The Leveson Inquiry

Witness Statement of Paul Silva

A. Career history

1. I have worked on the Daily Mail picture desk for 23 years and have been the Picture Editor since 1992. I began my career working as a reporter at a number of regional newspapers including working as the news editor of the South London Press. I then worked on the picture desks of the Daily Telegraph, the Evening Standard and the (now defunct) London Daily News prior to joining the Daily Mail.

2. As Picture Editor, I am responsible for selecting the photographs which appear in the printed version of the Daily Mail.

B. The Importance of the PCC Code to the Picture Desk

3. All members of the picture desk have received training and advice from the in-house legal team on how the PCC Code ("the Code") applies to photographs. Members of the picture desk have also attended PCC seminars on how the Code applies in various news situations.

4. At all times there is an up-to-date copy of the Code on the picture desk and it is referred to every time we receive a set of pictures which give any indication that they may have been obtained in an unethical way. The Code is of paramount importance to how the picture desk operates. Every decision we make on whether a picture can be put forward for publication is based on a consideration of the Code’s guidelines.

5. To the best of my knowledge I cannot think of an occasion in recent years where a formal complaint has been lodged with the PCC and has resulted in a ruling and adjudication by the PCC.

6. However, there have been occasions where complaints have been made. In all such cases, the complaint is taken very seriously. It is investigated by the Managing Editors of the Daily Mail and the relevant photographers and members of the picture desk will be asked for their version of events and we try to resolve the issue as best we can.
7. If a PCC adjudication was ever given against the picture desk, this would be taken very seriously both by myself and the Managing Editor. Depending how serious the breach was, it could result in disciplinary action (such as a formal written warning for the person's employment file) or the dismissal of the individuals involved. If it involved a freelance photographer, it is highly unlikely they would be used by the paper again. As such, it is in everyone's interest to abide by the Code.

C. How photographs get into the Daily Mail

8. Each day the Daily Mail picture desk is sent around 30,000 pictures from all around the world. The overwhelming majority of these pictures are provided to us by news agencies and it is very rare that we receive any pictures directly from members of the public. These news agencies can be categorised as follows:

8.1 The large international agencies (such as PA, Reuters and Getty);
8.2 The domestic news agencies (such as Solent, Wales News, South West News, North News and Pictures, Cavendish and Ross Perry); and
8.3 The "celebrity" agencies (such as Splash, Matrix, Exposure and Big Pictures) for whom the so-called "paparazzi" generally work.

9. A member of my team (the "picture taster") goes through these pictures and selects what he or she considers to be the best four hundred or so photographs. In making this selection, the picture taster is focused on issues such as the relevance of these pictures to the main news stories of the day, whether the pictures themselves are of a newsworthy nature and could form the basis for a story, the quality of the pictures, the need to have a variety of picture subjects (covering news stories, "celebrity stories", animals and nature etc) and whether they appear to have been taken in a questionable way.

10. We also have seven staff photographers, three trainees and sixteen freelancers who work predominantly for the Daily Mail. Their photographs are not included in the filtering process involving the picture taster. Instead, we compile a diary for each day of potentially newsworthy events (such as court cases, film previews, product launches, interviews and news conferences) and I assign each photographer events to attend. They then send the pictures they take back to the desk.

11. The results of the picture taster's review and pictures taken by our photographers then come to me and I select which images to include in the newspaper that day. The selection process is undertaken in collaboration with the news desks and I will select images to
support the stories they are looking to run and, similarly, they will provide copy to support any pictures I consider to be particularly newsworthy.

12. The consideration of whether photographs have been taken ethically and in accordance with the Code is of fundamental importance to the selection process. It is a reflex reaction when I am given any photograph to consider the context in which it was taken. The questions I will ask include:

12.1 Was the subject in a public place when the photograph was taken?
12.2 Was the photographer standing in a public place when the pictures were taken?
12.3 Was the subject visible to other members of the public?
12.4 Was the subject followed?
12.5 Was the subject harassed in any way?
12.6 How long was the photographer taking the photographs for?
12.7 Was the subject aware they were being photographed?
12.8 If they did know, did they raise any objections?
12.9 What size lens was the photographer using?
12.10 How many photographers were involved in taking the photographs?
12.11 Does the photograph include any children and, if so, have their parents consented to their inclusion?

13. Only if the right answers are given to these questions will I consider putting the photograph forward for publication. In this way I am able to remove any photos taken in a private context, or in a situation that may have caused distress or fear to the subject of the photograph.

14. In order to fully understand how we assess photographs it is important to explain the different circumstances in which the paparazzi photographers operate. A large proportion of their work is done at photo-calls, arrivals and departures from film premieres, theatre first nights, award ceremonies, parties and concerts. These are organised events where the press are invited, press pens are normally provided and the celebrities know they are going to be photographed.

15. Similarly, celebrities, members of the royal family or politicians are photographed at sporting events. Recently examples include David Cameron and his son watching a football
match, Coleen Rooney and her son arriving at Old Trafford to watch Wayne Rooney play. Prince William, Prince Harry, Kate Middleton and Zara Philips have been photographed at Twickenham and numerous celebrities photographed on Wimbledon centre court. This is another situation where photographers are invited and the subjects know they could either be photographed or picked up by television cameras.

18. Celebrities are also often photographed leaving certain restaurants or nightclubs. Restaurants like Nobu, The Ivy and San Lorenzo or nightclubs like The Box, Boujis. Whisky Mist and Annabels are all considered to be on the celebrity circuit and photographers will go to these locations at night to see which celebrities are there. It is well known that, if you are a celebrity and you go to these places, you are likely to be photographed.

17. As far as I can recall, we have never had a complaint about photos from the situations set out in the previous three paragraphs. The contentious area is when celebrities are photographed away from these situations – near their home, on holiday, while they are out with their family or visiting a park or museum. It is on these occasions when I will always quiz a photographer or agency as to how the pictures were taken.

18. If such a picture was taken by one of my photographers, I will go to them directly and ask them the questions I have listed above (see paragraph 12). Given the photographers are generally out of the office, these conversations will usually happen over the phone.

19. Similarly, if such photographs are provided by agencies, I will call the agencies themselves and quiz them in the same way. As an example, we were recently offered a picture of a well known musician who is suffering from cancer. In the particular picture, the person was photographed attending a cancer clinic and was smiling directly at the camera and clearly appeared to have consented to the picture being taken. However I was not satisfied with this answer and on further examination it transpired the correct procedures had not been followed and there may have been a breach of the code. On that basis, the pictures were immediately binned.

20. As another example, in the 12 December 2011 edition of the Daily Mail we ran a photograph of Samantha Cameron loading her car after shopping at IKEA. The photograph was taken by a former Daily Mail reporter who was also shopping there. She asked Mrs Cameron if it was okay for a photograph to be taken and she agreed. On that basis, I was comfortable that I could run the photograph in the paper.
21. Examples of photographs we have turned down in the last six months include:

21.1 A member of the Royal Family shopping; rejected because she may have been followed to get the picture;

21.2 Pregnant singer in the West End; rejected because she was followed for 20 minutes.

21.3 Veteran entertainer on a beach; rejected because the pictures looked intrusive and photos were unflattering.

21.4 Comedian in her country house front garden; rejected on the basis that it involved a clear breach of privacy.

21.5 Member of Royal Family on holiday in a yacht and kissing a woman in the sea, rejected as the pictures considered intrusive.

21.6 Celebrity visiting another celebrity’s home with a present; rejected on the basis that I was not happy with a photographer being outside celebrity home.

21.7 Celebrity holding a baby; rejected as the pictures were shot through a second floor window, and so were clearly intrusive.

21.8 Football manager and wife at the ballet; rejected as it was a private holiday and deemed intrusive.

21.9 Members of Royal Family attending Chelsea Harbour gym; rejected as the pictures were shot through a hole in a fence and so were clearly intrusive.

22. In all cases, I will only put forward photographs for publication where we have the consent of the subject or I have been given satisfactory answers either by my photographer or the agency.

23. I must stress that it would be unfair to suggest that all photographs submitted by the paparazzi or celebrity agencies are always in breach of the code. There are many photographers, who I have got to know and trust over the years, who take pictures that always follow the spirit and word of the PCC code and our guidelines.

D. Ensuring ethical conduct by photographers

24. All our staff photographers and permanent freelance photographers are experienced and have worked for local newspapers and news agencies. They all started off taking pictures of village fetes and court cases and have worked their way up from there. I am confident that they all know the importance of accuracy, honesty and abiding by the Code. It is worth remembering that they spend a lot of their time on studio work such as taking portrait
photographs for interviews or taking pictures of celebrities' houses and the like where their
work is done entirely in collaboration with the subject.

25. We make sure that our staff photographers and permanent freelance photographers are
given strict guidelines as to how they should conduct themselves. I personally have
instructed all my photographers on various occasions that they are highly visible
representatives of the newspaper and must conduct themselves ethically and in
accordance with the Code at all times. We make it known that a strict approach to any
breaches will be taken. To date, I have never received a complaint about the conduct of any
of my photographers and so I have not had to impose any sanctions on them. However if I
were to find out that any of them had, for example, harassed anyone, been rude to anyone,
chased anyone, or in any way upset the subject of their pictures, I would no longer be able
to trust them and they would not work for the Daily Mail again.

26. The guidelines we give will often be tailored to the specific tasks that the photographers are
given. Our staff photographers are rarely involved in the door-stepping of celebrities and
they will only be instructed to do so if there is a legitimate reason or a genuine news story at
issue. When doing so there is to be no following, if the subject asks them to leave they must
do so immediately, they are not to harass the subject, they are to be polite and courteous at
all times and no pictures are to be taken on private premises.

27. To illustrate the approach taken, on the day Dr Liam Fox resigned, I sent one of my
photographers to his home address to obtain photographs to accompany the story. When
instructing the photographer before he left the office, I made it very clear that there should
be no harassment of Dr Fox, he was not to be followed, he was only to be photographed in
a public place and the photographer was to generally ensure that he acted politely at all
times by not shouting at Dr Fox, knocking on his door or his windows or anything similar.

28. Another example was on 12 December 2011 when one of our photographers was sent to
Nick Clegg's home after he disagreed with David Cameron over the use of his veto at the
Euro summit and then did not attend a subsequent Commons debate. Our photographer
was asked to leave by Mr Clegg's press officer and he duly did so. The press officer then
rang our picture desk to thank us for our behaviour.

29. The way in which the picture desk operates means that my photographers are motivated to
take pictures ethically. They know that I will quiz them about how they took any photograph
before it will be put forward for publication. They also know that if I am in any doubt about
the photograph it will not be included. As they all want to get their photographs into the newspaper, this means they have to remember they may need to be able to prove that each picture was taken ethically.

30. I am less able to influence the conduct of the photographers who provide pictures to the news agencies. However, I have spoken to the bosses of various agencies a number of times when I believe their conduct in relation to a particular subject needs to change. A recent example of this is in relation to Pippa Middleton. Each day various agencies send us photographs of her going about her everyday life and this constant attention has the potential to be harmful. As a result, I have personally called the heads of the relevant agencies and told them that there is no market for these photographs (no papers in the UK appear to be publishing them) and that they should stop. The difficulty in this particular case, however, is that there is a lucrative overseas market for these photographs (particularly in the US and Europe) and so the agencies continue taking them.

31. Other than speaking to the agencies about their conduct, the other way in which I am able to influence them is to refuse to buy their photographs. If an agency sends us photographs which look like they have been taken in breach of the Code, or turn out to have been taken in breach of the Code, we do not buy them and I will become suspicious of using them in the future. I do not have a formal blacklist as such, however, there are a number of agencies and photographers who I am very reluctant to use. In such cases, I make sure I explain to the agencies why I am not using them and I tell them what they need to do in order for my position to change.

32. The importance of this sanction (i.e. not buying pictures from certain agencies) should not be underestimated. It hits the agencies financially and, in my experience, does cause them to realise and learn that they won’t make sales unless their conduct meets the required criteria. I have seen notable improvements in the standards of behaviour of the paparazzi as a result.

E. Digitally altered photographs

33. The Inquiry has asked me about digitally altered photographs. To the best of my knowledge, the Daily Mail has never digitally altered a photograph to make it look like two people are kissing. There are some situations where it is acceptable — blurring or pixelating

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1 To do so is a matter of professional pride — our staff photographers do not receive extra payments if their photographs are published.
parts of a photograph to conceal the identity of certain people or young children. In this regard, I should point out that there is an important difference between cropping a photograph and altering it. Cropping a photograph (i.e. cutting parts from a larger image) can be justified, for example, in order to protect the privacy of someone who is not the intended subject of a photograph by removing them.

34. As part of the filtering and selection process described above, all photographs are looked at closely in order to check that they have not been digitally altered. It is generally quite clear where a photograph has been altered although it is getting harder to spot as the technology improves, and it may well become more of a problem in the future. In my view, if a photographer (whether freelance or contracted) was found to have digitally altered a photograph, they would never work in the industry again. Similarly, if an agency sold anyone a digitally altered photograph, I would never buy pictures from them again.

F. Hugh Grant

35. The Inquiry has asked me about the extent to which the Daily Mail has been involved in photographing the mother of Hugh Grant’s baby.

36. Daily Mail photographers were not instructed to (and did not) take any photographs of her before the birth. On 2 November 2011, the day following the announcement of the birth in a US magazine, I sent one of my photographers to her house. Before he was sent, I gave him the usual clear instructions that he should stand outside the property (not on the doorstep) and under no circumstances was he to follow, shout at, or otherwise harass her. The photographer was told that, if the mother did appear with the baby, he was only to take pictures with her permission. I specifically told him that he was to ensure that he was not involved in any media scrum and that he should leave the site if there was any sign that his presence was causing distress.

37. That evening, Hugh Grant visited the house and we obtained a photograph of him outside the house which we then used. At no point were any pictures taken of the mother and/or child.

38. I then instructed the photographer to return the next day (3 November 2011); however by that stage there were a large number of paparazzi there and it became clear that the mother did not want to pose for an agreed photograph. As a result of this and concerns raised by the PCC, we pulled off the photographer, who immediately left the site that
morning, and we have not tasked anyone with taking photographs of mother or child since then. I understand that an injunction was subsequently obtained against the paparazzi on 18 November 2011 (over two weeks after my photographer had left the site).

39. I believe we have published two pictures of the mother in the period since the birth (and none prior to the birth) both of which were purchased from agencies. The first picture was actually taken some weeks before the birth but was only offered to us afterwards. This picture was taken of the mother in a public place away from her home. I enquired into the context in which it was taken and was assured by the particular photographer involved that they had not followed her or harassed her in any way. The second picture was of the mother after the birth and I again made enquiries and was assured that it was taken in a public place not near her home and there was no evidence of any sort of harassment or distress involved.

40. We have not published any photographs of the child and have no interest in doing so.

41. The reason why I originally sent a photographer to the mother’s house and why we have published pictures of Mr Grant and the mother following the birth is because the story was highly newsworthy. It involved one of the world’s most famous bachelors having a child at the age of 50 after a “fleeting affair”. In other words, it was a very good showbiz story. My view was that, as long as pictures could be obtained ethically with no distress being caused to the subjects, then it was justifiable to do so.

42. It is worth pointing out that an agency offered us pictures of Hugh Grant going into Portland Hospital to visit the new born baby. This picture was of Mr Grant in the precinct of the hospital and we immediately rejected it on the basis that it was an invasion of privacy. I now view the agency who offered the picture with suspicion and will be reluctant to use them in the future. It is interesting to note that, to my knowledge, no UK newspaper used this picture even though it would have been offered to all of them.

G. Kate McCann
43. The Inquiry has asked me about the Daily Mail’s involvement in the photographing of Kate McCann.

44. At the time of her daughter’s disappearance, we sent a photographer to Portugal to cover the story. They were instructed to go nowhere near the holiday apartment in which the McCanns were staying, they were only to take photographs when the McCanns were in public places and there was to be no harassment whatsoever. At that time, I understand that an agreement was in place with the McCanns by which they consented to have their photographs taken in certain places on the basis that the photographers otherwise respected their privacy. As a result, they were usually photographed when they went to church and when they went to the police station.

45. The Daily Mail did not instruct any photographer to follow or take photographs of the McCanns after their return to Britain in September 2007. In the immediate months after their return home, the McCanns and their children were photographed by various agencies outside their home and when they attended their local church. These pictures were mostly taken by PA, Reuters, Getty or the local news agency, Newsquest. Some of these photographs were used by the Daily Mail but, to the best of my knowledge, these pictures were taken with the approval of the McCanns’ press officer. From memory, I believe at one stage the press were asked to stop photographing the family, and particularly the children. We immediately complied with this request and did not use any agency photographs obtained during that time.

46. More recently we have occasionally sent photographers to their home in Leicestershire, but only when there were significant developments in the story. Each time, the photographer was instructed to ask for the McCanns’ consent before taking any photographs and, if they were asked to leave, they were to do so immediately. They were clearly told that no photographs should be taken of their children. I would always inquire into the context in which the photographs were taken and only ever used a photograph if the photographer could assure me that they were taken with the McCanns’ consent.

47. In terms of justifying the publication of these photographs, in the same way as it is seen as important to get a fresh quote from the subject of a story whenever there is an important development, it is seen as important to get a fresh photograph. This is part of being able to report stories on an accurate and up-to-date basis. As I would always ensure that the photograph met the basic requirements for publication (see paragraph 12 above), I felt it was justifiable to publish these pictures.
H. JK Rowling

48. The Inquiry has asked if the Daily Mail has ever published photographs of the children of JK Rowling. To the best of my knowledge, we have not.

I. Charlotte Church

49. The Inquiry has asked if the Daily Mail has ever instructed a photographer to take photographs up the skirt of Charlotte Church. Again, to the best of my knowledge, we have not. I would never instruct a photographer to take such photographs and the Daily Mail would have no interest in publishing them.

Signed

Date 22.12.2011

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