

42

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DPP's findings in relation to 'phone hacking'

A statement by Keir Starmer-QC, Director of Public Prosecutions

On 9 July 2009 I issued a statement indicating that I had asked for an urgent examination of the material that was supplied to the Crown Prosecution Service (CPS) by the police in this case.

I made this statement not because I had any reason to consider that there was anything inappropriate in the prosecutions that were undertaken, but to satisfy myself and assure the public that the appropriate actions were taken in relation to that material.

That examination has now been completed by the Special Crime Division of CPS Headquarters (SCD).

Background

Following a complaint by the Royal Household, the Metropolitan Police Service first contacted the CPS on 20 April 2006 seeking guidance about the alleged interception of mobile telephone voicemail messages. The potential victims were members of the Royal Household.

During April and May 2006 there followed a series of case conferences and exchanges between the CPS reviewing lawyer dealing with the case and the police in relation to these alleged interceptions. Advice was given about the nature of evidence to be obtained so that the police could make policy decisions about who ought to be treated as victims. Advice was also given about how to identify the individual(s) responsible for these alleged interceptions.

During June and July 2006 there were further discussions and conferences between the reviewing lawyer, the police and leading counsel instructed by the CPS. On 8 August 2006 the reviewing lawyer made a charging decision in respect of Clive Goodman and Glen Mulcaire. They were arrested the same day.

On 9 August 2006 Goodman and Mulcaire were charged with conspiracy to intercept communications, contrary to section 1 (1) of the Criminal Law Act 1977, and eight substantive offences of unlawful interception of communications, contrary to section 1 (1) of the Regulation of Investigatory Powers Act 2000. The charges related to accessing voice messages left on the mobile phones of members of the Royal Household.

The two were bailed to appear at the City of London Magistrates' Court on 16 August 2006 when they were sent to the Central Criminal Court for trial.

When Mulcaire's business premises were searched on 8 August, in addition to finding evidence that supported the conspiracy between him and Goodman regarding the Royal Household allegations, the police also uncovered further evidence of interception and found a number of invoices. At that stage, it appeared these invoices were for payments that Mulcaire had received from the News of the World newspaper related to research that he had conducted in respect of a number of individuals, none of whom had any connection with the Royal Household. They included politicians, sports personalities and other well known individuals.

The prosecution team (CPS and Metropolitan Police Service) therefore had to decide how to address this aspect of the case against Mulcaire. At a case conference in August 2006, attended by the reviewing lawyer, the police and leading counsel, decisions were made in this respect and a prosecution approach devised.

From a prosecution point of view what was important was that any case brought to court properly reflected the overall criminal conduct of Goodman and Mulcaire. It was the collective view of the prosecution team that to select five or six potential victims would allow the prosecution properly to present the case to the court and in the event of convictions, ensure that the court had adequate sentencing powers.

To that end there was a focus on the potential victims where the evidence was strongest, where there was integrity in the data, corroboration was available and where any charges would be representative of the potential pool of victims. The willingness of the victims to give evidence was also taken into account. Any other approach would have made the case unmanageable and potentially much more difficult to prove.

This is an approach that is adopted routinely in cases where there is a large number of potential offences. For any potential victim not reflected in the charges actually brought, it was agreed that the police would inform them of the situation.

Adopting this approach, five further counts were added to the indictment against Mulcaire alone based on his unlawful interception of voicemail messages left for Max Clifford, Andrew Skylet, Gordon Taylor, Simon Hughes and Elle MacPherson.

In addition to obtaining evidence from these persons, the police also asked the reviewing lawyer to take a charging decision against one other suspect. On analysis, there was insufficient evidence to prosecute that suspect and a decision was made in November 2006 not to charge. So far as I am aware, this individual was neither a journalist on, nor an executive of, any national newspaper.

This progress in the case meant that its preparation was completed by the time Goodman and Mulcaire appeared at the Central Criminal Court on 29 November 2006 before Mr Justice Gross. When they did appear at court, Goodman and Mulcaire both pleaded guilty to one count of conspiracy to intercept communications – the voicemail messages left for members of the Royal Household. Mulcaire alone pleaded guilty to the five further substantive counts in respect of Max Clifford, Andrew Skylet, Gordon Taylor, Simon Hughes and Elle MacPherson. The case was then adjourned to obtain probation reports on the defendants.

On 26 January 2007 sentencing took place. Goodman was sentenced to four months' imprisonment and Mulcaire to a total of six months' imprisonment, with a confiscation order made against him in the sum of £12,300.

As part of my examination of the case, I have spoken to the then DPP Sir Ken Macdonald QC as he and the Attorney General at the time, Lord Goldsmith, were both regularly briefed – as would be expected with such a high profile case.

Findings

As a result of what I have been told I am satisfied that in the cases of Goodman and Mulcaire, the CPS was properly involved in providing advice both before and after charge; that the Metropolitan Police provided the CPS with all the relevant information and evidence upon which the charges were based; and that the prosecution approach in charging and prosecuting was proper and appropriate.

There has been much speculation about whether or not persons other than those identified above were the victims of unlawful interception of their mobile telephones. There has also been much speculation about whether other suspects were identified or investigated at the time. Having examined the material that was supplied to the CPS by the police in this case, I can confirm that no victims or suspects other than those referred to above were identified to the CPS at the time. I am not in a position to say whether the police had any information on any other victims or suspects that was not passed to the CPS.

In light of my findings, it would not be appropriate to re-open the cases against Goodman or Mulcaire, or to revisit the decisions taken in the course of investigating and prosecuting them.

However, if and insofar as there may now be further information relating to other possible victims and suspects, that should be reported to the police who have responsibility for deciding whether or

not to conduct a criminal investigation. I have no power to direct the police to conduct any such investigation.

In conducting this review I have put a good deal of detailed information in the public domain. This demonstrates my commitment that the CPS should be visible, transparent and accountable. It should also assure the public about the integrity of the exercise I have undertaken.

Keir Starmer QC
Director of Public Prosecutions