

The Leveson Inquiry

Witness Statement for Part 1, Module 2

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THIRD WITNESS STATEMENT OF MARK THOMSON

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I, Mark Thomson of Atkins Thomson, 41 Maiden Lane, London, WC2E 7LJ, solicitor and Advocate of the Senior Courts, will say as follows:

1. I make this statement to assist the Inquiry in relation to Module 2 which deals with relationships between the press and the police and the conduct of each. The facts in this statement are from matters within my own knowledge. Where I refer to matters not within my knowledge, I refer to the source of that knowledge.
2. A paginated bundle has been prepared of the documents which I refer to in this statement, marked "MT2". Where I refer to page numbers in this statement, I am referring to pages in "MT2". I also refer to my previous two statements for Module 1 of the Inquiry which set out my background and professional experience as a media lawyer for 20 years.
3. This statement deals inter alia with 'media ride-alongs', that is to say, the phenomenon whereby the press are given a specific invitation to accompany the police at arrests or raids or other operations. This gives those invited special access to and advance notice of operations which are not publicly known about.
4. ACPO has given guidance about this issue which is attached hereto at pages 1 to 24 of MT2 and available on the website of the ACPO at <http://www.acpo.presscentre.com/content/default.aspx?NewsAreaID=19>.
5. The guidelines are vague and do not give consistent advice to officers. For example, they say that those under investigation are not routinely identified as a matter of

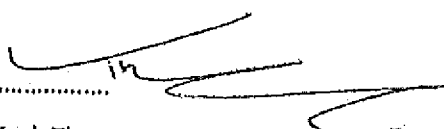
practice although there is no law against their names being publicly identified (4.3-4.5). This misses the point. Identifying individuals at an early stage can lead to their privacy and reputational rights being compromised. In my view, the police should take those rights into account throughout the decision making process. In contrast, the guidance says that the identifies of officers or civilian staff suspected of wrongdoing should not be released when they have been suspended.

6. In relation to media "ride-alongs" the guidance simply says "*There is no law to prevent the police taking the media on operations*" (4.27). Some factors are listed for consideration, but there is no clear guidance about how to balance the risks to the individuals under investigation with the potential benefit of inviting the media along.
7. The guidance annexes sample agreements which are mainly concerned to ensure that the media indemnifies the police for any financial loss, and that the media obtain its own permission to enter the premises. Obtaining the permission of the person being arrested is complex and in any event permission may be required of the family and/or the owners of the home as well, especially as they may be indentified.
8. There is also no mention of the risk of reputational damage, and the guidance is manifestly insufficient to prevent serious breaches of the Article 8 rights of those who have been arrested, particularly when those in question turn out to have committed no offence at all.
9. By way of example, I refer to the case of a professional individual Mohammed Amar for whom I acted following a BBC broadcast including footage of him being arrested at his home. My client was a professional person. The Police arrived unannounced at his family home to arrest him. The Police had invited and/or allowed a film crew to the raid and parts of the arrest were filmed.
10. In fact, the Police had made a serious mistake and my client was completely innocent of any crime. He was released on the same day of his arrest with no charges being brought.

11. Unfortunately the BBC broadcast the arrest footage on a programme about these crimes on national television implying that my client was guilty. A photograph of my client was also published in a widely circulated TV programme listing magazine next to the listing for the programme in question.
12. My client took legal action against the BBC and claimed damages and an injunction for libel and invasion of privacy. Eventually the BBC agreed to apologise and to make a statement in open court and paid £50,000 in damages and costs. A copy of the statement in open court is attached hereto at pages 25 to 27 of MT2.
13. Everyone is entitled to be presumed innocent. The presence of media at arrests threatens this right. When arrests are prominently reported in salacious and sometimes exaggerated terms, a person's reputation can be seriously affected and it is obviously extremely difficult to recover from that sort of attack.
14. In my view the fact that "ride-alongs" are permitted by the police and the vagueness of the current guidance can lead to a number of other unwelcome consequences. For example:
  - the press invited to the arrest will be indebted to those issuing the invitation which can lead to an improperly close relationship developing and/or the press reporting only what the police want to be reported.
  - In some circumstances, the press will be keen for something salacious or exciting to report – a "dawn raid", violence, etc. That can lead to the police making inappropriate decisions in order to impress the media.
  - The presence of the police can lend allegations which turn out to be false the spurious imprimatur of truth.
15. I believe that this practice should cease or at least the ACP guidance in this area should

be revised. The current guidance risks do not pay sufficient attention to the rights of individuals, nor does it set out a proper Article 8 compliant procedure for making decisions which may affect privacy rights.

I believe the facts stated in this statement are true

  
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Mark Thomson

6 March 2012