

THE LEVESON INQUIRY INTO THE CULTURE,
PRACTICES AND ETHICS OF THE PRESS

OPENING STATEMENT ON BEHALF OF
THE METROPOLITAN POLICE SERVICE

Introduction

1. This opening statement in respect of Part 1 of the Leveson Inquiry is made on behalf of the Metropolitan Police Service.
2. The Inquiry's terms of reference require it, amongst other things, to examine the relationship between the press and the police, to consider the extent to which the current policy and regulatory framework has failed and to make recommendations as to the future conduct of relations between the police and the press.
3. The MPS interest in this part of the Inquiry has three distinct elements to it:
 - (i) MPS officers were responsible for the investigation that led to the convictions of Mulcaire and Goodman in 2006, an operation which revealed a good deal about the behaviour of sections of the press;
 - (ii) The MPS are currently conducting further investigations into phone hacking, into alleged corruption of police officers, and into computer hacking by the press. They are greatly concerned to maintain the integrity of those operations and of any subsequent prosecutions.
 - (iii) As the police service for London, the MPS has to maintain, as a matter of necessity, an effective working relationship with the press. Accordingly it is greatly concerned with the culture, ethics and practices of the press and with proposals for the improvement of the relationship between the press and the police;

4. Set out below are opening observations relevant to each of these elements. But before turning to them, the MPS indicates the approach it intends to adopt to the work of this inquiry.

Approach to the Inquiry

5. The MPS begins by repeating assurances they have made since this Inquiry was announced. They are fully supportive of this Inquiry and are committed to assisting Lord Justice Leveson in any way they can. They will be open and transparent, recognising that progress can only be made by acknowledging the mistakes of the past.
6. The MPS recognise that the Inquiry may reach conclusions that impliedly or expressly criticise the service and its regulation of relations with the media. But, this is an inquiry and not a trial, and the MPS does not propose adopting a defensive stance to any part of it. Accordingly, the MPS comes to the Inquiry to assist, not to obstruct; to self-criticise, not to justify; and to improve, not to hide. It stands ready to learn from any errors the Inquiry may expose.
7. Consistent with that open approach, the MPS has already taken a number of steps with the intention of exposing deficiencies in its practice and learning from past errors.
8. First, on 20th August 2011 Ms Elizabeth Filkin, the former parliamentary commissioner for standards, was appointed to examine the ethical issues arising from the relationships between the Police and the media. Her terms of reference include the provision of advice to the Commissioner as to the proper purpose of the relationship between senior and junior police officers and staff, and media executives and reporters at all levels; the steps that might be taken to improve public confidence in police and media relations; whether there were practicable steps that could be taken to improve the transparency of police and press relationships; and what, if any, hospitality it is acceptable for the police to receive from the media or provide to them.
9. The target date for that report to be completed is Christmas of this year. A

considerable amount of work has been done to date; she has already interviewed over 80 people including police officers, members of the press and politicians.

10. Elizabeth Filkin has a reputation for vigorous independence and the MPS have welcomed her review and co-operated fully with her to ensure that she is able to carry out her terms of reference with objectivity. Where there are areas of bad practise, the MPS will work to change, improve and implement new working practises, wherever it is operationally possible to do so.
11. The MPS understands that alongside issues of concern, she has identified evidence of much media and police contact that is healthy, positive, authorised and legitimately in the public interest.
12. Second, whilst awaiting the product of Ms Filkin's work, the MPS has embarked on its own analysis of the issues arising from phone hacking. That analysis has led the MPS to review its policy and practices in a number of areas, further observations on which are set out in the final section of these submissions.
13. Third, on 15 September 2011, the Commissioner of the Metropolitan Police, Bernard Hogan-Howe, announced that he had requested that the Chief Constable of Durham police carry out an independent review of Operations Weeting. That review is continuing.
14. The MPS is striving to carry out its public role to the best of its abilities and to ensure that public confidence in the police is both maintained and justified. With this aim in mind, the MPS is committed to assisting Lord Justice Leveson and the Inquiry team in understanding the issues and pressures placed upon officers policing the capital, in order that workable recommendations can be implemented.

The 2006 and 2009 Investigations

15. In December 2005 reports were made to the MPS by members of the Royal Household relating to concerns about possible unauthorised accessing of their mobile telephone voicemail messages. In response, SO13, a specialist operations branch of the MPS responsible for anti-terrorism, launched a covert criminal

investigation (later known as Operation Caryatid) which identified Clive Goodman (the Royal Editor of the News of the World) and subsequently Glenn Mulcaire (a private investigator) as responsible for a conspiracy to gather private and personal data for financial gain.

16. By July 2006 the police had obtained evidence suggesting others were being targeted. This significantly increased concerns that public safety and national security might be at risk. Accordingly, it was decided that the operation could no longer remain covert and Goodman and Mulcaire should be arrested.
17. On the 8 August 2006, both Goodman and Mulcaire were arrested. They were charged with conspiracy to intercept communications contrary to Section 1(1) of the Criminal Law Act 1977 and unlawful interception of communications contrary to Section 1(1) of the Regulation of Investigatory Powers Act 2000. On the same day as the arrests, Mulcaire's business premises and other premises connected to Goodman and Mulcaire were searched. Evidence was seized which appeared to confirm telephone interception beyond that of members of the Royal Household. A number of invoices were found showing apparent payments to Mulcaire from the News of the World.
18. The documentation was voluminous, disorganized and chaotic in appearance. It ran to many thousands of pages. The material mainly consisted of jottings and hand-written notes. Much of it was not readily decipherable.
19. Discussions took place between the MPS and the CPS as to how the case should proceed. Given the strength of the evidence, the need properly to expose the criminal conduct concerned, the wish to test the legislation at the time and the ability to prove the case, a decision was made to charge Mulcaire with 5 further counts of interception (beyond that relating to the Royal Household which also concerned Goodman), namely those involving Max Clifford, Skylet Andrew, Gordon Taylor, Simon Hughes and Elle Macpherson.
20. The prosecution was conducted before Mr Justice Gross at the Central Criminal Court on the 29 November 2006. Both Goodman and Mulcaire pleaded guilty to a count of conspiracy to intercept communication which related to the Royal Household and Mulcaire alone pleaded guilty to the 5 further counts set out above.

On the 26 January 2007, both Goodman and Mulcaire were sentenced to terms of imprisonment.

21. The 2005 investigation sat within the then Anti-Terrorist Branch because of the national security implications. (It is worthy of note that the current Operation Weeting was set up in the Specialist Crime Directorate of the MPS to allow the now named Counter Terrorism Command to focus on their primary objectives of protecting the UK against the current terrorist threat).
22. This investigation was limited in scope because of the then competing operational demands of the Anti-Terrorist Branch, primarily the serious and sustained threats of terrorist attacks in and after 2005. However it was apparent that there was reference in the Mulcaire papers to many individuals other than those identified in the charges referred to above. Recent work by the MPS suggests that in the 11,000 pages of material seized from Mulcaire, there is reference to 5,795 individuals and evidence of Mulcaire being tasked to carry out work on some 2,266 occasions.
23. In 2009 AC John Yates was asked to establish the facts with a view to ascertaining whether any new information was available that warranted re-opening the original investigation. He concluded, over the course of a day that there was not.
24. The MPS recognises that the conduct of its original investigation and the subsequent related decisions may be the subject of some criticism. The previous Commissioner, Sir Paul Stephenson resigned as a consequence of the continuing speculation and accusations into the MPS' links with News International. John Yates, the Assistant Commissioner, also resigned expressing regret "that those potentially affected by phone hacking were not dealt with appropriately". Both those officers, together with former Assistant Commissioners Andy Hayman and Peter Clarke, were referred to the Independent Police Complaints Commission (IPCC) by the Metropolitan Police Authority (the regulator of the MPS) for their role and handling of the phone hacking investigation.
25. Although the IPCC concluded that the conduct of none of these officers amounted to a recordable conduct matter, it is recognised that issues of significance were raised.

26. In addition, claims that Mr Yates secured a job for the daughter of former News Of The World deputy editor, Neil Wallis has been referred to the IPCC. Dick Fedorcio, the MPS's Director of Public Affairs is also currently the subject of an IPCC misconduct investigation for his hiring of Neil Wallis.
27. It is also right to acknowledge that one police officer has been arrested in connection with leaking material to the Guardian from Operation Weeting, the phone hacking investigation.
28. These developments demonstrate that the MPS, its regulator, the MPA, and the IPCC are committed to ensuring that criticisms and allegations of criminal conduct against police officers are fully and thoroughly investigated. However, as has been openly acknowledged by the MPS, public confidence in 'Scotland Yard' has been affected. The MPS accepts that it needs to address a perception that its relationships with the media failed the twin test of being ethical and transparent on all occasions.

Current Police Inquiries

29. On 26th January 2011, the MPS began a fresh investigation, Operation Weeting, into the allegations of phone hacking at the News of the World. In addition, running concurrently within the MPS are Operation Elveden, an investigation into allegations of inappropriate payments to the police by those involved with phone hacking, and Operation Tuleta, an investigation into alleged computer hacking by elements of the media.
30. There are currently 13 people who have been arrested since Operation Weeting began on 26 January 2011 in connection with phone hacking. The police investigation in respect of these individuals is continuing. The work involved is extensive - the News of the World computers alone contain some 300 million emails.
31. As the MPS and the CPS have made clear in joint submissions to the Inquiry, it is vital that nothing in this Inquiry prejudices or risks prejudicing the integrity of that investigation or the other criminal investigations that are currently taking place. Any individual who may ultimately face a criminal prosecution is entitled to have

their guilt or innocence established with all the safeguards of a criminal trial, including the rules of evidence. Those who are not prosecuted, or who are acquitted, are entitled to the presumption of innocence. This is a fundamental constitutional principle and one which is enshrined in Article 6 ECHR which protects the right to a fair trial. Therefore, it is of great importance to the preservation of both the present criminal proceedings and the individual rights of those who have been arrested that the Inquiry avoids anything likely to damage the integrity of the criminal investigation and any subsequent trial.

32. The Chairman has now ruled on the approach to evidence he intends to adopt. The MPS remain concerned about potential risks to their existing investigations and any subsequent trial. However, they will assist the Inquiry wherever they can and are grateful for the indications the Chairman has given as to the steps he will take to guard against prejudicing the investigation and any subsequent criminal proceedings.

The Relationships between the Media and the Police

33. In this section of these submissions, the MPS consider the following topics:
- (i) The importance of the relationship;
 - (ii) The scale of the relationship;
 - (iii) The challenges created by the relationship;
 - (iv) The immediate response;
 - (v) The need for further work.

The importance of the relationship

34. A close and transparent working relationship between the police and the media is vital to ensuring both fair reporting and effective policing. Properly structured, such a relationship improves the scope, depth and accuracy of press reporting and enables the police better to perform their duty of protecting the public. It is through healthy and open contact with the police that the media are able properly to report on the criminal justice system. It is through contact with an honest and intelligent

press that the police are able to engage and inform the public – not just with a view to solving crime but also as a means of warning and protecting the public where necessary.

35. Furthermore, through their own investigative work, the media are, on occasions, able to bring crime and potential crime to the attention of the public and the police. Examples of this include the hunt for suspects following the attempted bombings in London on 21 July 2005 and, more recently, the conviction of the Pakistani cricketers Salman Butt, Mohammad Asif and Mohammad Amir for match fixing. The active and long-standing fixing ring that underlay the latter prosecution was first exposed by the News of the World.
36. These benefits apply to all police forces and all media outlets up and down the country. It follows that it is not just the MPS who have an interest in a proper relationship with the press.
37. A society in which there is no contact between the media and police is unhealthy and potentially undemocratic. All legitimate attempts by the media to inform the public should be encouraged and the MPS continue to support and assist this process by working closely with the press on a daily basis.

The scale of the task

38. The scale and extent of media contact with the police should not be underestimated. The MPS is the only police force with a 24/7 press bureau. They receive over 200 media calls a day. In an organisation of over 50,000 officers and staff, it also engages with the press formally and informally both locally and internationally.
39. Each provincial police force is also responsible for handling its own media enquiries. The number of interactions over the last 15 to 20 years between the press and the police can properly be described as vast; serious problems that have arisen by comparison are relatively few. For the most part, it is a long standing and trusted relationship. However, it is one which has to change and adapt in the face of the ever increasing speed of communications.

The Challenges

40. The regulation of this relationship presents real challenges to an organisation as large as the MPS.
41. Ensuring that criminal investigations can be conducted efficiently and effectively can conflict with the media's demand for information and stories. Balancing the need to be open and transparent with the media and the public at large can conflict with legitimate journalistic objectives of obtaining an exclusive story to editorial deadlines.
42. A healthy relationship between press and police can be mutually beneficial; too close a relationship can distort proper judgment by both parties. A properly sanctioned whistle-blowing mechanism can expose wrong-doing and protect the public interest; the misuse of such a mechanism can undermine investigations, damage the legitimate need for the police to maintain discipline and distort the proper functioning of the police service.

The Immediate Response

43. Recognition of the importance of this relationship between the police and the media led to founding of the Communication and Advisory Group (CAG) of the Association of Chief Police Officers of England and Wales (ACPO). This was formerly known as the Media Advisory Group. CAG produces guidance for the police when dealing with the media. This guidance covers crimes, incidents and investigations, court cases and release of images (both photographs and CACTI) to help trace known suspects or offenders.
44. An important policy consideration underpinning this guidance is a culture of openness in the reporting of police investigations and criminal proceedings. This culture of openness and public contact is an important one. It is central to the task of encouraging accurate reporting and the maintenance of public confidence.

The Need for Further Work

45. Nonetheless, it is recognised that challenges remain for the MPS. It was that recognition that led to the appointment of Elizabeth Filkin.
46. The work that has been conducted pending Ms Filkin's report has led to the identification of the following concerns:
 - (i) Personal and Professional Relationships between police and journalists.
47. The regulation and supervision of these relationships present a real challenge for an organisation whose essential agent is a constable holding independent office under the Crown. Officers often work in areas where a high degree of individual discretion applies. Nonetheless, it is recognised that modern mechanisms of supervision and accountability ought to prevail.
48. The following issues arise:
49. First, there are difficult ethical considerations when journalists learn of a potential story that touches upon a police investigation. The exchange of information to maintain the integrity of the police investigation can lead to short term gain for both parties and arguably services the immediate public interest.
50. However, the risks and implications in the longer term for this type of exchange are obvious. It is recognised that in some circumstances this interdependency can develop into inappropriate relationships.
51. There remains an operational need for officers, in certain limited circumstances, to brief journalists on a confidential basis. The MPS accepts that guidance could be improved in this area. It is recognised that this sort of briefing should be appropriately authorised and open to scrutiny and examination by the courts retrospectively, where appropriate.
52. Second, the MPS is aware that there are occasions when journalists refer to information being provided by a 'police source.' The MPS accepts that on

occasions this has been a police employee, and criminal and/or misconduct investigations have followed.

53. However, it appears to be common practise for the term to be used for many other reasons: including to enhance the apparent legitimacy of a story and to disguise the lack of a credible source. There are also examples where information has been provided perfectly properly by a named individual that has been subsequently portrayed as originating from a 'police source' to give the unjustified gloss of investigative journalism.

54. This journalistic practice is one which the Inquiry may need to address.

55. Third, the provisions protecting 'whistle blowing' (protected disclosure under the Public Interest Disclosure Act 1998) are recognised as necessary, as is the need for genuine whistle blowers to have their identities protected, but in other cases a police source ought not to remain unnamed.

56. The regulation of confidential human intelligence sources managed by the police benefits from a high degree of scrutiny by the courts and through the Office of the Surveillance Commissioner. The MPS is unaware of any effective mechanism for 'policing' the relationship between journalists and their confidential sources, which in turn can cause significant challenges for investigating leaks and inappropriate relationships. That too may be a matter the Inquiry will wish to address.

(ii) Information security and leakage

57. The MPS acknowledges its position as a guardian of confidential and private data. There needs to be clear expectations for officers and staff throughout their careers, supported by clear usable guidance and a robust set of sanctions for those that choose to depart from the rules.

58. The MPS's current operating framework provides some guidance, but it is questionable as to how helpful this guidance is to officers on a practical basis.

59. Where the information is provided to a journalist for motives other than payment, recent experience has demonstrated the difficulties encountered by officers seeking fully to explore the nature of that unregulated and unauthorised relationship.

60. At times 'leaks' of information are indirectly attributed to the police when other bodies or agencies, such as the Metropolitan Police Authority, the CPS or IPCC are also legitimately in receipt of the same information and the true source is not known.

(iii) Professional Standards, Discipline and Training

61. A police officer's code of professional standards prohibits officers knowingly making false, misleading, or inaccurate statements. The Code also addresses how officers are to treat confidential information; police officers are not to disclose to the media or the public legitimate policing business other than when authorised so to do. Therefore in the absence of any specific training, a police officer's code of conduct provides a clear code by which officers should adhere to whenever they have conduct with the media or the general public.

62. Breach of that code renders a police officer liable to disciplinary procedure or, in appropriate circumstances, to criminal charges.

63. Specific training on media handling in the MPS is limited to certain career pathways. Whilst senior detective training includes media management, that training does not focus on ethical issues underpinning interactions. It is recognised that insufficient training and practical guidance is provided to officers and only limited exposure to media issues is provided upon promotion.

(iv) Gifts and hospitality

64. The report of the Committee on Standards in Public Life (the Nolan Committee) set out standards of conduct expected from those who serve in public life. The seven principles of selflessness, integrity, objectivity, accountability, openness,

honesty and leading by example should underpin the work of public authorities, including the police.

65. A recent review of gifts and hospitality received by MPS officers and staff revealed a lack of consistency of approach to both self-declaration and recording. The Commissioner and his Management Board colleagues are all currently working within a culture of austerity and in recognition of the fact that most gifts and hospitality within the public sector are now seen as inappropriate.
66. Further work may be required to determine how that approach should be reflected across the organisation and how a set of values and principles common to both senior and junior ranks can be devised and implemented.
67. On 15th September 2011 the MPS published its register of gifts or hospitality for all senior officers (ACPO level) and staff. It will now be published on a quarterly basis.

(v) Post police service employment considerations

68. The Home Affairs Committee (13th Report 19.7.11) were critical of the fact that former Assistant Commissioner Andy Hayman *“took a job with News International within two months of his resignation and less than two years after he was - purportedly - responsible for an investigation into employees of that company.”*
69. The MPS shares this concern and will look to support any proportionate mechanism to prevent such employment for a reasonable period of time post cessation of police service. Current Chief Officer contracts do include post-employment considerations, but, it may be thought, they do so in insufficient detail to preclude officers from becoming journalists with newspapers with whom they forged a professional relationship.

(vi) Procurement

70. In July 2011 the MPS mandated the use of ‘COMPETEFOR’ for all purchases between £500 and £50,000. All procurement over £50,000 is managed through

central MPS procurement. This is in line with best practice and addresses some of the concerns originating from the hiring of Mr Neil Wallis.

71. This is a now completely auditable process that is viewable remotely and provides a transparent system of decision making.

Conclusion

72. The MPS acknowledges that not all its relationships with the press meet the twin test of being ethical and transparent. It is committed to instituting practical and pragmatic change that recognises the legitimate roles of a free press and a police service accountable to the highest of ethical standards in public life.

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