] - 8:1  
**HOUSE** [1] - 2:13  
**house** [1] - 131:16  
**huge** [1] - 174:18  
**human** [2] - 74:22,  
75:4  
**Human** [1] - 169:19  
**hundreds** [1] - 19:29  
**hurdle** [1] - 11:26  
**hurdles** [1] - 32:17  
**HYLAND** [1] - 2:11  
**hypothetical** [2] -  
145:29, 146:25

## I

**i.e** [1] - 71:29  
**idea** [1] - 172:18  
**identified** [11] -  
39:15, 39:23, 40:18,  
60:2, 70:15, 75:14,  
89:18, 101:28,  
116:24, 127:18,  
157:10  
**identifiers** [4] - 54:9,  
67:29, 68:23, 68:26  
**identifies** [3] - 76:28,  
76:29, 129:4  
**identify** [17] - 34:9,

35:11, 35:28, 37:14,  
52:12, 53:19, 57:8,  
61:19, 61:21, 62:12,  
79:20, 80:3, 101:6,  
108:22, 113:6,  
132:25, 140:27  
**identifying** [4] -  
34:25, 35:16, 54:29,  
140:12  
**ignored** [1] - 59:2  
**Ill** [2] - 11:9, 11:14  
**ill** [2] - 22:27, 23:17  
**ill-advised** [2] -  
22:27, 23:17  
**imagine** [1] - 145:20  
**imagining** [1] -  
145:29  
**implement** [2] -  
13:17, 27:17  
**Implementation** [1] -  
63:14  
**implementation** [2] -  
14:3, 123:25  
**implemented** [5] -  
14:2, 121:21, 123:21,  
150:9, 172:3  
**implementing** [6] -  
132:17, 150:7,  
157:13, 157:18,  
158:3, 158:7  
**implications** [1] -  
26:10  
**implicitly** [1] -  
165:10  
**implied** [1] - 18:3  
**imply** [1] - 111:7  
**importance** [5] -  
36:19, 36:22, 155:16,  
155:20, 177:10  
**important** [18] - 9:9,  
9:25, 20:11, 72:7,  
84:28, 86:27, 123:8,  
123:9, 132:22,  
133:28, 149:25,  
150:3, 152:28, 153:1,  
153:6, 173:2, 178:27  
**importantly** [2] -  
18:5, 27:10  
**impose** [3] - 13:23,  
14:11, 157:14  
**imposes** [1] - 33:3  
**impossible** [3] -  
104:17, 174:9, 177:5  
**impression** [4] -  
15:2, 18:2, 21:26,  
53:24  
**improper** [1] - 188:2  
**in-house** [1] - 131:16  
**inaccurate** [2] -  
104:18, 106:20  
**inaccurate**" [1] -  
104:14  
**inadequate** [1] - 32:5  
**inadvertently** [2] -  
53:8, 62:27  
**inapposite** [1] -  
139:7  
**incidental** [1] - 96:10  
**incidentally** [2] -  
53:8, 62:27  
**include** [7] - 13:10,  
43:11, 69:6, 70:16,  
77:25, 102:3, 138:4  
**included** [3] -  
104:15, 131:26,  
169:26  
**includes** [7] - 63:19,  
64:17, 90:7, 140:19,  
141:5, 145:14, 145:16  
**including** [16] - 8:25,  
16:24, 17:13, 39:6,  
40:28, 50:16, 76:10,  
81:10, 133:11, 134:7,  
143:26, 144:10,  
144:14, 146:21,  
152:5, 169:4  
**inclusion** [1] -  
150:25  
**incoming** [1] - 30:8  
**incomplete** [2] -  
43:19, 44:3  
**inconsistencies** [1] -  
80:23  
**inconsistent** [3] -  
80:21, 81:19, 150:17  
**incorporate** [1] -  
13:27  
**incorporates** [1] -  
135:10  
**incorrect** [2] - 17:10,  
160:7  
**increasingly** [2] -  
47:2, 47:4  
**incredibly** [4] - 68:6,  
95:21, 158:1, 158:2  
**indeed** [8] - 28:23,  
38:23, 45:8, 58:22,  
71:14, 100:9, 143:23,  
182:25  
**indefinitely** [2] -  
14:7, 156:27  
**independent** [5] -  
38:15, 38:18, 38:19,  
105:15, 110:12  
**indeterminacy** [1] -  
11:6  
**indeterminate** [1] -  
11:4  
**INDEX** [1] - 4:1  
**indicate** [8] - 80:28,  
87:3, 91:7, 91:12,  
91:18, 91:20, 92:8,  
94:16  
**indicates** [7] - 44:14,  
60:21, 91:21, 95:20,  
157:6, 178:1, 185:2  
**indicating** [2] -  
127:11, 183:11  
**indication** [1] - 27:24  
**indiscriminate** [14] -  
67:7, 67:13, 113:27,  
114:4, 133:10, 134:6,  
134:11, 136:2,  
136:24, 137:14,  
137:24, 137:29,  
138:4, 140:2  
**indiscriminately** [3]  
- 113:21, 114:6, 114:7  
**individual** [20] -  
17:26, 18:20, 22:19,  
22:26, 23:16, 25:1,  
25:2, 25:25, 25:26,  
27:14, 49:28, 52:26,  
52:28, 57:22, 57:23,  
98:24, 111:1, 132:24,  
134:22, 175:12  
**individualised** [8] -  
50:20, 130:26, 133:4,  
133:27, 133:29,  
134:2, 134:26, 136:25  
**individually** [2] -  
133:15, 135:1  
**individuals** [16] - 9:5,  
19:18, 19:25, 23:6,  
25:10, 50:2, 52:20,  
98:25, 113:11,  
116:16, 161:15,  
169:26, 174:4,  
174:11, 177:8, 177:11  
**inextricably** [1] -  
114:28  
**infer** [2] - 85:18,  
85:22  
**inference** [2] - 85:24,  
87:24  
**inferences** [2] -  
86:13, 91:3  
**inform** [2] - 75:20,  
112:9  
**INFORMATION** [1] -  
3:7  
**information** [121] -  
7:4, 7:9, 8:26, 13:8,  
13:9, 13:10, 14:8,  
14:10, 14:22, 15:7,  
15:9, 15:12, 15:13,  
19:17, 22:29, 31:25,  
33:11, 35:12, 38:1,  
38:2, 39:18, 39:20,  
40:6, 43:21, 43:22,  
46:27, 48:13, 48:16,  
52:11, 53:13, 53:18,  
54:10, 55:6, 55:20,  
56:6, 58:26, 62:18,  
62:26, 63:19, 64:22,  
77:21, 79:12, 80:12,  
80:22, 81:14, 83:4,  
88:1, 93:7, 94:29,  
96:16, 96:18, 96:20,  
96:23, 98:10, 98:14,  
98:22, 98:27, 98:28,  
100:5, 100:6, 100:11,  
100:13, 101:25,  
111:18, 117:19,  
117:21, 118:3, 118:5,  
118:10, 120:13,  
120:28, 121:29,  
122:14, 122:16,  
122:23, 122:26,  
123:17, 123:20,  
123:29, 124:5,  
124:12, 124:26,  
126:23, 127:11,  
127:13, 127:25,  
135:4, 136:15,  
137:14, 149:8,  
151:15, 151:19,  
152:1, 152:5, 153:3,  
153:5, 153:9, 156:8,  
156:9, 156:11,  
156:26, 157:18,  
159:9, 159:26,  
164:16, 166:3, 166:6,  
169:3, 169:4, 172:29,  
175:2, 175:9, 176:28,  
183:8, 184:3, 184:12,  
184:16, 186:6,  
186:12, 186:28  
**Information** [1] -  
147:27  
**information'** [1] -  
159:9  
**informed** [3] -  
111:27, 112:6, 127:10  
**infra** [1] - 57:12  
**infringements** [1] -  
32:2  
**ingested** [2] - 95:19,  
116:4  
**ingesting** [1] - 71:20  
**ingests** [2] - 69:5,  
69:13  
**inhibition** [1] - 23:26  
**initial** [7] - 41:16,  
41:20, 42:19, 95:12,  
128:6, 128:7, 181:28  
**initiated** [1] - 128:17  
**injuries** [1] - 169:7  
**injury** [7] - 160:27,  
161:7, 161:21,  
161:27, 161:29,  
162:21, 163:22  
**inline** [3] - 96:16,  
98:18  
**input** [1] - 18:21  
**inquiry** [3] - 16:16,  
95:29, 147:4  
**inssofar** [2] - 11:12,  
50:25  
**inspection** [1] -  
20:25  
**inspector** [2] -  
131:21, 131:22  
**instance** [5] - 70:19,  
70:24, 72:27, 101:6,  
108:5  
**instead** [5] - 18:10,  
21:24, 91:13, 124:9,  
141:7  
**instructed** [5] - 2:18,  
2:22, 2:28, 3:9, 28:17  
**Instructed** [3] - 2:7,  
2:12, 3:3  
**instructions** [1] -  
130:15  
**integral** [5] - 149:28,  
150:11, 150:13,  
150:18, 151:9  
**intelligence** [97] -  
8:28, 8:29, 11:8,  
11:23, 11:26, 13:7,  
13:8, 13:29, 14:8,  
14:9, 19:17, 22:26,  
25:28, 26:20, 30:21,  
30:22, 30:23, 30:25,  
30:26, 30:28, 31:4,  
31:23, 32:25, 33:12,  
52:11, 72:14, 118:2,  
118:8, 118:13,  
118:24, 118:27,  
119:1, 120:28,  
121:29, 122:13,  
122:18, 122:22,  
122:26, 123:16,  
124:12, 124:25,  
125:6, 126:22,  
127:10, 127:13,  
127:25, 132:22,  
132:23, 136:9, 148:5,  
148:6, 148:9, 149:16,  
150:1, 150:12,  
150:20, 150:23,  
150:27, 151:3,  
151:11, 151:18,  
151:23, 151:25,  
151:28, 152:17,  
152:21, 153:10,  
155:26, 156:7, 156:9,  
156:26, 157:4,  
157:17, 158:13,

158:27, 159:1, 159:9,  
159:15, 159:16,  
159:19, 159:26,  
168:11, 172:19,  
172:22, 172:26,  
173:15, 173:25,  
174:7, 174:19,  
174:23, 175:2,  
175:10, 180:14,  
181:1, 181:5, 181:9  
**Intelligence** [17] -  
11:29, 18:4, 18:6,  
18:11, 20:6, 32:10,  
38:13, 39:8, 39:11,  
95:15, 101:8, 133:9,  
135:22, 140:29,  
141:1, 141:24, 171:18  
**intelligence**" [1] -  
147:23  
**intelligent** [1] -  
110:23  
**intend** [3] - 18:16,  
114:10, 148:7  
**intended** [7] - 31:24,  
90:17, 90:19, 93:2,  
93:8, 93:16, 142:25  
**intending** [1] - 75:5  
**intention** [2] - 60:10,  
159:10  
**intentional** [2] -  
142:26, 150:4  
**interaction** [1] -  
44:19  
**intercept** [2] - 52:19,  
147:20  
**intercepted** [2] -  
53:8, 62:27  
**intercepting** [3] -  
17:15, 17:18, 146:27  
**interest** [8] - 30:14,  
35:29, 60:3, 60:7,  
73:14, 74:7, 117:4,  
140:9  
**interested** [2] -  
20:26, 36:27  
**interests** [4] - 102:2,  
149:2, 149:5, 152:22  
**interfering** [1] -  
16:19  
**internalised** [1] -  
80:18  
**international** [6] -  
57:21, 96:7, 113:13,  
116:29, 159:12,  
169:21  
**International** [2] -  
168:17, 169:15  
**Internet** [1] - 65:25  
**internet** [26] - 15:8,  
15:18, 15:19, 19:6,

20:8, 21:1, 55:11,  
68:2, 68:9, 69:11,  
70:26, 94:19, 96:5,  
96:7, 96:26, 99:4,  
113:3, 113:4, 116:10,  
116:28, 116:29,  
117:5, 117:7, 117:11,  
185:15  
**interpret** [1] - 96:25  
**interpretation** [4] -  
29:23, 30:12, 139:12,  
160:12  
**interpretations** [1] -  
47:27  
**interpreted** [1] -  
16:11  
**intertwined** [1] -  
114:29  
**intervening** [1] -  
187:16  
**introduce** [1] - 60:10  
**introduction** [1] -  
170:11  
**intrusion** [1] - 74:23  
**intrusive** [1] - 114:19  
**invariably** [3] - 8:29,  
19:17, 19:25  
**investigate** [4] -  
27:22, 27:25, 177:26,  
178:2  
**investigated** [2] -  
41:21, 42:21  
**investigation** [1] -  
30:4  
**investigations** [6] -  
27:20, 169:23,  
174:19, 174:20,  
174:23, 180:21  
**investigatory** [1] -  
180:19  
**invocation** [1] -  
167:2  
**invoke** [10] - 24:3,  
24:7, 24:20, 24:22,  
164:17, 164:26,  
165:1, 165:17,  
165:19, 165:20  
**invoked** [3] - 24:23,  
50:16, 164:20  
**invoking** [1] - 165:22  
**involve** [12] - 10:3,  
11:18, 55:17, 71:22,  
95:4, 95:9, 95:25,  
95:26, 97:9, 98:6,  
100:16, 147:12  
**involved** [19] - 22:17,  
59:21, 59:23, 60:8,  
83:10, 83:12, 106:26,  
111:25, 112:25,  
112:27, 113:10,

116:25, 130:21,  
134:23, 160:12,  
162:17, 168:22,  
175:5, 181:27  
**involvement** [1] -  
18:7  
**involves** [25] - 53:26,  
55:8, 55:14, 55:18,  
60:2, 67:6, 80:29,  
87:4, 89:8, 90:27,  
92:8, 94:18, 95:5,  
97:16, 99:2, 109:14,  
109:20, 113:29,  
114:1, 114:23, 115:1,  
134:10, 137:27,  
138:21, 146:23  
**involving** [2] - 97:12,  
156:5  
**IRELAND** [1] - 1:12  
**Ireland** [2] - 5:6,  
94:10  
**Irish** [1] - 132:3  
**irrespective** [2] -  
117:24, 138:23  
**ISPs** [1] - 184:22  
**issue** [24] - 22:11,  
22:14, 25:22, 25:24,  
37:8, 37:10, 49:12,  
81:9, 97:14, 97:16,  
123:18, 142:22,  
147:1, 166:29, 167:4,  
167:6, 177:28, 178:8,  
181:25, 185:14,  
186:15, 186:16,  
187:29  
**issued** [8] - 29:8,  
58:18, 83:28, 96:1,  
130:22, 157:19,  
158:3, 172:4  
**issues** [4] - 22:26,  
83:16, 172:24, 187:9  
**issuing** [1] - 83:25  
**it'll** [1] - 176:8  
**item** [16] - 15:26,  
17:22, 21:3, 22:19,  
23:19, 23:29, 24:27,  
25:21, 26:6, 26:25,  
30:13, 30:29, 31:20,  
31:29, 32:23, 151:14  
**items** [2] - 27:7, 74:7  
**itself** [21] - 5:18, 9:4,  
24:9, 24:21, 38:9,  
39:7, 46:11, 53:5,  
67:11, 82:17, 95:20,  
114:4, 121:2, 122:28,  
124:17, 137:26,  
148:26, 152:2, 154:2,  
157:15, 162:20

## J

**JAMES** [1] - 2:16  
**January** [2] - 8:13,  
15:10  
**Jewel** [13] - 24:24,  
99:7, 100:18, 101:1,  
102:9, 102:14,  
102:16, 102:17,  
108:8, 108:15, 165:1,  
166:15, 173:8  
**jewel** [1] - 108:16  
**John** [1] - 188:21  
**JOHN** [1] - 2:23  
**johntarget@usa.**  
**isp.com** [1] - 184:27  
**joined** [1] - 36:16  
**joint** [2] - 6:24,  
186:19  
**Jon** [1] - 6:8  
**Judge** [20] - 5:7,  
7:20, 34:11, 48:2,  
62:10, 70:5, 75:28,  
93:22, 94:8, 117:16,  
127:4, 131:24,  
132:18, 153:19,  
159:2, 175:28,  
176:10, 182:19,  
188:21, 189:4  
**judge** [7] - 6:14,  
38:13, 87:14, 112:9,  
122:3, 130:27, 183:12  
**judged** [1] - 117:29  
**judges** [2] - 6:6, 49:6  
**judgment** [7] - 25:16,  
102:24, 155:8,  
163:25, 164:7, 164:8,  
164:11  
**judicial** [8] - 18:9,  
18:21, 27:12, 78:21,  
174:13, 176:20,  
177:10  
**Judicial** [5] - 8:12,  
8:19, 8:21, 9:9, 9:13  
**Julia** [1] - 41:11  
**July** [10] - 45:5,  
58:18, 58:23, 61:1,  
65:9, 81:23, 132:17,  
138:26, 154:13  
**junctions** [1] - 62:20  
**Juris** [1] - 6:1  
**Justice** [2] - 137:9,  
146:29  
**JUSTICE** [50] - 1:17,  
5:4, 5:9, 7:23, 33:23,  
34:10, 34:15, 34:17,  
41:27, 42:2, 42:7,  
42:12, 59:18, 62:9,  
69:29, 70:3, 70:6,

70:10, 70:13, 75:24,  
93:23, 94:7, 103:27,  
117:14, 122:5, 122:8,  
122:11, 127:3, 132:1,  
132:16, 144:18,  
144:22, 144:26,  
144:28, 153:15,  
153:20, 159:6,  
175:19, 175:25,  
176:1, 176:6, 176:9,  
176:11, 182:16,  
182:22, 183:15,  
188:3, 188:8, 188:14,  
188:29  
**justice** [1] - 49:8  
**Justice's** [2] - 16:11,  
16:12

## K

**Kafkaesque** [1] -  
180:6  
**keep** [5] - 74:6,  
109:23, 115:10,  
143:18, 170:10  
**keeping** [1] - 15:25  
**KELLEY** [1] - 2:27  
**kept** [1] - 186:17  
**Kerry** [1] - 143:12  
**key** [1] - 169:14  
**KIERAN** [1] - 2:11  
**killing** [1] - 154:24  
**kind** [26] - 15:16,  
20:1, 20:28, 27:11,  
31:16, 33:7, 34:7,  
49:24, 50:14, 61:14,  
64:23, 68:10, 83:2,  
132:11, 137:28,  
145:14, 145:20,  
147:3, 150:21, 155:3,  
164:5, 172:22,  
175:16, 177:13,  
184:9, 185:8  
**kinds** [1] - 147:18  
**Kingdom** [1] - 125:5  
**KINGSTON** [1] - 2:21  
**Klein** [30] - 104:26,  
104:27, 105:2, 105:5,  
105:8, 105:13,  
105:18, 105:25,  
105:28, 106:2,  
106:23, 107:2, 107:8,  
107:13, 107:17,  
107:20, 107:23,  
108:2, 108:12,  
108:13, 108:15,  
108:16, 109:10,  
110:9, 110:13,  
110:16, 112:5,  
112:11, 112:17,

112:20  
**Klein's** [7] - 105:17, 106:28, 107:10, 107:11, 109:7, 112:3, 112:8  
**knowing** [2] - 86:18, 155:11  
**knowledge** [36] - 8:18, 14:28, 35:10, 35:13, 46:28, 59:9, 80:19, 85:16, 86:8, 98:9, 98:19, 98:26, 104:21, 104:25, 104:27, 105:3, 105:7, 105:8, 105:15, 105:19, 106:1, 107:3, 107:4, 108:4, 110:13, 110:16, 110:18, 112:4, 112:8, 112:10, 112:29, 154:18, 171:16, 172:29, 184:14  
**knowledge"** [1] - 110:12  
**known** [16] - 17:13, 48:22, 54:6, 56:8, 64:8, 68:5, 84:26, 99:11, 158:7, 163:27, 170:14, 170:20, 172:6, 173:1, 187:11, 187:13  
**knows** [2] - 112:21, 172:1  
**Kris** [1] - 97:26

## L

**L207** [1] - 135:17  
**L207/98** [1] - 135:20  
**lack** [5] - 55:21, 79:16, 79:27, 170:28, 173:11  
**lacking** [1] - 54:12  
**lacks** [1] - 31:9  
**land** [1] - 17:17  
**language** [13] - 29:1, 30:3, 32:24, 32:28, 33:3, 51:22, 62:5, 63:9, 63:10, 80:9, 82:5, 138:15, 171:10  
**lapse** [1] - 61:2  
**large** [8] - 11:4, 12:28, 100:11, 101:25, 118:20, 141:14, 179:8, 180:22  
**largely** [1] - 63:14  
**larger** [1] - 100:5  
**last** [13] - 7:27, 9:20, 11:5, 63:2, 63:28,

91:27, 127:7, 136:20, 151:24, 159:2, 159:3, 159:5  
**lastly** [1] - 187:8  
**lately** [1] - 47:13  
**latitude** [2] - 63:29, 156:26  
**Law** [1] - 6:1  
**law** [40] - 6:4, 6:13, 6:23, 8:9, 28:17, 28:22, 29:3, 29:7, 29:21, 29:23, 30:10, 34:23, 35:25, 36:5, 36:12, 36:26, 36:28, 37:3, 37:4, 37:14, 38:8, 40:24, 47:15, 47:28, 50:26, 59:2, 74:19, 97:25, 125:25, 132:5, 139:12, 154:27, 159:24, 159:25, 161:20, 162:16, 168:15, 174:16  
**laws** [5] - 34:21, 111:29, 179:6, 179:7, 180:7  
**lawyers** [2] - 131:16, 169:20  
**lay** [2] - 66:25, 75:20  
**layers** [1] - 128:16  
**lead** [1] - 127:11  
**leading** [3] - 97:25, 183:12, 183:15  
**leak** [1] - 119:28  
**leaked** [2] - 11:28, 12:3  
**learn** [1] - 22:28  
**learned** [1] - 11:29  
**least** [12] - 7:29, 32:9, 58:1, 58:5, 58:6, 60:26, 61:3, 61:6, 68:29, 74:18, 124:15, 142:17  
**leave** [2] - 93:22, 109:24  
**leaving** [1] - 21:2  
**lecture** [1] - 138:17  
**LEE** [1] - 2:7  
**left** [3] - 135:15, 135:18  
**left-hand** [2] - 135:18  
**legal** [5] - 28:4, 74:24, 80:13, 131:13, 154:21  
**legalistic** [2] - 15:4, 15:5  
**legality** [4] - 32:8, 48:10, 48:14, 180:22  
**legislative** [1] - 50:7  
**legitimate** [1] -

177:10  
**length** [4] - 47:22, 79:15, 100:19, 139:13  
**lengthier** [2] - 51:4, 51:6  
**lengthy** [3] - 7:28, 8:2, 43:11  
**less** [9] - 22:17, 96:25, 97:22, 111:3, 111:4, 115:26, 115:28, 117:18, 182:3  
**letter** [15] - 74:5, 74:6, 74:8, 74:18, 135:20, 135:24, 135:25, 139:19, 139:22, 143:12, 143:15, 144:23, 153:13, 153:18, 157:11  
**letters** [1] - 75:11  
**level** [11] - 16:14, 16:17, 18:16, 39:24, 52:2, 84:23, 105:18, 112:20, 112:22, 119:19, 147:2  
**levels** [1] - 130:24  
**Liberties** [6] - 6:10, 13:15, 13:25, 38:11, 59:19, 95:7  
**liberties** [4] - 149:28, 150:10, 150:19, 151:9  
**light** [1] - 176:20  
**likelihood** [1] - 19:7  
**likely** [4] - 19:26, 19:28, 127:24, 169:27  
**likewise** [1] - 29:10  
**limit** [4] - 7:2, 31:9, 32:2, 55:22  
**limitation** [2] - 33:9, 153:28  
**limitations** [10] - 6:29, 7:3, 7:9, 32:16, 144:6, 144:13, 153:29, 154:1, 154:5, 169:11  
**limited** [8] - 17:13, 69:28, 104:25, 105:7, 106:1, 145:6, 181:7, 181:10  
**limiting** [1] - 173:14  
**limits** [1] - 155:29  
**line** [3] - 64:10, 67:9, 73:24  
**lines** [1] - 62:6  
**linking** [1] - 19:3  
**list** [1] - 145:19  
**lists** [2] - 145:17, 145:18  
**litigant** [1] - 24:16  
**litigate** [1] - 24:16

**litigating** [4] - 26:23, 32:17, 32:18, 35:3  
**litigation** [2] - 163:7, 166:13  
**Litt** [16] - 135:21, 135:24, 139:14, 139:23, 140:21, 142:1, 142:10, 143:4, 148:14, 148:15, 148:23, 153:13, 153:18, 157:11, 157:13  
**Litt's** [2] - 140:6, 144:23  
**live** [2] - 70:7, 70:13  
**loaned** [1] - 3:24  
**locate** [4] - 72:6, 100:2, 115:14, 115:19  
**located** [12] - 13:4, 13:6, 19:15, 21:18, 52:10, 53:6, 62:7, 72:12, 96:4, 120:26, 126:21, 171:13  
**location** [2] - 127:22, 145:17  
**lodestar** [1] - 120:29  
**logistics** [1] - 175:22  
**long-term** [5] - 48:25, 69:5, 73:19, 97:1, 138:8  
**look** [21] - 17:21, 28:3, 43:7, 45:24, 55:24, 59:29, 61:15, 62:3, 90:12, 102:6, 104:28, 122:25, 125:29, 126:1, 131:23, 135:28, 143:17, 147:21, 158:21, 172:23, 185:18  
**looked** [5] - 46:4, 46:6, 46:8, 102:28, 133:19  
**looking** [13] - 20:23, 20:24, 39:1, 68:12, 68:14, 73:15, 103:3, 103:6, 114:16, 135:8, 150:5, 158:20, 175:22  
**looks** [3] - 76:12, 162:27, 166:20  
**looseness** [1] - 31:10  
**lose** [1] - 111:19  
**loss** [1] - 65:11  
**lost** [1] - 169:28  
**low** [8] - 10:12, 10:22, 19:6, 54:14, 55:23, 72:15, 134:16, 137:17  
**lower** [1] - 11:6

**LTD** [1] - 1:12  
**Ltd** [2] - 5:6, 94:10  
**lunch** [1] - 183:22  
**LUNCHEON** [2] - 93:27, 94:1

## M

**made"** [1] - 133:28  
**made'** [1] - 133:5  
**magnitude** [1] - 117:5  
**mail** [3] - 54:7, 74:5, 183:1  
**main** [1] - 131:26  
**maintains** [1] - 56:7  
**major** [3] - 27:4, 68:8, 74:3  
**majority** [3] - 25:10, 25:29, 161:14  
**Malone** [3] - 1:21, 3:23, 3:25  
**MALONE** [1] - 1:31  
**manner** [3] - 3:24, 15:5, 132:24  
**marks** [1] - 56:23  
**MARY'S** [1] - 3:10  
**MASON** [1] - 2:12  
**mass** [28] - 54:12, 57:7, 94:18, 94:27, 95:4, 95:25, 95:26, 96:2, 97:12, 99:24, 99:25, 101:24, 109:5, 109:9, 109:14, 109:20, 109:24, 109:25, 110:1, 112:5, 112:12, 136:1, 137:13, 137:19, 138:9, 138:17, 138:21, 140:2  
**Mass** [1] - 65:25  
**material** [14] - 9:24, 40:7, 40:12, 41:22, 54:29, 82:8, 84:21, 141:16, 141:19, 153:28, 173:2, 173:5, 173:9, 178:21  
**materially** [1] - 168:11  
**materials** [8] - 42:22, 46:19, 46:23, 86:11, 86:12, 132:5, 132:7, 148:25  
**matter** [23] - 5:5, 7:12, 21:7, 24:6, 24:9, 24:20, 27:28, 31:2, 41:21, 42:21, 47:18, 47:19, 65:4, 94:9, 150:27, 154:29,

165:5, 165:14,  
165:29, 172:20,  
174:29, 188:25, 189:1  
**matters** [9] - 34:21,  
34:22, 34:23, 36:24,  
45:9, 98:6, 109:17,  
111:1, 152:24  
**MAURICE** [1] - 2:26  
**MAXIMILLIAN** [1] -  
1:14  
**McCANN** [1] - 2:22  
**McCULLOUGH** [1] -  
2:16  
**McGRANE** [1] - 3:9  
**McGRATH** [1] - 3:9  
**MCT** [1] - 69:29  
**MCTS** [1] - 69:28  
**mean** [13] - 50:29,  
52:21, 54:21, 68:2,  
71:5, 89:21, 96:16,  
111:6, 111:7, 121:27,  
123:3, 184:7, 186:16  
**meaning** [1] - 85:8  
**meaningful** [7] -  
13:23, 14:11, 33:3,  
131:9, 150:22,  
174:13, 177:7  
**means** [44] - 14:26,  
15:17, 15:20, 61:23,  
64:24, 77:9, 81:16,  
83:3, 83:4, 84:24,  
85:1, 85:3, 85:4, 85:6,  
85:17, 85:23, 87:9,  
88:2, 88:4, 89:23,  
90:21, 90:29, 91:10,  
92:23, 92:26, 92:27,  
92:28, 93:3, 93:9,  
111:1, 112:4, 118:3,  
118:20, 118:24,  
122:26, 135:2, 148:9,  
150:13, 159:9, 173:1,  
184:3, 184:5, 184:10,  
185:8  
**meant** [5] - 17:29,  
89:25, 89:27, 90:16,  
166:27  
**measures** [2] - 32:2,  
32:4  
**mechanism** [1] -  
99:12  
**mechanisms** [1] -  
187:6  
**media** [30] - 35:7,  
35:14, 35:17, 35:18,  
38:1, 38:3, 39:17,  
39:24, 40:3, 41:1,  
43:15, 80:28, 86:23,  
87:3, 87:16, 90:24,  
90:25, 91:17, 92:8,  
94:16, 98:13, 99:1,  
119:12, 141:8,  
141:12, 141:16,  
145:13, 145:22,  
183:11, 183:29  
**meet** [2] - 10:23,  
30:14  
**meeting** [1] - 161:20  
**Member** [2] - 8:12,  
8:14  
**member** [1] - 92:24  
**memo** [3] - 6:24,  
9:24, 32:22  
**memorandum** [8] -  
7:13, 7:20, 7:25,  
47:19, 129:27,  
157:28, 184:13,  
186:19  
**mention** [5] - 72:6,  
73:26, 83:21, 108:7,  
108:21  
**mentioned** [3] - 69:8,  
74:6, 75:19  
**mentioning** [1] -  
143:5  
**mere** [1] - 161:6  
**merely** [5] - 19:14,  
69:24, 73:26, 115:20,  
170:1  
**merits** [2] - 25:18,  
164:6  
**met** [1] - 7:26  
**meta** [12] - 58:9,  
68:12, 81:1, 87:5,  
87:20, 88:8, 89:9,  
90:28, 92:10, 160:25,  
173:19, 182:10  
**meta-data** [12] -  
58:9, 68:12, 81:1,  
87:5, 87:20, 88:8,  
89:9, 90:28, 92:10,  
160:25, 173:19,  
182:10  
**metadata** [8] - 12:2,  
20:24, 29:25, 29:29,  
30:7, 113:23, 114:15  
**metaphor** [1] -  
160:17  
**methodology** [2] -  
155:11, 155:12  
**methods** [1] - 61:12  
**MICHAEL** [4] - 2:5,  
3:1, 33:22, 94:8  
**Microsoft** [1] - 64:11  
**middle** [5] - 15:28,  
18:27, 60:19, 185:18,  
185:28  
**might** [13] - 5:26,  
31:13, 41:27, 77:21,  
82:17, 93:22, 122:3,  
125:29, 134:20,  
140:25, 155:9,  
173:26, 178:12  
**might've** [1] - 187:15  
**million** [5] - 15:15,  
20:8, 63:21, 92:5,  
116:6  
**mind** [6] - 125:29,  
132:8, 183:10,  
183:13, 183:14,  
183:28  
**minimisation** [19] -  
12:22, 12:26, 14:5,  
14:10, 18:15, 49:2,  
51:14, 52:5, 63:26,  
77:20, 78:15, 78:17,  
125:14, 136:22,  
186:4, 186:18,  
186:26, 187:2, 187:5  
**minimise** [1] - 18:17  
**minutes** [3] - 8:1,  
111:28, 175:27  
**Miriam** [1] - 6:6  
**misleading** [2] -  
155:6, 187:20  
**misreporting** [1] -  
181:27  
**misrepresented** [1] -  
188:23  
**missing** [4] - 76:9,  
76:12, 88:10, 88:12  
**mistake** [1] - 170:10  
**misunderstanding**  
[1] - 69:16  
**misunderstood** [1] -  
134:25  
**modern** [3] - 50:7,  
50:10, 50:11  
**modernisation** [1] -  
50:16  
**modification** [1] -  
82:19  
**modified** [6] - 82:18,  
82:23, 86:1, 86:3,  
154:28  
**modify** [2] - 86:4,  
155:3  
**moment** [19] - 6:22,  
7:12, 34:10, 42:27,  
57:26, 60:1, 74:25,  
83:6, 87:15, 103:19,  
108:20, 109:23,  
117:19, 126:1, 137:3,  
157:23, 158:28,  
167:28, 171:1  
**momentarily** [1] -  
108:19  
**moments** [2] - 40:19,  
146:4  
**moreover** [1] - 133:7  
**morning** [5] - 5:4,  
34:4, 34:5, 95:25,  
138:12  
**most** [21] - 9:4, 9:9,  
9:27, 10:18, 14:6,  
20:10, 26:9, 40:22,  
40:24, 67:1, 79:5,  
136:8, 139:3, 141:22,  
141:29, 142:9,  
142:12, 143:2,  
148:16, 169:27  
**mostly** [1] - 42:8  
**motion** [9] - 10:6,  
11:15, 162:26,  
163:25, 163:26,  
164:4, 164:9, 170:13  
**mouse** [1] - 160:18  
**move** [3] - 57:19,  
93:11, 159:28  
**MR** [90] - 2:5, 2:5,  
2:7, 2:10, 2:11, 2:16,  
2:16, 2:17, 2:26, 3:1,  
3:7, 4:6, 4:7, 4:8, 5:7,  
5:12, 5:14, 7:25,  
33:17, 33:20, 33:22,  
34:1, 34:4, 34:11,  
34:13, 34:16, 34:18,  
41:26, 42:14, 59:21,  
62:10, 70:1, 70:4,  
70:8, 70:12, 70:14,  
75:26, 79:24, 79:26,  
86:27, 87:14, 93:22,  
94:5, 94:8, 94:11,  
103:8, 103:9, 103:14,  
103:17, 103:18,  
103:23, 103:26,  
104:4, 117:16, 122:1,  
122:6, 122:9, 122:12,  
127:4, 131:23, 132:3,  
132:6, 132:11,  
132:18, 144:20,  
144:24, 144:27,  
144:29, 153:17,  
153:21, 159:7,  
175:23, 175:27,  
176:4, 176:8, 176:10,  
176:13, 180:23,  
180:25, 180:27,  
182:18, 182:23,  
183:12, 183:19,  
187:28, 188:6,  
188:12, 188:16,  
188:26, 189:3  
**MS** [63] - 1:17, 2:6,  
2:11, 2:21, 2:21, 2:27,  
3:2, 3:8, 4:5, 5:4, 5:9,  
5:11, 7:23, 33:20,  
33:23, 34:1, 34:10,  
34:15, 34:17, 41:27,  
42:2, 42:7, 42:12,  
59:18, 62:9, 69:29,  
70:3, 70:6, 70:10,  
70:13, 75:24, 93:23,  
94:4, 94:7, 103:27,  
117:14, 122:5, 122:8,  
122:11, 127:3, 132:1,  
132:16, 144:18,  
144:22, 144:26,  
144:28, 153:15,  
153:20, 159:6,  
175:19, 175:25,  
176:1, 176:6, 176:9,  
176:11, 180:25,  
182:16, 182:22,  
183:15, 188:3, 188:8,  
188:14, 188:29  
**multi** [7] - 48:22,  
69:10, 70:1, 70:8,  
71:3, 97:3, 188:22  
**multi-**  
**communication** [2] -  
48:22, 97:3  
**multiple** [3] - 53:19,  
91:28, 188:20  
**multiplier** [1] - 20:1  
**Murray** [1] - 176:1  
**MURRAY** [1] - 2:5  
**must** [21] - 3:24,  
20:21, 24:13, 67:17,  
67:18, 87:26, 97:19,  
99:26, 99:28, 100:4,  
108:9, 108:24, 109:1,  
109:5, 121:26,  
127:19, 128:20,  
134:21, 134:22,  
137:7, 154:19

---

## N

---

**name** [1] - 59:14  
**named** [1] - 1:26  
**namely** [1] - 73:6  
**narrow** [2] - 30:5,  
124:11  
**narrowed** [1] -  
123:14  
**narrower** [3] -  
124:10, 138:6, 158:4  
**narrowly** [3] - 51:20,  
63:9, 136:2  
**Narus** [1] - 68:5  
**National** [9] - 6:11,  
9:17, 18:11, 39:10,  
42:8, 42:11, 140:29,  
141:1, 141:24  
**national** [14] - 28:16,  
28:22, 29:3, 30:4,  
30:17, 30:19, 31:22,  
31:25, 31:26, 97:25,  
97:28, 125:2, 151:16,

174:15  
**nature** <sup>[11]</sup> - 26:16, 75:21, 79:2, 84:15, 86:14, 98:29, 145:12, 150:19, 159:19, 178:11, 186:12  
**necessarily** <sup>[5]</sup> - 8:3, 38:9, 105:16, 107:28, 130:23  
**necessary** <sup>[8]</sup> - 25:5, 25:17, 31:21, 122:28, 123:2, 123:6, 185:11, 185:12  
**necessary"** <sup>[1]</sup> - 123:3  
**necessity** <sup>[1]</sup> - 32:29  
**need** <sup>[18]</sup> - 19:19, 19:20, 32:23, 51:8, 53:22, 56:16, 71:4, 76:5, 88:20, 90:12, 102:6, 103:27, 112:22, 118:9, 118:13, 118:24, 138:15, 148:19  
**needed** <sup>[1]</sup> - 176:11  
**needs** <sup>[2]</sup> - 19:14, 87:29  
**NESSA** <sup>[1]</sup> - 3:2  
**network** <sup>[2]</sup> - 82:11, 96:5  
**networks** <sup>[1]</sup> - 82:11  
**never** <sup>[6]</sup> - 37:12, 82:14, 106:26, 111:25, 112:25, 121:5  
**New** <sup>[8]</sup> - 6:2, 6:4, 6:7, 41:10, 41:24, 97:29, 101:12, 101:20  
**new** <sup>[2]</sup> - 87:28, 187:7  
**Newman** <sup>[1]</sup> - 6:8  
**news** <sup>[2]</sup> - 85:13, 86:4  
**newspaper** <sup>[3]</sup> - 85:25, 85:26, 101:20  
**next** <sup>[12]</sup> - 37:24, 63:13, 64:5, 66:7, 67:8, 77:2, 78:14, 105:26, 128:5, 136:6, 151:14, 151:22  
**nexus** <sup>[1]</sup> - 123:10  
**NIAMH** <sup>[1]</sup> - 2:11  
**nine** <sup>[2]</sup> - 55:25  
**nobody** <sup>[3]</sup> - 118:18, 128:29, 140:12  
**non** <sup>[31]</sup> - 13:4, 13:5, 19:15, 21:13, 21:17, 22:3, 52:10, 53:6, 56:2, 57:23, 62:9, 62:10, 64:1, 71:14, 72:12, 74:2, 74:16,

81:13, 117:19, 117:22, 120:25, 126:20, 127:22, 133:3, 133:27, 152:17, 156:1, 158:11, 171:12, 178:13, 178:14  
**non-bulk** <sup>[1]</sup> - 71:14  
**non-citizen** <sup>[2]</sup> - 21:13, 22:3  
**non-citizens** <sup>[1]</sup> - 21:17  
**non-digital** <sup>[3]</sup> - 74:16, 117:19, 117:22  
**non-publicly** <sup>[1]</sup> - 152:17  
**non-technological** <sup>[1]</sup> - 81:13  
**non-US** <sup>[19]</sup> - 13:4, 13:5, 19:15, 52:10, 53:6, 56:2, 57:23, 62:9, 62:10, 64:1, 72:12, 120:25, 126:20, 127:22, 133:3, 133:27, 156:1, 158:11, 171:12  
**noncompliance** <sup>[15]</sup> - 179:3, 179:5, 179:9, 179:12, 179:15, 179:22, 179:23, 179:24, 180:1, 180:8, 180:10, 180:12, 180:16, 180:17  
**normally** <sup>[3]</sup> - 71:29, 73:6, 73:11  
**normative** <sup>[1]</sup> - 154:29  
**NORTH** <sup>[2]</sup> - 3:3, 3:4  
**notably** <sup>[1]</sup> - 10:15  
**note** <sup>[28]</sup> - 8:20, 9:12, 10:27, 20:10, 29:21, 32:4, 36:23, 46:24, 47:4, 55:7, 58:16, 58:25, 60:28, 71:17, 77:4, 78:19, 82:26, 99:6, 104:14, 105:21, 106:7, 113:11, 116:3, 125:22, 139:6, 154:18, 164:15, 175:13  
**noted** <sup>[12]</sup> - 12:23, 29:14, 50:23, 64:17, 68:12, 118:28, 133:2, 134:9, 139:9, 147:17, 177:12, 184:13  
**notes** <sup>[1]</sup> - 1:25  
**nothing** <sup>[6]</sup> - 36:29, 57:1, 91:21, 112:21, 177:29, 180:1  
**notice** <sup>[33]</sup> - 12:7,

12:9, 23:6, 23:8, 23:12, 23:14, 25:12, 25:14, 25:23, 26:2, 161:10, 161:16, 161:24, 162:5, 173:19, 173:21, 173:22, 173:25, 174:1, 174:7, 174:9, 174:11, 174:18, 174:25, 175:1, 175:14, 175:15, 175:17, 177:12  
**notified** <sup>[2]</sup> - 173:27, 174:3  
**notify** <sup>[1]</sup> - 174:4  
**notwithstanding** <sup>[8]</sup> - 46:26, 50:23, 129:4, 169:18, 170:23, 173:9, 174:21  
**nowhere** <sup>[3]</sup> - 84:18, 88:16, 89:5  
**NSA** <sup>[81]</sup> - 8:28, 9:1, 9:4, 9:8, 9:29, 10:16, 40:28, 42:8, 42:16, 48:12, 48:23, 48:29, 55:9, 55:10, 64:21, 64:24, 66:8, 68:27, 68:28, 69:2, 69:15, 70:15, 70:18, 70:21, 70:24, 70:27, 70:29, 71:8, 72:21, 72:22, 72:25, 73:12, 73:17, 74:2, 74:14, 81:11, 83:3, 83:17, 84:5, 84:8, 84:9, 88:15, 96:1, 96:14, 96:22, 96:29, 101:10, 113:20, 119:4, 119:5, 119:7, 119:9, 119:11, 120:16, 121:26, 127:9, 127:19, 127:21, 128:15, 128:20, 131:12, 131:16, 139:15, 140:25, 147:22, 147:26, 147:27, 156:19, 156:20, 157:2, 157:19, 158:3, 182:29, 185:19, 186:3, 186:6, 186:17, 186:25  
**NSA's** <sup>[6]</sup> - 48:19, 65:25, 69:12, 72:4, 95:16, 96:3  
**NSL** <sup>[3]</sup> - 133:14, 134:29, 139:9  
**number** <sup>[14]</sup> - 9:20, 72:16, 106:12, 106:16, 116:3, 117:3, 117:7, 133:16,

137:18, 149:10, 157:21, 158:26, 161:13, 180:28  
**numbers** <sup>[2]</sup> - 54:8, 117:24  
**numerous** <sup>[3]</sup> - 32:1, 145:13, 145:22  
**O**  
**o'clock** <sup>[2]</sup> - 93:23, 189:2  
**O'DWYER** <sup>[1]</sup> - 3:7  
**O'SULLIVAN** <sup>[1]</sup> - 2:17  
**Obama** <sup>[4]</sup> - 186:20, 186:23, 186:29, 187:7  
**object** <sup>[4]</sup> - 73:9, 177:22, 187:28  
**objected** <sup>[1]</sup> - 85:28  
**objection** <sup>[2]</sup> - 83:16, 115:22  
**objections** <sup>[1]</sup> - 115:25  
**objective** <sup>[3]</sup> - 31:9, 54:12, 55:22  
**objectives** <sup>[3]</sup> - 30:14, 30:20, 124:13  
**objects** <sup>[1]</sup> - 23:5  
**obligation** <sup>[7]</sup> - 47:7, 47:10, 60:15, 139:24, 140:26, 141:3, 174:1  
**obligations** <sup>[4]</sup> - 118:5, 118:9, 118:23, 157:27  
**obscure** <sup>[1]</sup> - 75:5  
**obscuring** <sup>[1]</sup> - 67:16  
**observation** <sup>[2]</sup> - 28:28, 29:6  
**observations** <sup>[2]</sup> - 26:29, 28:6  
**observed** <sup>[1]</sup> - 143:23  
**obstacle** <sup>[3]</sup> - 26:12, 26:19, 26:22  
**obstacles** <sup>[1]</sup> - 34:24  
**obtain** <sup>[12]</sup> - 13:7, 15:8, 19:16, 31:25, 49:27, 52:11, 72:14, 118:10, 174:13, 175:1, 175:8, 176:27  
**obtained** <sup>[11]</sup> - 60:11, 60:12, 62:18, 62:19, 67:28, 70:14, 70:18, 82:8, 88:17, 147:26, 177:12  
**obtaining** <sup>[4]</sup> - 15:14, 61:24, 83:3, 93:7

**obtains** <sup>[1]</sup> - 64:9  
**obvious** <sup>[2]</sup> - 44:23, 174:29  
**obviously** <sup>[1]</sup> - 28:14  
**occasionally** <sup>[1]</sup> - 66:26  
**occasions** <sup>[1]</sup> - 188:20  
**occur** <sup>[1]</sup> - 155:9  
**occurs** <sup>[1]</sup> - 137:27  
**October** <sup>[2]</sup> - 48:3, 188:20  
**odd** <sup>[1]</sup> - 116:16  
**ODNI** <sup>[3]</sup> - 142:11, 142:13, 144:13  
**OF** <sup>[5]</sup> - 2:21, 33:20, 94:4  
**offer** <sup>[4]</sup> - 155:10, 155:13, 155:14, 171:15  
**offered** <sup>[2]</sup> - 139:28, 140:4  
**offhand** <sup>[13]</sup> - 41:15, 43:14, 50:17, 52:2, 80:16, 80:19, 82:3, 87:21, 92:21, 101:26, 148:17, 177:21  
**office** <sup>[1]</sup> - 131:21  
**Office** <sup>[3]</sup> - 39:10, 140:28, 141:23  
**officers** <sup>[1]</sup> - 25:3  
**offices** <sup>[2]</sup> - 37:11, 99:9  
**official** <sup>[13]</sup> - 35:6, 40:2, 57:29, 79:13, 98:13, 125:18, 129:28, 140:19, 140:22, 140:23, 145:4, 165:26, 171:8  
**officially** <sup>[7]</sup> - 13:19, 29:18, 42:17, 119:26, 125:16, 129:22, 130:2  
**offshore** <sup>[1]</sup> - 17:4  
**often** <sup>[3]</sup> - 20:18, 22:27, 154:22  
**old** <sup>[2]</sup> - 49:10, 49:13  
**Ombudsman** <sup>[4]</sup> - 176:14, 176:22, 177:15, 179:15  
**Ombudsman's** <sup>[1]</sup> - 178:5  
**Ombudsperson** <sup>[27]</sup> - 27:5, 27:7, 27:10, 27:12, 27:16, 27:22, 27:25, 46:5, 46:7, 143:11, 143:13, 177:7, 177:9, 178:1, 178:11, 178:25, 178:26, 179:4, 179:11, 179:18,



179:20, 179:21,  
179:26, 179:29,  
180:4, 180:7, 180:21  
**Ombudsperson's** [4] -  
177:26, 178:5,  
180:6, 180:19  
**omission** [2] -  
142:26, 150:5  
**omit** [2] - 151:17,  
151:24  
**ON** [2] - 1:18, 5:1  
**on-boarding** [1] -  
85:22  
**on-line** [3] - 64:10,  
67:9, 73:24  
**once** [5] - 16:16,  
37:11, 128:14,  
136:22, 178:5  
**ONE** [1] - 2:23  
**one** [64] - 10:7,  
10:17, 11:23, 15:4,  
16:23, 19:23, 21:7,  
23:27, 24:8, 27:27,  
28:3, 35:13, 48:2,  
58:7, 61:25, 66:29,  
69:1, 74:25, 82:26,  
83:25, 85:18, 85:22,  
97:8, 100:5, 101:2,  
102:15, 103:11,  
108:7, 108:21, 109:1,  
110:2, 112:3, 114:12,  
115:25, 116:2,  
127:13, 130:7, 131:6,  
132:6, 132:16, 136:8,  
140:18, 140:21,  
140:23, 143:16,  
151:22, 153:14,  
154:23, 158:28,  
159:15, 163:26,  
164:27, 168:2, 172:7,  
172:13, 174:16,  
179:21, 181:5, 181:6,  
187:9, 187:13, 187:14  
**ones** [1] - 73:25  
**ongoing** [3] - 157:5,  
180:10, 185:3  
**online** [1] - 32:3  
**onwards** [2] - 120:9,  
120:11  
**open** [7] - 15:25,  
32:23, 74:5, 74:18,  
84:6, 84:10, 143:18  
**opened** [3] - 5:24,  
22:20, 130:7  
**opening** [3] - 75:11,  
114:2, 114:3  
**opens** [1] - 96:28  
**operate** [8] - 37:20,  
55:7, 79:17, 99:26,  
99:27, 131:9, 155:24,

187:6  
**operated** [4] - 84:13,  
107:8, 140:27, 171:9  
**operates** [9] - 36:13,  
39:2, 43:17, 77:2,  
77:14, 90:24, 99:18,  
139:1  
**operating** [2] - 56:9,  
108:4  
**operation** [32] - 38:6,  
38:23, 39:13, 39:21,  
40:3, 40:23, 41:4,  
42:23, 42:27, 42:28,  
43:3, 43:25, 44:15,  
53:11, 76:1, 79:6,  
80:11, 97:12, 105:10,  
106:3, 106:9, 106:14,  
106:26, 111:10,  
111:26, 112:26,  
112:28, 148:10,  
170:18, 175:9,  
176:14, 178:23  
**operational** [7] -  
33:6, 104:13, 104:15,  
106:18, 130:12,  
136:15, 145:10  
**operative** [2] - 147:1,  
172:7  
**operator** [1] - 10:17  
**opine** [6] - 84:15,  
84:23, 86:13, 92:19,  
98:27, 121:11  
**opined** [1] - 121:13  
**opinion** [31] - 10:19,  
20:6, 33:2, 34:20,  
51:22, 59:6, 61:12,  
62:29, 63:8, 63:9,  
75:16, 87:20, 87:21,  
88:9, 88:15, 92:14,  
95:10, 101:8, 101:12,  
105:22, 106:7,  
108:18, 108:27,  
112:16, 116:13,  
141:14, 155:10,  
155:13, 155:14,  
166:5, 188:21  
**opinions** [5] - 39:9,  
47:8, 47:11, 47:13,  
116:2  
**opportunity** [2] -  
6:19, 137:3  
**oppose** [1] - 65:15  
**opposed** [6] - 98:18,  
101:24, 114:16,  
147:7, 173:6, 184:3  
**opposite** [1] - 144:2  
**option** [7] - 23:13,  
174:8, 175:17,  
176:20, 179:4,  
179:26, 180:3

**options** [2] - 179:6,  
180:5  
**or..** [1] - 93:17  
**oral** [1] - 66:11  
**order** [25] - 8:27,  
12:3, 20:19, 29:8,  
29:29, 30:26, 49:28,  
52:19, 52:22, 52:23,  
53:2, 53:3, 53:4,  
73:13, 84:2, 84:6,  
88:21, 96:23, 116:19,  
118:10, 118:15,  
118:22, 125:24,  
161:24, 186:29  
**Order** [29] - 15:24,  
15:27, 16:1, 17:19,  
29:8, 30:25, 31:7,  
32:5, 32:7, 33:13,  
45:13, 56:11, 56:15,  
56:21, 57:5, 119:6,  
125:23, 134:12,  
145:6, 147:6, 156:3,  
156:8, 157:15,  
157:29, 158:2, 181:7,  
186:20, 186:22,  
186:24  
**ordered** [1] - 160:24  
**ordering** [1] - 12:1  
**orders** [2] - 18:8,  
50:20  
**Orders** [1] - 154:19  
**ordinary** [11] - 18:26,  
19:8, 19:18, 19:24,  
19:26, 20:2, 20:12,  
133:11, 134:7,  
134:17, 161:11  
**organisation** [6] -  
25:27, 36:25, 47:6,  
59:20, 105:18, 157:7  
**organisations** [3] -  
159:12, 169:19,  
169:27  
**orientation** [1] -  
149:19  
**oriented** [1] - 66:24  
**original** [3] - 28:21,  
81:22, 85:28  
**otherwise** [1] -  
188:18  
**outlet** [1] - 85:13  
**outlets** [1] - 35:19  
**outset** [4] - 10:4,  
56:14, 137:12, 162:18  
**outside** [12] - 50:25,  
52:10, 62:7, 124:21,  
144:9, 146:12,  
146:17, 146:20,  
147:6, 147:11, 148:1,  
148:5  
**outstrips** [1] -

170:25  
**overall** [2] - 126:8,  
133:16  
**overcollecting** [1] -  
48:29  
**overlap** [2] - 174:19,  
174:21  
**oversee** [1] - 32:11  
**overseen** [1] - 133:1  
**Oversight** [3] -  
13:15, 38:11, 95:7  
**oversight** [8] - 32:1,  
32:4, 63:3, 78:18,  
78:20, 78:21, 136:15,  
187:6  
**overstated** [1] - 18:3  
**overstatement** [1] -  
110:15  
**owing** [1] - 142:16  
**own** [5] - 77:20,  
87:14, 105:7, 105:15,  
110:11  
**owner** [1] - 10:17

---

**P**

---

**packet** [1] - 20:25  
**PAGE** [1] - 4:3  
**page** [99] - 6:28, 8:8,  
8:11, 8:13, 9:15,  
10:28, 10:29, 11:1,  
12:13, 14:18, 15:22,  
15:25, 17:21, 18:24,  
21:3, 22:18, 23:19,  
23:29, 24:26, 25:20,  
26:4, 26:6, 26:24,  
26:25, 27:3, 27:8,  
28:10, 32:23, 34:8,  
34:15, 34:16, 42:1,  
60:18, 61:16, 62:17,  
62:23, 63:2, 63:17,  
63:24, 66:10, 66:29,  
73:23, 73:28, 76:5,  
76:8, 76:10, 76:12,  
76:17, 76:19, 77:18,  
77:24, 78:22, 78:25,  
78:27, 88:27, 88:28,  
89:1, 94:12, 120:8,  
120:11, 122:12,  
126:28, 127:3, 127:4,  
127:6, 127:16,  
128:14, 135:17,  
135:18, 135:19,  
136:20, 137:4, 144:2,  
144:23, 144:25,  
149:24, 152:14,  
153:8, 153:13,  
153:18, 157:20,  
159:2, 159:3, 159:5,  
160:2, 181:13,

182:16, 182:18,  
182:20, 183:25,  
184:19, 185:18,  
185:20, 185:22,  
185:25, 187:10  
**pages** [10] - 8:3,  
37:24, 42:5, 60:3,  
76:10, 88:28, 89:1,  
89:5, 89:13, 130:7  
**pagination** [1] -  
135:14  
**panel** [1] - 37:12  
**paper** [5] - 76:16,  
81:12, 88:3, 93:4,  
184:4  
**paperback** [1] - 93:5  
**paragraph** [126] -  
5:22, 6:28, 7:8, 10:29,  
11:1, 11:3, 14:20,  
15:22, 18:24, 23:29,  
28:4, 28:10, 28:12,  
34:8, 34:13, 34:20,  
35:21, 35:28, 37:17,  
37:25, 38:4, 45:15,  
45:17, 45:18, 45:20,  
45:21, 45:22, 46:12,  
46:13, 50:28, 51:17,  
52:7, 52:15, 53:5,  
53:11, 53:21, 53:27,  
55:25, 57:12, 57:14,  
57:19, 57:26, 57:27,  
60:19, 61:17, 62:3,  
62:17, 62:22, 62:28,  
63:2, 63:6, 63:12,  
63:13, 63:15, 63:17,  
63:28, 64:4, 64:5,  
76:19, 77:3, 77:12,  
78:14, 78:15, 78:21,  
80:17, 80:25, 80:26,  
81:4, 84:17, 87:1,  
90:20, 94:15, 102:2,  
102:4, 102:5, 103:19,  
104:29, 107:15,  
108:27, 113:2,  
113:19, 116:13,  
119:22, 127:7, 128:5,  
129:17, 129:18,  
132:14, 132:15,  
132:19, 133:25,  
134:4, 134:28,  
135:16, 135:28,  
136:20, 139:7,  
143:17, 143:18,  
143:20, 144:2, 144:3,  
147:13, 147:21,  
148:18, 149:13,  
152:24, 152:26,  
181:12, 182:9,  
182:26, 183:22,  
183:23, 183:26,

183:27, 184:21,  
185:1, 185:13,  
185:17, 185:18,  
185:28, 187:10  
**paragraphs** [10] -  
9:3, 12:19, 14:18,  
37:15, 37:25, 37:28,  
38:3, 61:15, 133:19,  
133:22  
**parameters** [3] -  
58:7, 63:5, 63:11  
**parcel** [2] - 114:29,  
115:4  
**pardon** [2] - 144:28,  
182:19  
**Part** [1] - 123:17  
**part** [24] - 26:17,  
32:12, 38:17, 48:3,  
61:29, 71:12, 72:29,  
90:4, 114:29, 115:4,  
120:5, 123:18,  
135:20, 141:8,  
141:12, 141:14,  
141:16, 141:19,  
145:4, 152:7, 154:7,  
155:9, 156:12, 168:20  
**partially** [1] - 14:1  
**particular** [46] -  
34:25, 44:5, 50:13,  
51:13, 52:3, 59:23,  
64:29, 66:16, 66:19,  
66:21, 70:9, 71:17,  
76:5, 76:17, 77:11,  
83:7, 85:8, 103:10,  
103:12, 109:9,  
114:26, 117:13,  
117:23, 127:12,  
130:13, 130:17,  
133:21, 140:10,  
142:23, 143:7, 144:8,  
145:3, 148:18, 151:1,  
152:16, 160:21,  
161:26, 162:3, 162:9,  
162:14, 165:13,  
165:23, 165:27,  
167:4, 172:14, 181:13  
**particularity** [2] -  
52:16, 52:18  
**particularly** [5] -  
53:11, 144:6, 159:22,  
166:14, 174:23  
**parties** [3] - 8:5,  
34:26, 37:2  
**partners** [1] - 136:11  
**parts** [2] - 9:19,  
154:4  
**party** [5] - 3:25,  
16:13, 16:15, 184:14,  
184:15  
**passage** [6] - 103:4,  
103:6, 103:29, 104:2,  
104:9, 143:16  
**passages** [1] - 127:5  
**passed** [2] - 125:25,  
186:20  
**passing** [2] - 6:29,  
103:4  
**past** [11] - 6:12,  
11:14, 11:15, 68:8,  
68:17, 70:25, 73:13,  
96:27, 96:29, 157:5,  
188:19  
**PAUL** [1] - 2:10  
**Pause** [1] - 63:16  
**PCLOB** [75] - 38:11,  
38:15, 39:3, 39:4,  
40:7, 40:17, 41:20,  
42:21, 42:29, 43:6,  
43:9, 43:10, 43:14,  
43:19, 43:29, 44:6,  
44:11, 44:12, 51:28,  
53:14, 53:18, 58:16,  
58:22, 61:2, 61:9,  
61:11, 75:22, 75:29,  
78:19, 81:19, 83:24,  
83:27, 84:12, 84:15,  
84:17, 84:18, 84:22,  
88:11, 88:14, 88:16,  
88:20, 88:24, 88:26,  
89:19, 92:16, 92:22,  
95:7, 95:10, 99:20,  
99:21, 99:27, 101:3,  
101:4, 119:14,  
119:15, 120:5, 120:6,  
121:2, 121:19, 126:7,  
127:1, 131:5, 133:2,  
182:15, 182:21,  
182:25, 183:25,  
183:28, 184:15,  
184:20, 185:19,  
185:22, 186:7, 187:14  
**PCLOB's** [3] - 41:25,  
60:29, 99:25  
**pedestrian** [2] - 30:5,  
160:17  
**pending** [1] - 10:24  
**penultimate** [2] -  
22:23, 185:16  
**people** [8] - 19:29,  
26:1, 173:25, 174:29,  
175:5, 175:6, 176:27,  
178:12  
**per** [4] - 7:2, 17:17,  
54:5, 65:18  
**perceived** [2] -  
145:7, 145:8  
**perceptions** [1] -  
105:3  
**perhaps** [25] - 5:26,  
8:4, 9:22, 10:29,  
12:29, 15:24, 17:28,  
18:23, 18:27, 19:12,  
26:9, 26:16, 27:8,  
28:8, 40:24, 42:20,  
59:4, 76:12, 81:13,  
105:18, 130:12,  
135:13, 135:14, 187:8  
**period** [1] - 44:20  
**permission** [1] - 3:25  
**permissive** [4] -  
10:13, 39:8, 119:21,  
124:28  
**permit** [3] - 88:24,  
157:2, 158:10  
**permits** [5] - 31:7,  
52:9, 62:6, 120:24,  
159:25  
**permitted** [4] - 13:3,  
57:15, 145:11, 160:15  
**person** [23] - 13:4,  
13:5, 19:15, 37:11,  
52:10, 62:7, 62:10,  
97:7, 106:21, 120:25,  
122:23, 122:27,  
126:20, 127:12,  
127:18, 127:22,  
133:3, 141:23, 156:1,  
156:12, 157:7,  
162:14, 179:1  
**person"** [1] - 62:9  
**personal** [15] -  
23:26, 26:22, 85:16,  
112:4, 113:22,  
133:12, 143:25,  
144:7, 144:8, 145:27,  
146:9, 146:12, 153:9,  
154:17, 163:8  
**personally** [2] -  
59:21, 59:23  
**personnel** [2] -  
156:20, 157:2  
**persons** [17] - 8:22,  
50:29, 51:12, 53:6,  
53:7, 56:2, 57:23,  
62:24, 72:12, 133:27,  
136:25, 149:18,  
156:5, 158:11,  
159:12, 162:14,  
171:13  
**persuasive** [1] -  
109:11  
**pertaining** [1] -  
137:25  
**pertains** [1] - 57:4  
**pertinent** [3] - 17:5,  
48:14, 147:4  
**phenomenon** [1] -  
11:5  
**PHILIP** [1] - 2:7  
**phone** [1] - 54:8  
**photocopied** [1] -  
3:24  
**phrase** [3] - 58:4,  
58:6, 105:16  
**phrased** [1] - 150:25  
**phrasing** [1] - 146:8  
**physical** [2] - 21:14,  
159:3  
**piece** [1] - 81:12  
**pieces** [2] - 29:13,  
75:19  
**Place** [1] - 41:8  
**place** [19] - 21:29,  
31:2, 32:2, 41:17,  
50:9, 50:12, 80:20,  
98:17, 144:9, 145:1,  
145:25, 145:28,  
147:11, 147:15,  
148:7, 154:13,  
169:21, 187:6  
**placed** [3] - 30:8,  
104:22, 167:16  
**places** [3] - 52:13,  
61:21, 62:12  
**plaintiff** [9] - 11:16,  
11:19, 102:21,  
103:20, 106:14,  
164:8, 164:13,  
168:23, 168:27  
**PLAINTIFF** [2] - 1:7,  
2:5  
**plaintiff's** [4] - 10:4,  
103:5, 104:12, 107:4  
**plaintiffs** [24] - 9:26,  
10:13, 25:14, 32:19,  
102:26, 104:14,  
105:1, 106:8, 107:13,  
161:1, 161:10,  
161:18, 161:23,  
162:4, 162:24,  
167:23, 168:13,  
169:25, 170:26,  
171:3, 172:20, 173:6,  
173:7, 173:10  
**plaintiffs'** [3] -  
107:12, 110:18, 161:6  
**Plaintiffs'** [3] - 105:9,  
106:3, 106:17  
**planning** [4] -  
149:29, 150:11,  
151:10, 151:11  
**platforms** [2] - 37:7,  
37:9  
**plausibility** [3] -  
10:8, 163:6, 163:13  
**plausible** [4] - 10:5,  
90:4, 163:1, 163:5  
**plausibly** [5] - 10:14,  
10:20, 162:20,  
162:21, 163:22  
**played** [1] - 141:13  
**plea** [2] - 166:21,  
166:22  
**plead** [2] - 162:21,  
165:13  
**pleaded** [4] - 162:27,  
163:2, 163:16, 163:17  
**pleading** [1] - 162:18  
**pleadings** [1] - 163:1  
**pled** [5] - 163:7,  
163:10, 163:19,  
163:21, 164:1  
**plural** [2] - 45:29,  
106:19  
**point** [32] - 7:5, 7:6,  
20:11, 24:15, 43:12,  
45:3, 45:18, 52:7,  
62:4, 63:23, 63:28,  
64:15, 79:20, 80:4,  
84:16, 92:21, 97:24,  
101:23, 103:7,  
103:19, 128:12,  
129:12, 148:17,  
154:6, 157:20, 168:3,  
168:19, 169:14,  
170:29, 171:2, 171:4,  
172:28  
**pointed** [2] - 76:5,  
80:24  
**points** [6] - 47:14,  
47:15, 68:8, 96:4,  
112:6, 121:3  
**Poisons** [1] - 65:26  
**policy** [1] - 154:23  
**Policy** [4] - 29:10,  
56:19, 134:13, 154:22  
**political** [1] - 178:16  
**Polk** [1] - 6:5  
**portions** [3] - 42:4,  
129:28, 130:9  
**pose** [1] - 175:16  
**poses** [1] - 175:14  
**position** [34] - 12:22,  
12:24, 14:20, 14:25,  
16:5, 17:24, 21:6,  
21:8, 21:9, 21:27,  
22:1, 22:5, 23:23,  
23:25, 23:28, 24:3,  
28:21, 36:4, 66:16,  
75:13, 75:15, 82:13,  
82:16, 86:4, 86:7,  
86:13, 92:29, 98:20,  
120:20, 121:1,  
157:10, 158:20,  
166:17, 180:11  
**positions** [2] - 36:11  
**possess** [6] -  
104:26, 104:27,  
105:8, 107:2, 127:12,  
161:25

**possessed** [3] - 111:12, 160:26, 161:2  
**possesses** [2] - 106:2, 127:24  
**possession** [4] - 160:29, 161:6, 161:7, 161:19  
**possibilities** [3] - 97:8, 100:10, 100:14  
**possibility** [4] - 100:12, 155:2, 179:12, 180:9  
**possible** [9] - 46:10, 47:8, 51:9, 58:12, 58:19, 142:2, 157:6, 162:12, 185:12  
**post** [4] - 11:7, 11:23  
**Post** [18] - 81:7, 81:24, 81:26, 82:9, 82:13, 82:16, 83:8, 85:11, 89:27, 89:29, 90:9, 90:12, 93:14, 93:17, 181:21, 182:2, 182:4  
**Postal** [1] - 74:3  
**postal** [1] - 75:9  
**postdated** [2] - 41:25, 45:6  
**potential** [5] - 57:23, 122:29, 127:18, 127:23, 175:5  
**potentially** [4] - 16:22, 16:29, 18:3, 68:27  
**power** [6] - 19:21, 49:27, 124:1, 124:2, 124:5, 129:5  
**power"** [1] - 123:1  
**powerful** [2] - 68:7, 95:21  
**PowerPoint** [3] - 40:28, 41:29, 42:4  
**powers** [10] - 19:21, 49:26, 122:13, 124:18, 124:20, 124:21, 125:10, 152:20, 153:28, 169:10  
**PPD** [1] - 153:8  
**PPD-28** [35] - 7:2, 32:24, 33:10, 71:16, 148:15, 148:20, 148:26, 149:1, 149:3, 149:7, 149:10, 152:2, 152:14, 153:22, 153:25, 154:2, 154:4, 154:28, 155:3, 155:9, 155:15, 155:20, 155:24, 155:28, 156:18, 156:21, 157:24, 157:26, 158:3, 158:7, 158:17, 158:19, 158:22, 187:21  
**PPD-28's** [1] - 6:29  
**PPD28** [1] - 144:14  
**practicability** [1] - 174:17  
**practical** [1] - 92:2  
**practically** [2] - 87:26, 115:18  
**practice** [24] - 6:3, 8:9, 12:25, 12:28, 34:24, 34:29, 35:2, 35:5, 35:10, 35:13, 36:13, 37:5, 37:14, 42:22, 43:26, 56:18, 56:22, 79:17, 79:27, 86:9, 142:22, 154:3, 179:13  
**practices** [2] - 46:28, 139:6  
**precede** [2] - 67:17, 67:18  
**precedent** [3] - 150:28, 151:2, 169:13  
**precise** [23] - 14:25, 15:20, 42:14, 44:22, 77:9, 81:15, 83:4, 84:24, 84:29, 85:3, 85:4, 85:6, 85:17, 88:4, 91:10, 92:21, 92:25, 92:28, 103:29, 110:27, 115:11, 117:24, 125:17  
**precisely** [1] - 160:19  
**predicated** [2] - 52:8, 188:9  
**predication** [1] - 188:10  
**premises** [3] - 52:13, 61:21, 62:13  
**prepared** [5] - 6:17, 6:24, 7:13, 7:20, 48:17  
**preparing** [1] - 109:3  
**preponderance** [4] - 11:17, 11:20, 25:15, 173:17  
**prescribe** [1] - 18:15  
**prescribes** [1] - 119:19  
**presence** [1] - 21:14  
**present** [2] - 25:24, 44:12  
**presentations** [3] - 40:29, 42:1, 42:4  
**presented** [3] - 142:21, 142:24, 142:19, 15:14, 24:18, 39:1, 43:17, 44:5, 44:26, 116:6, 131:2, 132:23  
**Privacy** [25] - 8:24, 9:6, 9:8, 9:14, 13:15, 13:25, 16:27, 27:2, 27:5, 27:7, 27:19, 27:21, 38:10, 46:6, 46:11, 95:7, 143:24, 144:7, 150:10, 177:29, 178:20, 178:28, 179:2, 180:4  
**privacy** [20] - 28:23, 31:1, 31:6, 31:18, 32:2, 53:6, 63:26, 114:13, 119:14, 140:11, 143:11, 149:28, 150:19, 151:8, 153:4, 155:25, 169:1, 169:3, 175:12, 178:18  
**PRIVACY** [1] - 3:7  
**private** [4] - 37:19, 56:1, 151:15, 169:4  
**privilege** [29] - 24:8, 24:22, 24:24, 164:18, 164:20, 164:27, 165:2, 165:3, 165:4, 165:9, 165:12, 165:13, 165:15, 165:18, 165:20, 165:23, 165:25, 166:8, 166:9, 166:12, 166:20, 166:24, 166:26, 167:1, 167:3, 167:4, 167:8, 167:10, 179:13  
**probable** [5] - 49:23, 49:25, 52:8, 52:16, 52:18  
**problematically** [1] - 159:27  
**problems** [1] - 67:1  
**Procedure** [1] - 25:25  
**procedure** [8] - 18:9, 23:23, 78:10, 89:16, 128:24, 129:5, 154:12, 154:17  
**procedures** [94] - 12:22, 13:2, 13:18, 13:22, 13:23, 13:27, 14:5, 14:11, 17:21, 17:23, 29:15, 29:19, 49:2, 51:14, 51:24, 51:29, 52:1, 52:3, 52:5, 77:20, 77:25, 78:15, 78:17, 119:9, 119:11, 119:13, 119:14, 119:16, 119:17, 119:24, 119:27, 120:2, 120:3, 120:8, 120:12, 120:16, 120:21, 120:22, 121:4, 121:9, 121:13, 121:20, 121:22, 121:25, 125:15, 125:17, 125:20, 126:3, 126:5, 126:6, 126:7, 126:14, 126:16, 126:24, 126:25, 126:29, 127:20, 128:26, 128:28, 129:9, 129:19, 129:20, 129:21, 129:23, 129:25, 129:29, 130:1, 130:3, 130:6, 130:10, 130:15, 131:1, 131:3, 131:7, 131:9, 136:23, 150:26, 153:12, 157:13, 157:19, 158:3, 158:7, 158:8, 158:10, 158:17, 186:4, 186:18, 186:23, 186:26, 187:3, 187:5  
**Procedures** [1] - 25:22  
**procedures'** [2] - 18:15, 62:26  
**proceed** [5] - 10:7, 10:15, 102:26, 103:25, 164:8  
**proceeding** [7] - 24:12, 24:13, 24:21, 32:19, 46:25, 165:7, 166:1  
**PROCEEDING** [1] - 4:3  
**proceedings** [12] - 5:19, 10:2, 16:10, 17:1, 24:6, 24:9, 25:17, 28:5, 39:25, 45:14, 47:25, 110:29  
**proceeds** [1] - 164:10  
**process** [49] - 15:3, 15:6, 49:29, 67:7, 71:12, 76:26, 77:28, 81:11, 86:9, 86:20, 95:11, 98:2, 98:16, 98:17, 98:23, 98:26, 99:17, 102:21, 103:3, 103:5, 105:10, 106:4, 106:9, 106:15, 106:19, 106:29, 107:5, 107:8, 110:6,

110:13, 110:20,  
110:25, 111:8,  
111:10, 112:21,  
112:23, 112:24,  
113:14, 130:20,  
130:21, 130:23,  
136:28, 137:26,  
138:3, 138:20,  
138:25, 164:16,  
183:7, 186:14  
**processed** [5] -  
106:24, 107:18,  
107:24, 107:27,  
111:24  
**processes** [1] -  
131:15  
**processing** [3] -  
74:3, 111:19, 111:21  
**produce** [1] - 160:24  
**produced** [1] - 53:13  
**product** [3] - 70:22,  
72:1, 137:25  
**productive** [1] -  
159:22  
**Prof** [40] - 9:2, 14:21,  
15:2, 15:28, 16:8,  
17:8, 18:2, 18:27,  
21:24, 21:25, 21:27,  
22:5, 22:7, 22:21,  
23:2, 23:5, 23:21,  
24:28, 24:29, 25:8,  
25:9, 32:24, 81:10,  
92:24, 164:19,  
164:23, 164:28,  
166:4, 166:11,  
166:16, 172:12,  
172:17, 174:28,  
175:11, 175:18,  
181:25, 182:2, 182:4  
**Profs** [1] - 50:20  
**programmatic** [1] -  
78:28  
**programme** [19] -  
24:17, 24:18, 29:25,  
43:28, 44:1, 44:2,  
48:15, 58:10, 58:27,  
59:4, 59:7, 61:7, 76:8,  
88:15, 115:27, 131:4,  
165:17, 171:5, 173:19  
**programmes** [36] -  
11:8, 14:14, 19:2,  
32:6, 32:13, 40:10,  
40:13, 40:15, 44:16,  
55:21, 58:17, 58:23,  
59:11, 61:1, 61:4,  
61:6, 61:8, 75:17,  
76:2, 79:7, 79:12,  
79:15, 79:17, 79:28,  
80:2, 84:13, 164:25,  
164:29, 165:27,

171:9, 171:25,  
171:28, 172:3,  
172:29, 187:11,  
187:13  
**programs** [1] -  
132:22  
**Project** [1] - 6:11  
**prompts** [1] - 164:17  
**prong** [1] - 124:7  
**proper** [4] - 86:28,  
135:8, 139:9, 179:20  
**properly** [1] - 166:24  
**properties** [1] -  
52:14  
**property** [1] - 61:22  
**proportion** [1] -  
152:1  
**proportionality** [2] -  
32:20, 32:29  
**proportionate** [1] -  
31:29  
**proposed** [2] - 48:5,  
48:6  
**proposes** [1] - 51:24  
**proposition** [12] -  
45:13, 46:3, 61:12,  
89:22, 103:10, 112:1,  
112:12, 112:19,  
151:2, 151:3, 151:6,  
162:8  
**prosecution** [1] -  
60:8  
**protect** [7] - 30:17,  
49:3, 63:26, 122:28,  
123:8, 123:9, 151:16  
**protecting** [2] -  
30:19, 136:10  
**protection** [11] -  
16:14, 16:18, 26:12,  
26:19, 31:1, 31:6,  
31:19, 53:6, 123:2,  
123:11, 147:2  
**Protection** [2] - 5:5,  
94:9  
**PROTECTION** [1] -  
1:7  
**protections** [4] - 9:5,  
12:21, 12:27, 28:24  
**protective** [1] -  
114:13  
**proves** [1] - 11:24  
**provide** [18] - 27:10,  
27:11, 30:16, 34:20,  
55:20, 79:18, 79:29,  
80:1, 89:5, 111:29,  
112:13, 118:4,  
121:25, 126:25,  
132:7, 134:27,  
145:24, 184:11  
**provided** [9] - 29:3,

68:27, 84:12, 93:4,  
93:5, 126:13, 142:10,  
148:11, 173:21  
**provider** [2] - 183:2,  
183:3  
**providers** [17] -  
14:23, 14:27, 64:10,  
72:26, 76:21, 76:25,  
77:1, 77:5, 77:8, 77:9,  
82:11, 181:18, 182:1,  
183:7, 184:16, 185:5  
**provides** [9] - 25:1,  
28:23, 62:24, 64:25,  
84:19, 89:7, 121:27,  
130:9, 132:21  
**providing** [5] - 15:18,  
15:19, 55:18, 97:15,  
177:7  
**provision** [2] - 23:6,  
161:26  
**provisions** [8] -  
28:27, 38:23, 50:7,  
51:10, 149:1, 158:6,  
168:23, 180:20  
**public** [31] - 15:21,  
29:13, 29:16, 33:11,  
43:20, 44:3, 46:23,  
46:25, 58:14, 60:21,  
65:20, 65:22, 66:23,  
98:29, 119:23,  
119:28, 120:1, 121:5,  
129:18, 151:29,  
152:6, 154:20,  
154:29, 155:1, 155:4,  
166:4, 172:1, 172:2,  
178:8, 178:15, 179:4  
**public"** [1] - 14:29  
**publically** [9] -  
13:21, 13:22, 29:4,  
29:17, 29:24, 30:10,  
36:8, 120:23, 130:1  
**publication** [3] -  
42:19, 121:15, 178:25  
**publications** [2] -  
138:11, 141:17  
**publicly** [7] - 53:12,  
65:3, 82:12, 136:16,  
152:17, 157:3, 166:6  
**published** [15] -  
41:2, 41:7, 41:10,  
41:13, 41:16, 41:24,  
119:12, 129:24,  
130:18, 130:20,  
154:19, 177:18,  
177:21, 178:6  
**pull** [1] - 108:19  
**purport** [3] - 45:8,  
45:12, 143:20  
**purpose** [19] - 13:6,  
13:29, 55:4, 72:13,

75:6, 95:27, 105:6,  
105:14, 105:20,  
105:29, 106:26,  
107:18, 107:25,  
110:10, 111:13,  
120:27, 126:22,  
149:17, 151:19  
**purpose"** [1] -  
111:25  
**purposes** [20] - 7:15,  
7:17, 8:17, 8:19,  
13:29, 19:16, 31:22,  
31:27, 39:25, 74:19,  
151:4, 152:18,  
152:27, 152:28,  
152:29, 153:1, 153:2,  
153:5, 163:17, 181:6  
**pursuant** [3] - 8:27,  
17:19, 162:3  
**pursues** [1] - 30:20  
**pushing** [1] - 50:14  
**put** [39] - 7:21, 35:18,  
39:24, 47:20, 48:9,  
50:6, 60:25, 75:15,  
86:19, 86:28, 87:8,  
87:12, 91:5, 98:3,  
102:14, 102:17,  
102:21, 102:29,  
103:10, 103:20,  
104:2, 104:11,  
104:19, 106:12,  
106:13, 106:15,  
107:7, 109:10, 111:2,  
112:1, 112:11,  
129:27, 140:18,  
146:29, 156:16,  
180:28, 183:17,  
183:21, 187:18  
**putting** [1] - 103:14

## Q

**qualifications** [1] -  
34:18  
**qualifying** [1] -  
142:20  
**quantified** [1] - 117:6  
**quantities** [7] - 21:1,  
31:15, 94:29, 95:22,  
96:29, 113:22, 114:2  
**quantity** [3] - 20:22,  
69:3, 70:20  
**QUAY** [2] - 2:24, 3:3  
**queries** [1] - 78:3  
**query** [2] - 73:20,  
77:25  
**querying** [3] - 67:22,  
71:1, 78:1  
**questionable** [1] -

50:27  
**questioning** [1] -  
185:14  
**questions** [16] - 8:7,  
33:18, 33:22, 34:6,  
35:26, 72:16, 87:10,  
103:16, 104:2, 126:2,  
129:8, 176:2, 177:1,  
180:28, 181:15,  
187:17  
**quickly** [1] - 20:1  
**QUIGLEY** [1] - 2:18  
**quite** [16] - 7:28,  
23:3, 23:18, 36:26,  
43:11, 44:23, 54:25,  
58:12, 58:19, 99:1,  
104:1, 130:4, 130:8,  
160:16, 181:11,  
185:25  
**quotation** [1] - 56:23  
**quotations** [2] -  
43:12, 149:6  
**quote** [4] - 139:11,  
143:20, 148:28,  
148:29  
**quoted** [1] - 63:9  
**quoting** [2] - 51:22,  
144:19

## R

**race** [1] - 149:19  
**raise** [2] - 166:7,  
166:18  
**raised** [3] - 166:23,  
167:23, 170:1  
**raising** [3] - 142:27,  
143:1, 168:9  
**rapidly** [3] - 15:9,  
15:13, 87:27  
**rather** [5] - 42:3,  
49:22, 74:17, 85:7,  
114:13  
**ratified** [1] - 56:18  
**ratifies** [2] - 150:14,  
154:2  
**rationale** [2] - 50:17,  
50:26  
**rationales** [1] - 50:16  
**raw** [7] - 186:1,  
186:16, 186:21,  
186:24, 186:26,  
186:27, 187:2  
**re** [2] - 65:14, 176:5  
**RE** [2] - 4:8, 180:25  
**re-authorisation** [1]  
- 65:14  
**RE-DIRECT** [1] - 4:8  
**re-examination** [1] -

176:5  
**RE-EXAMINED** [1] - 180:25  
**reach** [4] - 21:5, 69:12, 160:9, 174:24  
**reached** [2] - 17:24, 154:8  
**reaching** [1] - 177:8  
**read** [11] - 35:4, 44:14, 45:24, 74:5, 74:14, 74:18, 105:26, 109:1, 109:2, 123:28, 188:14  
**reader** [1] - 66:26  
**readily** [1] - 142:9  
**reading** [5] - 15:2, 75:11, 128:11, 155:15, 183:23  
**real** [3] - 72:16, 134:16, 187:3  
**realise** [1] - 139:2  
**realised** [1] - 109:5  
**realistically** [1] - 169:28  
**realities** [1] - 179:13  
**reality** [1] - 174:10  
**really** [7] - 11:24, 12:11, 22:1, 174:12, 177:9, 178:16, 184:1  
**realtime** [13] - 55:10, 64:9, 64:17, 64:22, 82:29, 83:1, 84:26, 85:20, 90:7, 93:21, 118:29, 135:5, 135:11  
**reason** [1] - 74:8  
**reasonable** [3] - 85:24, 86:13, 87:24  
**reasonably** [4] - 13:5, 72:12, 120:25, 126:20  
**reasons** [5] - 12:29, 58:7, 138:20, 140:3, 187:12  
**receive** [7] - 25:12, 77:19, 127:12, 127:24, 161:16, 169:4, 174:11  
**received** [6] - 6:1, 12:7, 30:8, 81:13, 161:10, 161:24  
**receives** [3] - 64:21, 64:24, 64:26  
**recent** [7] - 9:28, 125:5, 142:3, 142:5, 142:9, 142:12, 166:14  
**recently** [2] - 74:20, 154:23  
**recipient** [1] - 74:9  
**recitals** [1] - 132:14  
**recognise** [1] - 107:2  
**recognised** [5] - 13:25, 100:9, 150:20, 169:1, 188:22  
**recognises** [2] - 110:16, 146:11  
**recognising** [1] - 108:2  
**recollection** [2] - 83:23, 101:18  
**recommendation** [7] - 14:1, 14:3, 119:15, 119:17, 178:12, 179:16, 179:19  
**recommendations** [6] - 38:25, 121:20, 177:17, 177:20, 177:23, 177:25  
**recommended** [2] - 13:16, 13:26  
**reconciled** [4] - 12:22, 12:24, 21:9, 22:1  
**record** [4] - 14:25, 24:27, 110:5, 187:25  
**recorded** [4] - 15:29, 24:29, 44:24, 60:18  
**records** [4] - 8:26, 21:21, 30:3, 145:17  
**redacted** [1] - 129:24  
**redactions** [1] - 47:3  
**redress** [4] - 23:10, 34:24, 174:13, 176:20  
**Redress** [5] - 8:12, 8:20, 8:21, 9:9, 9:13  
**redressability** [2] - 162:1, 163:23  
**ref** [1] - 57:11  
**refer** [35] - 6:28, 32:29, 34:19, 42:6, 45:15, 45:21, 46:13, 51:8, 51:18, 52:4, 53:2, 62:26, 63:5, 63:8, 63:10, 66:22, 67:8, 71:11, 81:22, 93:16, 104:4, 104:7, 104:26, 108:6, 108:27, 113:2, 116:14, 122:1, 122:10, 123:23, 123:27, 132:14, 138:3, 138:15, 184:15  
**reference** [32] - 8:11, 8:13, 9:16, 9:23, 18:24, 21:24, 21:25, 23:29, 26:7, 26:26, 29:2, 31:22, 38:3, 38:5, 57:4, 87:12, 89:17, 104:5, 114:18, 114:25, 122:20, 133:26, 134:21, 148:4, 148:6, 150:18, 150:22, 160:11, 181:21, 184:21, 186:19  
**referred** [19] - 10:1, 29:28, 37:29, 50:21, 63:22, 81:22, 90:6, 93:20, 100:14, 102:16, 106:22, 108:29, 122:6, 149:26, 152:24, 152:26, 181:22, 181:29  
**referring** [32] - 11:12, 16:5, 41:6, 41:7, 41:9, 41:15, 41:24, 41:29, 45:19, 53:23, 57:9, 57:17, 63:20, 67:15, 81:24, 82:6, 87:19, 90:1, 95:10, 95:12, 99:23, 100:15, 104:9, 105:16, 106:10, 108:12, 130:16, 138:7, 157:13, 157:15, 158:6, 184:1  
**refers** [26] - 24:6, 55:26, 56:10, 56:27, 57:3, 58:23, 62:18, 62:19, 65:27, 66:9, 76:19, 81:8, 82:22, 82:27, 85:14, 85:20, 85:21, 86:2, 88:7, 93:18, 101:9, 116:3, 132:19, 157:16, 182:5, 185:22  
**reflect** [2] - 7:17, 174:10  
**reflected** [3] - 11:6, 40:27, 129:26  
**reflecting** [1] - 7:15  
**reflects** [2] - 8:3, 116:9  
**reform** [3] - 36:5, 50:14, 50:15  
**reforms** [1] - 13:17  
**refuted** [6] - 83:9, 83:11, 83:13, 85:10, 85:11, 85:27  
**regard** [16] - 35:10, 36:12, 39:13, 42:22, 52:26, 98:5, 106:14, 111:10, 112:2, 130:12, 153:22, 156:18, 158:22, 168:4, 174:28, 175:9  
**regarded** [4] - 155:16, 160:27, 165:10, 173:26  
**regarding** [2] - 34:21, 127:22  
**regardless** [1] - 19:23  
**regards** [1] - 133:12  
**Register** [3] - 154:20, 177:19, 178:6  
**REGISTRAR** [2] - 5:5, 94:9  
**regrets** [1] - 142:23  
**regulation** [1] - 27:24  
**regulations** [5] - 27:21, 150:7, 177:28, 179:7, 179:8  
**rejected** [12] - 82:12, 83:21, 102:20, 102:28, 103:18, 104:10, 106:13, 107:1, 107:7, 107:15, 107:26  
**rejecting** [2] - 107:11, 110:8  
**rejection** [1] - 107:29  
**rejects** [1] - 110:5  
**related** [14] - 31:25, 50:18, 60:10, 65:14, 105:17, 122:18, 139:8, 157:4, 157:5, 158:12, 158:14, 187:9, 187:13, 187:14  
**relates** [9] - 113:6, 121:24, 122:27, 123:4, 124:2, 124:4, 124:9, 156:11, 187:9  
**relating** [2] - 159:10, 181:15  
**relation** [25] - 9:23, 26:29, 27:9, 28:28, 34:6, 35:1, 36:5, 37:13, 44:15, 79:27, 125:11, 131:14, 148:10, 148:20, 148:28, 155:9, 159:28, 160:2, 167:14, 175:2, 176:14, 180:29, 186:20, 187:21  
**relative** [1] - 50:8  
**relatively** [2] - 133:15, 159:22  
**relaxation** [1] - 177:13  
**relay** [1] - 87:29  
**release** [1] - 47:8  
**released** [9] - 13:21, 13:22, 39:10, 39:18, 40:29, 43:23, 47:13, 120:14, 141:27  
**relevance** [2] - 15:23, 16:9  
**relevant** [17] - 16:22, 16:29, 27:21, 30:3, 42:10, 45:14, 50:7, 51:13, 55:6, 55:19, 84:21, 118:4, 120:23, 144:6, 147:15, 159:20  
**reliance** [4] - 103:14, 104:21, 142:28, 167:16  
**relied** [4] - 83:6, 109:5, 109:29, 122:2  
**religion** [1] - 149:20  
**reluctance** [1] - 171:23  
**reluctant** [1] - 140:16  
**rely** [11] - 43:14, 45:8, 45:12, 45:27, 52:19, 88:6, 101:7, 102:18, 105:1, 106:21, 165:9  
**relying** [7] - 30:1, 87:18, 103:16, 103:21, 109:4, 167:15  
**remain** [1] - 103:3  
**remained** [1] - 182:6  
**remedial** [1] - 27:15  
**remedied** [6] - 179:5, 179:10, 179:23, 179:25, 180:2, 180:8  
**remedies** [13] - 8:23, 22:18, 22:19, 22:26, 23:3, 23:16, 23:17, 25:1, 28:18, 34:25, 34:26, 175:12  
**remedy** [7] - 8:22, 24:29, 27:11, 27:12, 27:17, 177:11, 178:18  
**remember** [4] - 70:4, 70:6, 83:12, 92:22  
**renewal** [4] - 65:16, 65:18, 65:21, 65:23  
**repeat** [7] - 50:10, 72:29, 79:8, 79:25, 118:7, 148:2, 178:24  
**replicate** [1] - 80:8  
**replicated** [1] - 62:28  
**reply** [1] - 175:23  
**report** [190] - 5:15, 5:18, 5:21, 5:23, 6:17, 6:19, 6:21, 6:25, 6:28, 7:7, 7:14, 9:19, 12:8, 12:13, 15:2, 18:2, 21:27, 22:16, 24:26, 27:2, 34:7, 34:8, 36:29, 37:1, 37:14, 37:24, 39:3, 39:4, 41:3, 41:25, 42:5, 42:26, 42:29, 43:6, 43:9, 43:10, 43:11, 43:12, 43:14, 43:19,

43:20, 43:29, 44:3, 44:11, 44:12, 45:2, 45:6, 45:8, 45:10, 45:16, 45:19, 45:25, 46:1, 46:3, 46:12, 47:18, 47:21, 51:17, 51:28, 53:14, 53:18, 53:29, 54:4, 54:16, 55:25, 58:16, 58:18, 58:22, 60:29, 61:3, 61:10, 61:11, 61:15, 62:3, 62:19, 63:7, 63:13, 63:15, 63:22, 64:4, 64:16, 66:5, 71:14, 75:22, 75:29, 76:3, 76:9, 77:4, 79:19, 80:6, 80:7, 80:9, 80:10, 80:18, 80:20, 80:21, 80:25, 81:18, 82:6, 83:7, 83:9, 83:25, 83:27, 85:26, 85:29, 86:2, 86:11, 86:22, 86:24, 87:1, 87:13, 88:11, 88:14, 88:16, 88:20, 88:25, 88:26, 89:19, 91:2, 91:5, 94:12, 101:3, 101:4, 104:5, 104:7, 108:6, 108:9, 108:10, 108:11, 108:14, 109:3, 116:24, 117:2, 119:8, 119:10, 119:23, 119:25, 120:6, 120:18, 126:28, 127:1, 129:17, 131:5, 135:3, 138:13, 139:11, 141:14, 141:20, 142:18, 143:8, 143:10, 143:16, 143:18, 143:20, 146:5, 146:8, 147:21, 148:25, 148:29, 149:13, 152:25, 153:27, 155:22, 155:23, 159:29, 166:12, 172:12, 181:13, 181:26, 182:15, 182:21, 182:26, 183:25, 183:28, 184:15, 184:20, 185:1, 185:14, 185:19, 185:22, 186:10, 186:12, 187:10, 187:15, 188:4  
**report**" [1] - 8:10  
**reported** [5] - 20:5, 39:19, 41:1, 41:11, 181:28  
**reporting** [2] - 27:6,

81:26  
**reports** [27] - 17:8, 31:1, 35:7, 35:11, 35:14, 35:17, 35:19, 38:1, 38:4, 39:17, 39:24, 40:3, 43:15, 80:28, 86:23, 87:3, 87:16, 90:24, 90:25, 91:17, 92:8, 94:16, 98:14, 99:1, 120:5, 183:11, 184:1  
**represent** [1] - 10:16  
**representation** [3] - 134:5, 143:7, 144:12  
**representations** [2] - 133:7, 188:18  
**represented** [3] - 116:25, 168:13, 169:20  
**representing** [4] - 169:18, 169:23, 170:24, 172:9  
**represents** [2] - 26:11, 26:18  
**reproduced** [1] - 3:24  
**reputations** [1] - 35:19  
**request** [3] - 71:26, 128:16, 134:29  
**requests** [3] - 92:4, 135:4, 139:8  
**requests"** [1] - 135:2  
**require** [4] - 52:12, 61:19, 62:11, 127:21  
**required** [5] - 30:14, 47:15, 49:20, 54:29, 55:6  
**requirement** [5] - 157:5, 158:13, 174:25, 175:17, 177:13  
**requirements** [3] - 126:27, 157:14, 174:9  
**requires** [4] - 27:28, 52:17, 156:19, 161:21  
**requisite** [1] - 84:23  
**reside** [1] - 186:2  
**respect** [25] - 13:2, 14:5, 17:7, 20:11, 23:23, 24:5, 25:21, 31:20, 32:15, 45:8, 49:28, 58:9, 113:16, 123:17, 123:29, 124:5, 129:6, 134:28, 156:2, 157:29, 158:21, 165:12, 165:13, 185:24, 188:6  
**respectfully** [2] - 73:9, 129:8

**respects** [7] - 8:21, 9:9, 16:22, 30:29, 31:5, 31:18, 69:1  
**respects'** [1] - 140:15  
**respond** [11] - 18:28, 67:29, 68:22, 68:26, 70:15, 72:22, 137:1, 177:24, 178:7, 178:10, 178:25  
**respondent** [1] - 3:25  
**respondents** [2] - 171:14, 171:15  
**responding** [1] - 87:14  
**responds** [2] - 72:20, 74:29  
**response** [8] - 22:21, 25:5, 178:13, 178:14, 178:15, 179:20, 180:6  
**responses** [2] - 73:4, 177:8  
**responsibility** [1] - 131:13  
**responsible** [1] - 141:24  
**responsive** [1] - 71:26  
**restate** [1] - 84:18  
**restrain** [1] - 126:18  
**restraining** [1] - 118:16  
**restraint** [2] - 124:17, 124:19  
**restraints** [1] - 156:14  
**restricted** [1] - 171:28  
**result** [7] - 32:3, 67:13, 67:16, 67:17, 67:19, 116:8, 163:11  
**results** [1] - 95:11  
**RESUMED** [2] - 5:1, 94:1  
**retain** [3] - 14:7, 156:27, 157:16  
**retained** [1] - 156:5  
**retains** [2] - 70:29, 97:1  
**retention** [11] - 56:6, 67:25, 69:5, 156:1, 156:18, 157:2, 157:25, 157:26, 158:10, 158:21, 159:25  
**retroacting** [1] - 82:14  
**retroactively** [1] - 47:10  
**revelations** [1] -

172:13  
**review** [30] - 6:19, 18:9, 18:22, 38:22, 38:26, 65:8, 65:11, 71:29, 72:4, 73:7, 78:10, 88:20, 92:15, 92:19, 92:20, 92:24, 111:17, 128:6, 128:7, 128:11, 128:13, 128:16, 128:20, 130:25, 154:12, 154:17, 155:10, 155:11, 155:12  
**reviewed** [8] - 6:20, 32:8, 44:29, 48:16, 80:17, 128:7, 137:9, 148:25  
**reviewing** [6] - 51:23, 75:9, 131:14, 178:22, 178:28, 179:2  
**revised** [2] - 170:6, 170:8  
**revoked** [4] - 29:9, 29:12, 125:26, 154:28  
**Reynolds** [12] - 24:11, 24:22, 165:2, 165:3, 165:12, 166:9, 166:12, 166:20, 166:26, 167:1, 167:4, 167:12  
**riddled** [1] - 63:27  
**right-hand** [4] - 135:16, 135:19, 135:20, 159:3  
**rights** [9] - 16:19, 30:15, 30:29, 31:5, 31:18, 151:5, 169:1, 169:9, 169:10  
**Rights** [1] - 169:19  
**rises** [4] - 81:6, 87:22, 88:22, 88:23  
**risk** [1] - 164:15  
**RIVERSIDE** [1] - 2:23  
**Robert** [9] - 135:21, 135:24, 139:14, 139:23, 140:6, 141:29, 142:1, 142:10, 143:4  
**Robertson** [1] - 28:19  
**ROGERSON'S** [1] - 2:24  
**role** [9] - 17:23, 18:4, 18:7, 36:20, 36:21, 51:20, 63:3, 141:13, 185:19  
**roles** [2] - 36:23, 63:26  
**room** [8] - 105:4,

105:6, 105:14, 105:20, 105:21, 105:29, 106:25, 110:11  
**routed** [2] - 186:2, 186:6  
**routers** [1] - 96:6  
**RUDDEN** [1] - 2:18  
**rule** [6] - 11:24, 11:25, 12:12, 23:23, 173:16, 173:20  
**rules** [5] - 77:25, 98:4, 168:5, 168:7, 187:7  
**ruling** [2] - 166:14, 166:15  
**run** [1] - 132:22  
**running** [4] - 8:2, 96:26, 174:24, 175:22  
**régime** [7] - 28:6, 29:2, 29:3, 29:7, 29:14, 30:13, 31:5

## S

**safeguard** [1] - 33:1  
**safeguarding** [1] - 153:9  
**safeguards** [4] - 32:1, 62:24, 62:25, 144:13  
**safety** [1] - 157:7  
**SAME** [3] - 5:16, 102:18, 132:8  
**San** [1] - 99:10  
**satisfaction** [1] - 162:13  
**satisfied** [3] - 14:2, 156:21, 162:2  
**Savage** [2] - 41:11, 101:13  
**saw** [1] - 133:19  
**SC** [10] - 2:5, 2:5, 2:10, 2:11, 2:16, 2:16, 2:21, 2:26, 3:1, 3:7  
**scan** [5] - 67:12, 67:13, 68:11, 96:19, 114:14  
**scanned** [2] - 67:28, 68:5  
**scanning** [8] - 67:10, 67:27, 69:4, 73:25, 74:17, 75:7, 96:16  
**scans** [1] - 96:26  
**scenarios** [1] - 156:4  
**scheduled** [2] - 65:11, 154:13  
**school** [1] - 6:4  
**School** [1] - 6:2

**Schrems** [5] - 16:12, 37:8, 37:10, 146:29  
**SCHREMS** [1] - 1:14  
**Schuchardt** [2] - 10:1, 11:12  
**scope** [10] - 12:20, 21:4, 31:16, 34:23, 41:8, 91:25, 92:20, 164:14, 188:23, 188:24  
**scrutiny** [2] - 172:24, 172:25  
**se** [4] - 7:2, 17:17, 54:5, 65:18  
**SEAN** [1] - 2:17  
**search** [31] - 15:6, 20:21, 20:27, 70:28, 72:1, 72:5, 72:19, 72:23, 74:21, 74:29, 88:20, 95:22, 96:11, 96:15, 96:19, 96:24, 100:1, 109:28, 114:4, 114:8, 114:10, 114:13, 114:19, 115:5, 115:7, 115:11, 115:19, 118:9, 118:14, 118:17  
**searched** [7] - 54:22, 69:16, 71:25, 74:14, 95:1, 118:19, 162:23  
**searches** [17] - 21:12, 21:17, 21:28, 22:2, 31:14, 68:20, 68:21, 68:22, 73:18, 74:4, 75:5, 97:18, 99:1, 99:14, 113:22, 116:9, 132:23  
**searching** [53] - 20:14, 20:23, 20:28, 20:29, 31:14, 54:1, 54:3, 54:19, 54:20, 54:25, 55:3, 55:8, 55:15, 55:18, 56:14, 57:15, 67:6, 67:7, 67:18, 68:15, 70:22, 71:22, 73:2, 73:18, 78:8, 94:18, 95:11, 95:13, 98:2, 98:15, 98:17, 99:3, 109:20, 109:24, 113:14, 114:1, 114:4, 114:23, 115:1, 115:13, 115:23, 116:11, 118:20, 118:25, 134:10, 137:27, 137:28, 137:29, 138:4, 163:4, 185:15  
**second** [18] - 22:15, 36:1, 56:29, 57:3, 57:8, 59:14, 72:29, 73:10, 78:4, 100:12, 128:11, 128:13, 132:19, 151:17, 159:5, 163:24, 163:26, 185:16  
**Second** [2] - 6:8, 12:4  
**secondly** [3] - 17:7, 121:8, 188:5  
**secret** [21] - 22:28, 24:5, 24:10, 24:12, 24:21, 24:23, 46:16, 46:20, 47:23, 47:24, 47:25, 47:26, 48:1, 49:5, 165:5, 165:7, 165:13, 166:1, 166:7, 166:9, 187:20  
**secrets** [14] - 24:7, 102:25, 104:8, 108:18, 151:16, 160:1, 164:17, 164:20, 164:27, 165:2, 166:16, 167:3, 167:8, 167:9  
**section** [9] - 9:15, 22:15, 26:5, 29:26, 37:24, 62:19, 131:17, 131:20, 159:29  
**Section** [148] - 12:20, 12:21, 12:26, 12:27, 13:3, 14:12, 14:13, 14:15, 17:20, 17:23, 17:25, 18:6, 18:14, 18:25, 19:1, 19:14, 20:3, 20:5, 20:13, 24:25, 29:15, 31:8, 31:12, 31:28, 32:15, 32:17, 32:18, 33:15, 37:18, 37:24, 38:6, 38:23, 38:24, 38:26, 39:13, 39:21, 40:4, 42:23, 42:27, 43:2, 43:25, 49:10, 49:13, 49:14, 50:1, 50:6, 50:23, 50:25, 51:19, 52:9, 52:12, 52:17, 53:12, 53:17, 53:20, 53:22, 53:24, 53:29, 54:4, 54:7, 54:11, 54:16, 55:21, 56:26, 56:29, 57:6, 57:20, 58:1, 58:7, 58:10, 58:17, 58:20, 58:28, 59:7, 60:15, 61:4, 61:13, 62:6, 62:11, 65:8, 65:28, 72:9, 76:8, 77:20, 78:28, 79:3, 79:7, 79:13, 80:11, 91:25, 94:18, 99:8, 113:18, 119:24, 119:27, 120:1, 123:12, 124:26, 125:11, 125:12, 126:1, 127:9, 127:14, 128:17, 129:19, 132:21, 135:9, 136:1, 136:8, 136:16, 136:23, 137:19, 138:5, 138:9, 139:27, 141:27, 156:2, 156:3, 156:15, 157:16, 157:29, 158:1, 158:8, 158:10, 160:5, 160:8, 160:19, 164:21, 164:25, 164:29, 165:11, 165:16, 165:17, 165:25, 168:14, 170:7, 170:8, 170:11, 171:5, 171:10, 171:26, 172:3, 172:5, 173:11, 181:5, 181:6, 187:11, 187:14  
**sections** [1] - 122:9  
**secure** [8] - 105:4, 105:6, 105:14, 105:20, 105:21, 105:29, 106:25, 110:11  
**Security** [4] - 6:11, 9:17, 42:8, 42:11  
**security** [20] - 28:17, 28:22, 29:3, 30:4, 30:17, 30:20, 31:22, 31:25, 31:26, 97:25, 97:28, 125:2, 151:17, 173:26, 174:15, 175:6, 176:29, 181:2, 181:3  
**see** [71] - 8:11, 28:27, 33:8, 37:13, 40:5, 46:9, 53:17, 56:12, 61:16, 61:27, 62:15, 64:2, 64:13, 67:2, 73:2, 73:7, 73:25, 74:13, 74:29, 75:29, 77:14, 81:4, 91:8, 92:15, 94:25, 103:23, 104:4, 104:19, 105:12, 108:1, 108:26, 109:12, 110:28, 114:15, 114:17, 114:24, 123:24, 123:28, 124:6, 127:28, 127:29, 128:18, 129:11, 132:28, 133:5, 133:23, 134:8, 135:17, 135:23, 136:4, 136:18, 136:19, 137:11, 137:12, 140:7, 140:24, 142:27, 143:6, 143:7, 143:29, 144:3, 149:22, 149:25, 151:20, 151:26, 162:27, 173:8, 178:5, 181:26, 183:24, 184:20  
**seeking** [2] - 18:12, 81:14  
**seem** [1] - 150:16  
**sees** [1] - 73:21  
**seized** [1] - 162:22  
**seizures** [1] - 21:29  
**selected** [1] - 69:9  
**selection** [4] - 73:4, 95:9, 130:16, 137:7  
**selector** [8] - 67:26, 70:16, 71:2, 95:19, 114:18, 127:19, 137:8, 183:5  
**selectors** [42] - 14:27, 15:6, 15:18, 19:27, 54:6, 54:9, 54:23, 54:26, 54:28, 55:4, 56:16, 64:25, 69:7, 70:15, 76:29, 77:5, 77:10, 81:12, 84:9, 84:19, 87:28, 90:22, 91:24, 91:28, 93:3, 96:15, 96:24, 97:3, 100:1, 100:2, 114:16, 115:2, 130:13, 130:17, 132:25, 137:16, 137:23, 182:29, 184:10, 185:6, 185:9, 185:11  
**Senate** [1] - 32:10  
**send** [2] - 14:27, 184:10  
**sender** [1] - 74:8  
**sending** [1] - 76:20  
**sends** [3] - 77:1, 77:5, 182:29  
**senior** [1] - 128:20  
**sense** [8] - 57:16, 71:27, 71:28, 73:6, 92:17, 100:15, 159:4, 181:16  
**senses** [1] - 71:24  
**sent** [2] - 74:2, 183:4  
**sentence** [48] - 11:5, 11:12, 55:26, 56:10, 56:25, 56:27, 56:29, 57:3, 57:8, 57:11, 63:28, 67:8, 81:8, 82:4, 82:19, 83:14, 85:13, 85:14, 86:1, 88:7, 88:12, 90:1, 90:8, 90:19, 91:16, 93:16, 93:18, 105:26, 107:19, 107:20, 128:12, 132:19, 137:5, 146:15, 149:25, 149:26, 150:3, 150:10, 151:17, 151:24, 182:5, 182:8, 183:23, 183:26, 184:25, 184:29, 185:16, 185:17  
**separate** [6] - 61:24, 77:29, 78:2, 78:12, 121:21, 143:14  
**separately** [8] - 7:6, 9:12, 19:23, 32:15, 119:18, 134:4, 154:18, 187:17  
**separating** [1] - 161:17  
**series** [2] - 178:17, 181:14  
**serious** [1] - 180:13  
**seriously** [1] - 36:24  
**served** [7] - 15:4, 15:5, 84:3, 84:6, 183:2, 184:23, 185:5  
**server** [1] - 183:3  
**servers** [4] - 82:1, 83:20, 90:10, 182:1  
**servers** [3] - 82:4, 90:2, 90:14  
**service** [10] - 8:28, 14:23, 64:10, 76:21, 76:25, 181:17, 182:1, 183:2, 183:7, 184:16  
**Service's** [1] - 74:3  
**services** [3] - 36:25, 125:2, 152:21  
**Services** [3] - 1:22, 3:24, 3:25  
**SERVICES** [1] - 1:32  
**Serwin** [1] - 23:21  
**set** [17] - 5:23, 21:6, 29:4, 29:7, 29:11, 30:10, 34:18, 38:22, 38:26, 42:28, 43:8, 70:19, 124:13, 124:14, 126:17, 126:26, 144:13  
**sets** [5] - 7:2, 52:25, 125:9, 153:8, 153:12  
**setting** [2] - 20:19, 166:27  
**seven** [11] - 60:3, 60:18, 75:22, 75:24, 75:27, 76:17, 76:19,

182:14, 182:16,  
182:19  
**several** [4] - 6:3,  
8:24, 19:27, 109:21  
**sexual** [1] - 149:19  
**shall** [7] - 32:25,  
149:16, 149:28,  
150:10, 151:9, 152:4,  
152:18  
**shared** [3] - 37:7,  
37:9, 185:9  
**sharing** [3] - 186:21,  
186:24, 186:28  
**shield** [2] - 140:11,  
143:11  
**Shield** [15] - 16:27,  
27:2, 27:5, 27:7,  
27:19, 27:21, 46:6,  
46:11, 143:24, 144:8,  
178:1, 178:20,  
178:28, 179:2, 180:5  
**shift** [2] - 23:15,  
57:26  
**short** [3] - 29:1,  
175:21, 176:8  
**Short** [1] - 63:15  
**shorthand** [1] - 51:5  
**shortly** [2] - 138:26,  
175:29  
**should've** [5] -  
76:13, 84:11, 84:14,  
85:7, 175:28  
**show** [2] - 57:29,  
161:2  
**showing** [1] - 162:17  
**shown** [1] - 103:29  
**shows** [1] - 133:14  
**sic** [2] - 105:25,  
108:13  
**side** [4] - 135:16,  
135:18, 135:20, 159:4  
**sided** [1] - 76:13  
**signal** [1] - 179:4  
**signals** [12] - 32:25,  
33:11, 149:16,  
149:29, 150:11,  
151:3, 151:11,  
151:22, 151:25,  
151:28, 152:17,  
153:10  
**significance** [13] -  
81:21, 91:13, 91:15,  
110:24, 110:26,  
110:27, 121:16,  
155:8, 155:18,  
155:22, 159:16,  
176:24, 178:22  
**significant** [55] -  
8:25, 9:5, 13:6, 14:6,  
19:15, 23:27, 26:22,  
32:6, 32:16, 32:17,  
33:9, 35:19, 39:4,  
39:6, 39:20, 40:24,  
40:27, 44:23, 47:8,  
47:12, 47:14, 47:27,  
72:13, 74:22, 79:12,  
85:12, 87:23, 104:13,  
106:18, 120:26,  
121:9, 121:12, 124:6,  
126:22, 141:8,  
141:11, 141:16,  
142:14, 146:21,  
151:29, 154:1, 154:5,  
155:25, 155:28,  
164:14, 168:20,  
175:8, 176:18,  
176:19, 177:17,  
177:22, 177:24,  
178:18, 178:26  
**significantly** [5] -  
8:22, 26:9, 126:18,  
174:20, 174:26  
**silent** [1] - 27:19  
**similar** [4] - 59:4,  
66:3, 75:18, 164:6  
**similarly** [1] - 98:24  
**simple** [1] - 162:7  
**simplification** [1] -  
75:21  
**simplify** [1] - 66:24  
**simply** [8] - 16:1,  
16:16, 20:26, 80:8,  
99:29, 111:2, 163:2,  
167:1  
**single** [5] - 52:19,  
66:21, 116:19,  
118:14, 118:15  
**SIR** [1] - 2:23  
**site** [5] - 105:7,  
105:15, 105:20,  
106:1, 110:11  
**situated** [1] - 98:24  
**situation** [6] -  
146:23, 154:11,  
173:4, 173:6, 173:7,  
174:15  
**situations** [1] -  
178:14  
**six** [3] - 7:3, 62:6,  
63:17  
**skip** [1] - 62:22  
**skipping** [1] - 67:16  
**slide** [3] - 41:28,  
85:20, 85:21  
**slides** [19] - 40:29,  
41:2, 41:6, 41:7,  
41:10, 41:15, 41:23,  
42:6, 42:9, 42:10,  
42:11, 42:15, 42:17,  
42:19, 42:20, 43:22,  
82:27, 88:15, 93:19  
**slightly** [7] - 8:15,  
25:8, 62:5, 66:27,  
115:28, 151:5, 188:13  
**small** [3] - 25:13,  
133:16, 161:13  
**SMITH** [1] - 2:27  
**Snowden** [23] - 11:7,  
11:24, 11:29, 29:28,  
35:7, 39:19, 41:1,  
41:17, 43:23, 64:19,  
81:22, 81:27, 86:11,  
87:25, 90:5, 90:26,  
93:20, 141:18,  
160:23, 161:5,  
172:13, 173:7, 181:28  
**so-called** [1] - 72:8  
**society** [1] - 47:6  
**Society"** [1] - 65:26  
**Software** [1] - 2:26  
**soil** [11] - 16:17,  
17:4, 17:18, 55:14,  
56:15, 146:27,  
147:15, 147:19,  
147:20, 148:7, 148:8  
**solely** [7] - 57:4,  
69:6, 137:25, 151:4,  
160:29, 169:12,  
185:22  
**solemn** [3] - 139:24,  
140:26, 141:3  
**solemnly** [1] -  
138:28  
**SOLICITORS** [2] -  
2:7, 2:28  
**someone** [1] - 84:16  
**sometimes** [4] -  
48:25, 66:24, 69:8,  
135:14  
**somewhat** [7] - 8:3,  
30:5, 65:10, 77:11,  
128:25, 145:6, 158:4  
**soon** [1] - 185:12  
**sorry** [57] - 25:20,  
34:11, 34:16, 37:25,  
39:29, 45:18, 49:15,  
49:17, 52:17, 57:1,  
59:18, 62:10, 68:4,  
68:25, 70:12, 72:29,  
75:24, 75:26, 75:28,  
80:26, 85:2, 88:28,  
103:26, 108:16,  
114:24, 115:10,  
117:17, 119:15,  
120:11, 127:3,  
130:19, 132:3, 132:4,  
133:1, 135:17,  
139:16, 139:18,  
141:1, 143:1, 143:18,  
144:18, 144:24,  
144:27, 149:4,  
150:25, 153:15,  
157:11, 160:10,  
167:18, 167:19,  
170:10, 175:3,  
175:28, 176:10,  
178:27, 182:18, 189:4  
**sort** [5] - 98:10,  
119:28, 122:19,  
124:8, 159:17  
**sought** [2] - 89:17,  
102:18  
**sound** [1] - 81:11  
**source** [15] - 35:13,  
39:2, 39:5, 39:23,  
40:16, 79:12, 85:15,  
90:4, 101:7, 101:21,  
109:13, 139:2, 139:4,  
142:27, 143:1  
**sources** [17] - 33:11,  
35:8, 35:18, 39:5,  
39:6, 39:12, 40:18,  
40:22, 40:24, 40:27,  
86:23, 97:6, 101:15,  
136:9, 142:29,  
151:29, 152:6  
**SOUTH** [1] - 2:13  
**Southern** [1] - 6:7  
**speaking** [6] - 7:8,  
26:22, 42:26, 43:13,  
115:18, 163:8  
**speaks** [2] - 53:21,  
131:8  
**specific** [33] - 13:27,  
27:15, 44:25, 50:17,  
52:13, 53:23, 61:21,  
62:12, 74:7, 87:11,  
104:2, 105:17,  
110:20, 112:19,  
126:26, 128:12,  
130:14, 131:3,  
132:25, 133:3,  
133:26, 136:25,  
138:15, 145:28,  
146:25, 150:8, 157:9,  
158:5, 162:5, 164:24,  
172:25, 184:22  
**specifically** [16] -  
7:8, 13:26, 48:22,  
56:10, 65:27, 77:6,  
84:15, 105:16,  
105:23, 107:11,  
107:23, 123:17,  
127:11, 175:14,  
182:28, 188:10  
**specify** [2] - 57:11,  
77:4  
**specifying** [1] -  
107:10  
**speculate** [7] -  
106:24, 107:17,  
107:20, 107:23,  
110:25, 112:17,  
171:16  
**speculates** [2] -  
111:4, 111:8  
**speculating** [2] -  
111:2, 112:14  
**speculation** [4] -  
92:11, 111:5, 111:7,  
111:22  
**speculative** [4] -  
92:14, 163:11, 170:1,  
171:23  
**speeches** [2] -  
142:2, 142:3  
**spend** [1] - 99:16  
**spent** [3] - 181:11,  
181:20, 185:13  
**sphere** [1] - 176:26  
**split** [1] - 100:20  
**splitter** [6] - 99:11,  
100:20, 105:17,  
105:24, 112:18,  
112:23  
**spoken** [2] - 65:3,  
95:3  
**Spying** [1] - 65:25  
**SQUARE** [1] - 2:28  
**staffed** [1] - 49:5  
**stage** [19] - 8:20,  
25:16, 73:10, 73:17,  
77:29, 78:2, 78:5,  
81:29, 95:12, 95:24,  
95:26, 95:27, 96:2,  
102:24, 114:1,  
162:18, 163:24,  
164:4, 164:7  
**stages** [5] - 9:27,  
73:8, 73:17, 77:28,  
78:12  
**stand** [2] - 86:20,  
86:24  
**standard** [22] -  
10:13, 13:12, 31:11,  
60:6, 72:10, 72:15,  
119:20, 124:28,  
126:8, 126:10,  
126:17, 126:19,  
126:23, 128:27,  
129:13, 129:14,  
134:16, 137:17,  
156:28, 163:13  
**standards** [9] -  
13:13, 54:15, 55:23,  
156:21, 157:2, 157:9,  
168:26, 168:28,  
177:14  
**standing** [52] - 9:21,  
9:27, 9:28, 10:14,



10:22, 11:4, 11:9,  
11:14, 11:16, 11:20,  
11:25, 12:5, 12:11,  
23:9, 23:15, 25:15,  
25:29, 26:3, 26:5,  
26:11, 26:18, 102:25,  
160:1, 161:20,  
161:28, 161:29,  
162:9, 162:11,  
166:16, 167:14,  
167:27, 167:29,  
168:5, 168:7, 168:12,  
168:23, 168:26,  
169:12, 170:28,  
171:24, 172:15,  
172:16, 172:19,  
172:24, 173:3,  
173:11, 173:13,  
173:16, 173:23,  
174:9, 177:14

**stands** [1] - 23:8  
**start** [1] - 18:27  
**starts** [3] - 28:10,  
28:11, 182:20  
**State** [1] - 6:2  
**state** [2] - 24:4,  
24:7, 24:9, 24:23,  
30:18, 91:13, 102:25,  
104:8, 108:18, 160:1,  
164:17, 164:19,  
164:27, 165:2,  
165:13, 166:7, 166:9,  
166:16, 167:2, 167:7,  
167:9  
**state"** [1] - 91:7  
**statement** [34] -  
16:8, 23:3, 23:18,  
33:12, 38:12, 38:14,  
43:1, 60:6, 79:24,  
81:15, 81:18, 86:29,  
87:15, 94:22, 94:23,  
95:13, 103:12,  
104:17, 118:12,  
133:13, 134:28,  
141:29, 142:3, 142:9,  
142:12, 142:13,  
143:2, 143:4, 146:10,  
151:8, 151:12, 152:4,  
158:26, 187:12  
**statements** [5] -  
38:7, 38:12, 61:9,  
142:6, 142:15  
**STATES** [1] - 2:21  
**States** [31] - 8:12,  
8:14, 13:11, 16:3,  
16:6, 21:2, 30:8,  
34:21, 35:9, 37:17,  
62:7, 68:10, 85:12,  
94:20, 96:8, 97:26,  
98:5, 122:23, 125:9,  
136:10, 138:28,  
143:26, 144:9,  
144:11, 146:13,  
146:17, 152:16,  
154:20, 183:1, 184:24  
**states** [3] - 18:28,  
84:18, 106:7  
**States'** [1] - 143:27  
**stating** [2] - 15:29,  
24:29  
**statistic** [2] - 116:3,  
117:23  
**statistical** [1] - 135:3  
**statistics** [2] - 63:18,  
63:20  
**status** [1] - 127:23  
**statute** [39] - 30:2,  
30:11, 39:7, 51:8,  
51:10, 51:20, 51:21,  
53:5, 58:11, 58:13,  
62:24, 76:27, 80:13,  
119:19, 120:24,  
122:2, 122:3, 122:16,  
123:23, 123:24,  
124:21, 124:24,  
125:10, 125:14,  
126:3, 126:9, 126:13,  
126:17, 128:27,  
129:2, 129:14, 160:8,  
160:14, 160:16,  
168:15, 170:15,  
170:16, 170:18,  
171:10  
**statutes** [1] - 29:4  
**statutory** [9] - 29:7,  
47:6, 124:29, 125:6,  
125:12, 125:25,  
129:4, 162:3, 169:9  
**stay** [1] - 94:12  
**stenographic** [1] -  
1:25  
**Stenography** [3] -  
1:21, 3:24, 3:25  
**STENOGRAPHY** [1]  
- 1:31  
**step** [1] - 189:1  
**stick** [1] - 139:21  
**sticking** [1] - 123:13  
**still** [18] - 10:23,  
24:22, 25:26, 43:24,  
71:11, 81:7, 82:20,  
82:23, 84:6, 137:18,  
138:8, 155:29,  
157:11, 158:4,  
170:27, 173:10,  
174:25, 182:6  
**stood** [1] - 85:13  
**Stop** [1] - 66:9  
**stop** [2] - 23:16,  
30:16  
**stopped** [1] - 103:17  
**stopping** [2] - 30:19,  
140:12  
**stored** [7] - 64:9,  
64:18, 64:21, 82:29,  
135:5, 135:6, 135:10  
**straight** [1] - 165:28  
**straightforward** [1] -  
148:27  
**strategic** [1] - 96:4  
**stream** [1] - 100:20  
**streamlining** [1] -  
102:2  
**STREET** [2] - 2:13,  
2:18  
**strengthened** [1] -  
119:18  
**strictures** [1] - 150:8  
**stringent** [1] -  
157:14  
**strong** [1] - 12:27  
**stronger** [1] - 121:20  
**strongly** [1] - 23:18  
**subject** [20] - 10:21,  
23:7, 24:5, 24:9,  
24:20, 25:11, 26:1,  
27:4, 27:13, 68:27,  
78:17, 161:15,  
163:13, 165:5,  
165:29, 169:27,  
176:29, 177:2, 186:3,  
186:18  
**subjected** [1] - 175:4  
**subjects** [1] - 25:2  
**submission** [5] -  
61:29, 62:4, 62:17,  
64:28, 65:1  
**submissions** [5] -  
7:22, 28:4, 60:18,  
62:23, 168:21  
**submitted** [4] - 7:6,  
64:15, 64:16, 99:6  
**submitting** [1] -  
176:29  
**subsequent** [6] -  
41:18, 41:20, 42:19,  
82:19, 84:4, 141:27  
**subsequently** [6] -  
82:13, 82:16, 83:9,  
86:1, 137:9, 181:22  
**subset** [1] - 73:19  
**substance** [3] -  
62:28, 63:6, 66:27  
**substantial** [5] -  
21:13, 21:19, 22:3,  
131:17, 131:20  
**substantially** [4] -  
68:16, 104:13,  
106:20, 129:10  
**substantive** [3] -  
28:16, 126:23, 177:7  
**substantively** [2] -  
75:18, 126:19  
**succeed** [1] - 165:22  
**successful** [1] -  
162:11  
**successfully** [2] -  
164:20, 166:18  
**sufficient** [4] - 108:3,  
161:28, 162:8, 187:6  
**sufficiently** [6] -  
10:13, 32:11, 163:10,  
164:1, 165:27, 167:6  
**suggest** [20] - 53:10,  
75:13, 79:17, 79:26,  
84:10, 86:18, 88:17,  
94:25, 94:28, 102:8,  
107:16, 111:6,  
124:16, 148:8,  
153:26, 155:21,  
156:28, 176:26,  
180:11, 184:7  
**suggested** [5] - 18:2,  
30:13, 82:9, 129:9,  
140:13  
**suggesting** [9] -  
59:1, 92:16, 111:5,  
118:18, 128:29,  
134:24, 134:25,  
147:5, 175:16  
**suggestion** [1] -  
60:25  
**suggests** [7] - 31:29,  
64:23, 74:13, 94:27,  
162:16, 166:12, 185:8  
**suit** [2] - 170:12,  
170:27  
**SUITE** [1] - 3:9  
**suits** [1] - 11:7  
**summarise** [1] -  
149:7  
**summary** [10] -  
19:11, 25:16, 75:29,  
76:4, 76:6, 102:24,  
163:25, 164:7, 164:8,  
164:11  
**summation** [1] -  
57:10  
**summer** [2] - 41:17,  
81:25  
**sunset** [1] - 65:11  
**superior** [1] - 128:8  
**supervising** [1] -  
63:3  
**supervision** [1] -  
50:3  
**supplied** [2] - 3:24,  
186:25  
**support** [13] - 88:7,  
89:5, 89:7, 89:17,  
89:20, 105:9, 106:2,  
107:4, 107:12, 109:6,  
110:1, 110:18, 112:1  
**supported** [1] -  
133:13  
**supports** [3] - 86:25,  
91:5, 93:19  
**supposed** [1] -  
177:20  
**supposedly** [1] -  
63:26  
**supposition** [1] -  
146:7  
**suppressing** [1] -  
149:17  
**Supreme** [6] - 21:16,  
22:10, 22:13, 168:16,  
169:13, 169:26  
**surrounding** [2] -  
85:19, 154:24  
**surveillance** [222] -  
6:13, 8:29, 9:22, 9:29,  
10:22, 11:8, 12:15,  
14:12, 16:24, 17:9,  
17:12, 20:11, 20:12,  
23:7, 24:17, 24:18,  
24:25, 25:11, 25:28,  
26:1, 26:23, 27:14,  
27:23, 27:26, 28:7,  
29:14, 30:16, 30:21,  
30:22, 31:5, 31:8,  
31:12, 31:17, 31:24,  
31:26, 32:3, 32:6,  
32:12, 33:8, 33:14,  
33:15, 34:23, 34:24,  
34:29, 35:2, 35:4,  
35:5, 37:14, 41:9,  
43:4, 51:25, 52:8,  
52:14, 53:25, 54:1,  
54:11, 54:13, 54:14,  
54:16, 54:24, 55:10,  
55:11, 55:14, 55:17,  
55:22, 56:11, 57:6,  
57:7, 57:24, 58:2,  
58:20, 60:11, 60:22,  
61:13, 61:20, 61:22,  
61:23, 63:4, 64:8,  
64:17, 64:18, 64:20,  
65:28, 66:14, 66:20,  
66:22, 66:25, 67:1,  
67:6, 67:14, 67:15,  
71:19, 71:21, 72:9,  
72:10, 73:8, 75:21,  
77:7, 78:7, 78:28,  
80:11, 80:29, 81:16,  
82:28, 83:1, 84:19,  
84:27, 85:19, 85:21,  
86:14, 87:4, 87:26,  
89:8, 90:7, 90:23,  
90:27, 91:25, 92:1,

92:6, 92:8, 93:21,  
94:16, 95:4, 95:8,  
95:14, 95:17, 95:21,  
96:3, 99:2, 99:8,  
101:10, 109:20,  
113:17, 113:20,  
113:29, 114:1,  
114:27, 114:28,  
115:1, 115:4, 118:29,  
119:1, 119:4, 121:23,  
123:5, 123:6, 123:11,  
125:24, 130:25,  
131:10, 131:11,  
133:2, 133:10, 134:6,  
134:9, 134:11,  
134:18, 135:5, 135:6,  
135:10, 135:11,  
137:20, 137:28,  
138:5, 138:18,  
138:21, 139:6,  
139:24, 139:26,  
140:10, 140:17,  
140:19, 141:4, 141:5,  
141:11, 141:15,  
141:28, 142:4, 145:5,  
145:12, 145:14,  
145:15, 147:3,  
147:10, 152:3, 154:3,  
155:27, 161:11,  
161:15, 168:11,  
169:12, 169:28,  
170:19, 170:20,  
171:4, 171:12,  
171:25, 172:6,  
172:22, 172:26,  
173:11, 173:15,  
173:28, 174:5, 174:6,  
174:7, 175:3, 176:29,  
177:3, 177:4, 180:15,  
183:29, 186:14,  
187:27, 188:23,  
188:25  
**Surveillance** [10] -  
12:1, 18:4, 18:6, 20:6,  
38:13, 39:8, 64:6,  
95:16, 101:9, 135:22  
**surveillance's** [1] -  
180:22  
**surveilled** [1] - 12:8  
**surveilling** [1] -  
48:24  
**surveys** [1] - 19:27  
**surveyed** [1] -  
176:28  
**survive** [1] - 164:10  
**survived** [2] - 90:9,  
164:9  
**suspect** [1] - 74:8  
**SUZANNE** [1] - 2:21  
**sweeping** [1] - 32:12

**sweeps** [3] - 23:3,  
31:26, 69:12  
**swept** [2] - 113:14,  
134:18  
**Swire** [23] - 14:21,  
17:8, 21:11, 21:15,  
21:24, 21:25, 22:7,  
23:5, 23:21, 24:28,  
24:29, 25:8, 25:9,  
28:19, 31:2, 32:24,  
50:20, 81:10, 92:24,  
174:28, 175:11,  
175:18, 182:2  
**Swire's** [9] - 15:2,  
18:2, 18:27, 21:27,  
22:5, 22:21, 23:2,  
181:25, 182:4  
**switches** [1] - 96:6  
**swore** [2] - 5:18,  
104:20  
**system** [13] - 9:26,  
12:10, 23:8, 38:22,  
88:29, 139:1, 140:26,  
173:21, 173:24,  
175:10, 176:15,  
176:17, 186:7  
**systematic** [1] - 67:9  
**systematically** [1] -  
73:24  
**systems** [2] - 8:26,  
186:3

## T

**tab** [9] - 15:25, 28:8,  
75:24, 149:10,  
182:14, 182:16,  
182:18, 182:19,  
184:19  
**Tab** [2] - 5:17, 28:9  
**tablet** [1] - 76:15  
**tailored** [2] - 32:26,  
131:10  
**talks** [4] - 83:27,  
128:5, 142:1, 185:28  
**tap** [2] - 23:13, 174:2  
**tapping** [2] - 182:5,  
182:7  
**taps** [1] - 173:29  
**Target** [1] - 66:8  
**target** [24] - 13:3,  
15:11, 18:16, 19:14,  
20:27, 48:28, 49:28,  
50:2, 52:10, 62:7,  
67:29, 68:26, 72:11,  
72:20, 114:20,  
114:26, 115:13,  
115:15, 126:21,  
127:18, 127:23,

137:7, 171:20  
**targeted** [38] - 15:6,  
15:7, 19:2, 54:22,  
54:28, 55:4, 67:2,  
67:4, 67:12, 67:14,  
67:15, 68:23, 69:20,  
71:6, 71:12, 71:13,  
71:27, 72:9, 72:17,  
72:23, 73:4, 74:29,  
95:19, 95:29, 97:3,  
114:16, 114:18,  
115:1, 115:5, 116:15,  
119:3, 119:5, 119:7,  
121:23, 132:24,  
137:16  
**targeting** [107] -  
12:20, 12:25, 13:2,  
13:12, 13:13, 13:18,  
13:21, 13:24, 13:27,  
17:21, 17:23, 17:26,  
18:5, 18:10, 18:14,  
18:20, 19:13, 19:16,  
19:18, 29:15, 29:19,  
31:10, 49:29, 51:14,  
51:29, 52:1, 52:3,  
54:14, 55:23, 63:25,  
67:20, 67:24, 78:16,  
119:9, 119:11,  
119:13, 119:16,  
119:17, 119:20,  
119:24, 119:27,  
120:2, 120:7, 120:12,  
120:16, 120:21,  
120:22, 120:25,  
120:29, 121:1, 121:4,  
121:9, 121:13,  
121:20, 121:22,  
121:25, 121:27,  
125:15, 125:17,  
125:19, 126:3, 126:5,  
126:6, 126:7, 126:8,  
126:13, 126:14,  
126:16, 126:24,  
126:26, 126:29,  
127:6, 127:9, 127:20,  
128:23, 128:25,  
128:28, 129:6, 129:9,  
129:10, 129:14,  
129:19, 129:20,  
129:21, 129:23,  
129:29, 130:1, 130:3,  
130:6, 130:9, 130:15,  
130:27, 131:1, 131:3,  
131:6, 131:8, 133:3,  
133:26, 134:15,  
136:22, 136:24,  
137:17, 154:24,  
171:12  
**targets** [26] - 19:1,  
19:19, 19:23, 19:28,  
20:16, 20:18, 20:20,

48:23, 48:24, 48:27,  
49:26, 52:27, 54:13,  
61:20, 69:24, 71:9,  
72:7, 72:16, 91:27,  
91:28, 115:20,  
133:16, 137:18,  
171:19, 174:2, 174:5  
**targets"** [2] - 51:26,  
73:26  
**task** [1] - 185:11  
**tasked** [1] - 90:22  
**tasking** [6] - 87:28,  
91:23, 127:19,  
128:16, 185:2, 185:6  
**tasks** [1] - 76:28  
**technical** [6] - 67:22,  
86:8, 86:15, 86:17,  
97:7, 103:2  
**technically** [2] -  
11:13, 153:29  
**technician** [7] - 99:9,  
100:18, 105:2,  
108:16, 109:29,  
110:6, 111:27  
**technician's** [1] -  
110:8  
**technological** [26] -  
14:26, 15:17, 15:20,  
33:5, 64:23, 81:13,  
81:16, 83:2, 83:4,  
84:24, 85:17, 88:2,  
88:4, 89:23, 90:20,  
90:29, 91:10, 92:22,  
92:26, 92:27, 93:3,  
93:9, 184:2, 184:5,  
184:9, 185:8  
**technologist** [1] -  
96:12  
**technologists** [2] -  
96:13, 97:17  
**technology** [1] -  
112:29  
**telecommunication**  
[2] - 55:9, 72:26  
**telecommun**  
**ications** [2] - 77:8,  
77:9  
**telephone** [1] - 58:9  
**telephony** [5] - 12:2,  
29:25, 30:6, 160:25,  
173:18  
**temporary** [7] -  
96:18, 96:19, 96:23,  
96:27, 97:1, 97:21,  
99:3  
**ten** [4] - 10:18,  
115:29, 168:13,  
181:13  
**tend** [1] - 172:23  
**tens** [1] - 51:25

**tension** [1] - 53:18  
**term** [14] - 48:25,  
67:22, 67:24, 69:5,  
69:13, 71:1, 73:19,  
87:22, 90:18, 97:1,  
124:4, 138:8, 158:15,  
162:16  
**termed** [1] - 31:13  
**terminus** [1] - 174:24  
**terms** [27] - 7:12,  
7:25, 12:16, 12:20,  
14:13, 15:7, 20:2,  
22:17, 23:20, 28:6,  
34:27, 42:26, 63:20,  
66:4, 69:13, 91:1,  
117:6, 124:17,  
145:25, 147:28,  
157:25, 160:16,  
173:3, 174:17,  
178:20, 185:19,  
187:20  
**TERRACE** [1] - 2:8  
**terribly** [7] - 39:29,  
49:17, 57:1, 68:4,  
70:12, 75:26, 144:24  
**territory** [5] - 124:2,  
124:6, 147:29, 148:3,  
148:4  
**territory"** [1] - 124:1  
**terrorism** [5] - 19:3,  
19:20, 30:17, 30:19,  
181:2  
**terrorists** [1] - 175:5  
**terrorists"** [1] -  
159:13  
**test** [1] - 163:6  
**testifying** [1] - 98:25  
**testimony** [2] -  
21:22, 129:26  
**text** [17] - 31:28,  
38:8, 38:10, 39:7,  
53:16, 53:21, 68:18,  
86:22, 116:10,  
116:29, 137:1, 137:2,  
148:26, 148:28,  
157:15, 159:5, 177:29  
**THE** [12] - 1:2, 1:7,  
2:16, 3:10, 5:1, 5:16,  
34:12, 94:1, 102:19,  
132:9, 189:7  
**theirs** [1] - 27:24  
**theme** [1] - 12:8  
**themselves** [10] -  
13:18, 13:23, 23:4,  
23:17, 82:23, 129:9,  
129:21, 150:6, 187:1,  
187:2  
**THEN** [1] - 189:7  
**theoretical** [1] -  
100:15

**theoretically** [5] - 96:12, 96:14, 119:2, 164:13, 178:15  
**theory** [4] - 36:25, 37:3, 37:4  
**therefore** [5] - 22:25, 40:15, 109:3, 133:2, 186:2  
**therein** [1] - 144:14  
**thereof** [1] - 159:11  
**thin** [2] - 97:29, 146:1  
**thinking** [1] - 42:10  
**thinks** [1] - 154:14  
**third** [4] - 16:13, 16:15, 19:26, 58:27  
**those'** [1] - 164:2  
**those..** [1] - 144:14  
**thousands** [3] - 51:25, 103:11, 103:21  
**threat** [2] - 157:6, 175:16  
**threats** [5] - 152:19, 159:20, 173:26, 175:14, 181:2  
**three** [8] - 6:12, 66:29, 73:23, 116:26, 117:2, 149:24, 161:29, 169:1  
**threshold** [1] - 10:23  
**timeframe** [3] - 44:22, 44:23, 44:25  
**timing** [1] - 65:10  
**tiny** [1] - 19:5  
**tips** [1] - 157:22  
**TO** [3] - 5:16, 102:18, 132:9  
**today** [8] - 5:28, 6:18, 6:20, 7:16, 7:18, 61:3, 181:11, 181:23  
**together** [5] - 37:12, 47:20, 129:27, 133:15, 135:1  
**took** [3] - 41:17, 112:7, 181:14  
**top** [6] - 22:28, 26:6, 63:24, 135:15, 135:19, 137:4  
**topic** [2] - 15:23, 83:14  
**totally** [1] - 188:2  
**Totten** [14] - 24:1, 24:4, 24:10, 24:15, 24:20, 164:26, 165:9, 165:15, 165:18, 165:20, 165:22, 166:8, 166:18, 166:29  
**touch** [2] - 5:21, 27:27  
**touched** [6] - 6:23,

9:2, 26:15, 26:27, 31:21, 116:14  
**touches** [2] - 9:18, 25:22  
**touching** [2] - 18:23, 114:5  
**towards** [1] - 26:6  
**trade** [1] - 151:15  
**traditional** [7] - 18:8, 49:15, 49:19, 49:20, 51:18  
**traffic** [4] - 96:25, 96:26, 97:22  
**trans** [1] - 16:24  
**trans-Atlantic** [1] - 16:24  
**transactions** [10] - 48:23, 69:10, 70:2, 71:3, 97:4, 117:5, 117:8, 117:11, 145:19, 188:22  
**transatlantic** [4] - 143:27, 144:10, 145:15, 146:22  
**transcript** [3] - 1:24, 142:2, 188:14  
**transcripts** [1] - 183:16  
**Transcripts** [1] - 3:23  
**transfer** [3] - 84:24, 146:23, 146:25  
**transferred** [13] - 16:15, 22:12, 84:4, 84:8, 89:24, 92:23, 144:7, 146:28, 147:3, 147:7, 147:9, 147:12, 147:14  
**Transit** [3] - 16:6, 17:14  
**transit** [12] - 16:20, 17:7, 17:15, 20:19, 48:27, 50:25, 69:10, 69:27, 143:26, 144:10, 147:19, 148:8  
**transiting** [4] - 17:2, 17:17, 101:11, 135:12  
**transits** [1] - 95:18  
**transmission** [2] - 88:2, 88:4  
**transmits** [2] - 14:26, 84:9  
**transparency** [2] - 47:21, 135:3  
**traverse** [1] - 69:11  
**treatise** [1] - 97:25  
**tremendous** [1] - 172:9  
**Trial** [1] - 27:29  
**tried** [1] - 102:3

**triggered** [1] - 169:8  
**trillion** [3] - 116:26, 116:28, 117:2  
**trite** [1] - 181:4  
**trouble** [1] - 143:15  
**true** [5] - 27:19, 33:9, 163:17, 163:19, 174:21  
**truth** [1] - 93:1  
**truthfully** [1] - 35:26  
**trying** [1] - 162:7  
**turn** [19] - 5:22, 12:2, 15:19, 15:22, 15:25, 21:3, 22:15, 22:18, 24:26, 25:19, 26:4, 26:24, 27:3, 55:20, 64:26, 93:5, 182:13, 184:11, 184:19  
**turning** [3] - 12:13, 23:19, 27:1  
**two** [54] - 6:6, 9:27, 10:7, 10:11, 11:18, 14:14, 16:22, 24:8, 44:20, 58:1, 58:5, 58:6, 58:17, 58:23, 59:11, 60:22, 60:26, 61:1, 61:4, 61:6, 61:12, 66:10, 68:29, 69:4, 71:23, 73:8, 73:17, 78:12, 89:13, 93:23, 96:11, 96:14, 97:8, 100:10, 100:14, 113:8, 128:16, 128:20, 132:22, 150:16, 164:24, 165:27, 166:2, 169:14, 172:8, 179:10, 179:21, 180:5, 181:4, 182:18, 187:8, 187:10, 187:13  
**type** [2] - 36:8, 131:11  
**types** [5] - 58:1, 58:6, 60:22, 126:25, 127:12  
**types"** [1] - 58:5  
**typically** [1] - 42:5

84:7, 84:10  
**unchanged** [3] - 126:23, 128:28, 182:6  
**unclear** [2] - 65:10, 109:8  
**unconstitutional** [2] - 48:4, 160:4  
**under** [144] - 8:12, 10:12, 12:26, 12:27, 13:3, 14:12, 14:15, 15:14, 15:23, 17:4, 17:14, 17:24, 18:5, 18:7, 18:14, 19:1, 19:14, 20:3, 20:5, 23:7, 24:10, 25:10, 25:24, 29:15, 29:26, 30:25, 31:8, 31:11, 31:12, 32:5, 32:7, 33:13, 33:15, 37:18, 49:29, 54:9, 54:11, 54:16, 54:19, 54:27, 55:21, 56:11, 56:15, 56:20, 57:6, 57:15, 58:10, 58:13, 58:17, 58:20, 58:28, 59:7, 60:11, 60:15, 60:22, 61:4, 61:13, 63:13, 64:5, 65:28, 72:9, 76:27, 77:6, 77:19, 78:28, 79:3, 79:13, 80:11, 84:1, 84:19, 91:25, 92:6, 113:17, 116:5, 116:19, 119:6, 123:12, 124:7, 124:14, 124:24, 124:26, 127:29, 128:2, 133:14, 134:12, 135:1, 135:9, 136:1, 136:8, 136:23, 137:13, 137:15, 137:19, 137:24, 137:27, 138:4, 138:5, 138:9, 139:8, 139:23, 139:26, 140:26, 141:3, 144:7, 145:5, 145:14, 145:21, 147:5, 147:16, 147:19, 147:22, 149:7, 153:28, 156:3, 156:8, 156:10, 158:17, 158:19, 160:4, 160:8, 160:19, 161:25, 164:25, 164:29, 165:17, 167:23, 169:13, 171:5, 171:9, 171:23, 171:26, 172:3, 172:5, 173:21, 173:27, 179:26, 180:3, 183:3, 186:24, 186:27, 186:29, 187:7, 187:11

**undergoes** [1] - 128:16  
**underlining** [1] - 126:19  
**underlying** [2] - 66:27, 164:1  
**underscore** [3] - 72:8, 84:28, 109:16  
**underscored** [1] - 85:2  
**underscores** [1] - 177:9  
**undersea** [2] - 17:3, 145:26  
**understandable** [1] - 66:25  
**understood** [3] - 134:21, 138:2, 187:16  
**undertake** [1] - 184:23  
**undisputed** [1] - 109:17  
**unevaluated** [1] - 156:24  
**unfortunately** [2] - 27:28, 76:9  
**unilateral** [1] - 155:3  
**Union** [6] - 6:10, 59:19, 143:27, 144:11, 154:9, 154:12  
**unique** [1] - 172:25  
**UNITED** [1] - 2:21  
**United** [31] - 13:11, 16:2, 16:6, 21:2, 30:8, 34:21, 35:9, 37:17, 62:6, 68:10, 85:12, 94:19, 96:8, 97:26, 98:5, 122:23, 125:5, 125:9, 136:9, 136:10, 138:28, 143:25, 143:27, 144:9, 144:11, 146:13, 146:17, 152:16, 154:20, 183:1, 184:24  
**universe** [1] - 117:28  
**University** [1] - 5:29  
**unknown** [10] - 15:21, 81:17, 83:5, 84:25, 85:1, 85:3, 92:28, 92:29, 155:4, 155:6  
**unlawful** [3] - 25:2, 160:10, 160:14  
**unless** [1] - 156:20  
**unlike** [2] - 154:19, 186:1  
**unlikely** [3] - 24:19, 165:21, 166:17  
**unrelated** [2] - 20:17, 69:25

## U

**ultimate** [1] - 128:26  
**ultimately** [6] - 21:5, 24:16, 69:5, 116:4, 137:15, 186:13  
**unable** [5] - 10:23, 32:11, 101:23, 146:2, 146:6  
**unaware** [1] - 58:14  
**uncertain** [3] - 65:12,

**unsupported** [1] - 110:21  
**untenable** [1] - 30:11  
**UNTIL** [1] - 189:7  
**up** [19] - 28:1, 38:22, 38:26, 52:20, 65:8, 93:23, 97:29, 108:19, 113:14, 132:1, 134:18, 138:25, 141:22, 141:29, 143:2, 143:4, 145:29, 154:22, 189:1  
**Upstream** [98] - 10:21, 14:15, 14:19, 20:12, 24:19, 31:11, 39:2, 41:9, 43:27, 44:1, 44:5, 44:27, 54:19, 54:24, 55:7, 55:8, 56:13, 58:2, 58:17, 59:11, 65:27, 65:29, 66:14, 66:20, 66:22, 67:1, 67:6, 67:13, 71:19, 71:21, 73:8, 76:2, 77:6, 77:7, 77:16, 78:7, 78:25, 84:1, 94:16, 95:4, 95:8, 95:11, 97:12, 98:10, 98:15, 98:22, 98:26, 99:2, 99:18, 99:26, 99:27, 102:20, 102:29, 103:2, 103:20, 104:10, 104:16, 105:10, 106:4, 106:9, 106:15, 106:19, 106:29, 107:5, 107:8, 109:14, 109:19, 110:19, 113:2, 113:10, 113:15, 113:17, 113:20, 113:29, 114:1, 114:12, 114:27, 114:29, 115:4, 115:26, 116:7, 116:12, 119:4, 121:22, 131:2, 132:23, 134:9, 137:27, 138:4, 164:25, 165:20, 166:14, 166:19, 170:19, 185:24, 185:26, 186:1, 186:13  
**upstream** [1] - 115:1  
**Upstream**" [1] - 60:23  
**US** [157] - 6:13, 6:23, 8:9, 9:26, 11:7, 12:14, 13:4, 13:5, 15:28, 16:2, 16:12, 16:17, 16:18, 16:25, 17:4, 17:10, 17:12, 17:15,

17:17, 17:18, 19:5, 19:15, 21:12, 21:14, 21:18, 21:19, 21:29, 22:3, 22:4, 22:12, 23:14, 28:6, 28:16, 28:21, 28:23, 29:1, 29:3, 30:13, 31:4, 34:23, 34:29, 35:1, 35:11, 35:25, 37:14, 44:19, 47:4, 47:5, 47:9, 50:29, 51:12, 52:10, 52:11, 53:6, 53:7, 55:13, 55:14, 56:2, 56:7, 56:15, 57:23, 59:2, 60:5, 62:7, 62:8, 62:9, 62:10, 62:24, 64:1, 72:12, 74:3, 74:19, 81:1, 87:5, 88:13, 88:14, 89:9, 90:29, 92:10, 117:15, 120:25, 122:7, 122:27, 122:28, 126:20, 127:22, 132:5, 132:22, 133:3, 133:8, 133:9, 133:12, 133:23, 133:27, 134:5, 134:18, 139:12, 140:9, 140:17, 140:19, 143:24, 144:7, 144:12, 145:7, 145:16, 145:21, 146:8, 146:11, 146:13, 146:16, 146:19, 146:21, 146:22, 146:24, 146:26, 146:27, 146:28, 147:1, 147:3, 147:6, 147:7, 147:10, 147:11, 147:12, 147:14, 147:15, 147:19, 147:20, 148:7, 148:8, 149:16, 149:29, 150:11, 150:15, 150:23, 151:17, 151:28, 152:4, 152:21, 156:1, 156:5, 158:11, 161:20, 162:16, 171:12, 173:29, 181:1, 182:10, 187:24  
**USA** [5] - 47:7, 47:12, 59:14, 148:1, 148:5  
**useful** [1] - 80:8  
**users** [2] - 19:6, 172:10  
**uses** [16] - 16:23, 54:8, 54:9, 58:1, 66:19, 87:21, 90:13,

90:14, 90:15, 101:4, 101:12, 101:13, 101:23, 116:2, 137:22, 152:10  
**V**  
**vacuum** [3] - 123:20, 152:29, 159:21  
**vague** [1] - 63:5  
**vagueness** [1] - 104:16  
**Valdez** [5] - 9:17, 9:23, 9:29, 10:27, 11:13  
**valuable** [1] - 136:9  
**value** [1] - 40:3  
**values** [1] - 40:2  
**various** [13] - 9:27, 40:18, 40:28, 50:16, 61:24, 66:22, 82:2, 82:11, 87:8, 92:4, 138:11, 173:12, 176:13  
**vary** [1] - 66:27  
**vast** [18] - 21:1, 25:10, 25:29, 31:15, 54:25, 69:3, 70:25, 72:15, 94:28, 95:22, 96:28, 113:22, 114:2, 117:25, 134:18, 137:18, 161:14, 186:26  
**vector** [3] - 22:27, 23:4, 178:16  
**vein** [1] - 18:24  
**verbatim** [1] - 1:24  
**verifying** [1] - 35:16  
**Verizon** [7] - 12:1, 12:2, 29:29, 113:7, 113:8, 160:22, 160:24  
**version** [17] - 13:20, 29:17, 45:4, 85:29, 103:19, 104:10, 104:12, 106:18, 107:7, 107:12, 107:26, 117:25, 122:7, 129:29, 131:25, 170:6, 170:8  
**versions** [1] - 183:20  
**vetted** [1] - 46:23  
**video** [1] - 7:26  
**view** [22] - 8:4, 9:22, 10:24, 16:7, 18:27, 22:20, 22:21, 22:22, 23:20, 25:8, 25:20, 25:21, 26:17, 26:25, 32:24, 33:2, 48:10, 112:8, 114:28,

138:20, 163:12, 181:26  
**views** [6] - 7:15, 7:17, 8:4, 24:28, 27:3, 27:8  
**vii** [1] - 60:2  
**violate** [1] - 28:22  
**violated** [2] - 27:23, 178:4  
**violates** [1] - 27:26  
**violation** [2] - 153:4, 178:19  
**violations** [5] - 155:26, 175:13, 177:27, 178:2  
**virtually** [2] - 30:7, 30:27  
**virtue** [2] - 86:7, 161:23  
**visible** [1] - 135:15  
**visited** [2] - 10:18  
**Vladeck** [17] - 15:28, 17:8, 21:15, 21:24, 24:15, 28:19, 31:2, 50:21, 164:19, 164:23, 164:28, 166:4, 166:11, 166:16, 172:12, 172:17  
**Vladeck's** [4] - 9:2, 16:8, 21:21, 22:6  
**volume** [8] - 15:13, 50:8, 50:11, 50:18, 54:13, 170:25, 172:10  
**volumes** [1] - 186:26  
**voluntary** [3] - 21:13, 21:19, 22:4  
**W**  
**waived** [6] - 165:10, 165:11, 165:16, 165:25, 166:20, 166:26  
**WALL** [2] - 3:3, 3:4  
**wants** [1] - 15:8  
**Wardwell** [1] - 6:5  
**warrant** [3] - 18:9, 49:22, 167:6  
**warrants** [1] - 49:20  
**WAS** [4] - 5:11, 34:1, 180:25, 189:7  
**Washington** [19] - 41:3, 81:7, 81:24, 81:26, 82:9, 82:13, 82:15, 83:7, 85:11, 89:27, 89:29, 90:9, 90:12, 93:14, 93:17, 181:21, 182:2, 182:4

**waste** [1] - 127:2  
**Watch** [1] - 169:19  
**ways** [12] - 10:7, 24:8, 44:2, 96:11, 96:14, 118:16, 119:2, 121:26, 125:13, 131:8, 177:24  
**weak** [3] - 13:13, 63:27, 155:29  
**websites** [1] - 10:18  
**Wednesday** [1] - 189:2  
**WEDNESDAY** [1] - 189:7  
**whatsoever** [1] - 113:9  
**whilst** [2] - 25:19, 32:20  
**whole** [3] - 53:29, 55:4, 135:9  
**wholly** [5] - 48:20, 49:1, 49:3, 50:25, 147:11  
**Wikimedia** [13] - 10:16, 10:17, 26:26, 66:11, 116:24, 167:25, 168:22, 170:4, 170:17, 170:24, 171:22, 172:9  
**WILLIAM** [1] - 2:28  
**WILTON** [1] - 2:8  
**wire** [6] - 23:13, 55:11, 118:29, 145:15, 173:29, 174:2  
**wire-based** [1] - 118:29  
**wish** [3] - 6:26, 162:25, 183:18  
**wither** [1] - 21:16  
**witness** [11] - 5:8, 36:21, 87:11, 87:17, 103:29, 104:3, 104:20, 104:24, 128:11, 131:28, 188:2  
**Witness** [2] - 75:28, 183:22  
**WITNESS** [2] - 34:12, 132:9  
**WITNESS)** [2] - 5:16, 102:19  
**wonder** [1] - 103:15  
**wondering** [3] - 128:10, 175:20, 175:25  
**word** [18] - 40:20, 53:27, 88:21, 89:10, 89:16, 90:13, 90:14, 90:24, 91:7, 91:12, 91:18, 94:27, 101:4, 101:12, 101:14,

101:24, 102:7, 181:15  
**words** [2] - 152:10,  
182:7  
**works** [2] - 110:7,  
111:9  
**world** [3] - 56:3,  
117:19, 118:15  
**worry** [1] - 125:28  
**worth** [3] - 142:27,  
143:1, 143:5  
**would've** [4] - 59:5,  
59:7, 79:18, 79:29  
**writ** [2] - 179:8,  
180:22  
**write** [1] - 36:8  
**writing** [1] - 37:1  
**written** [5] - 3:25,  
28:4, 63:18, 97:26,  
105:22

## Y

**Yahoo** [1] - 64:10  
**Yale** [1] - 5:29  
**year** [9] - 15:16,  
52:21, 91:27, 116:22,  
116:26, 117:1,  
117:29, 156:23, 185:7  
**years** [3] - 6:12,  
44:20, 156:20  
**yesterday** [4] - 5:25,  
7:22, 12:23, 24:2  
**York** [8] - 6:2, 6:4,  
6:7, 41:10, 41:24,  
97:29, 101:13, 101:20  
**YOUNG** [1] - 2:7  
**yourself** [7] - 14:21,  
24:28, 86:8, 86:20,  
98:20, 116:24, 130:4