

N Davies
February 2012

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

WITNESS STATEMENT OF NICK DAVIES

I, Nick Davies, of Guardian News and Media Limited, Kings Place, 90 York Way London, N1 9GU, WILL SAY as follows:

1. I am a freelance journalist who has worked under part-time contract for Guardian News and Media Limited since 1989. Unless stated otherwise, the facts stated in this witness statement are within my own knowledge and belief.
2. This is the second statement I have submitted to the Inquiry in response to a Notice served on me under section 21(2) of the Inquiries Act 2005 and the Inquiry Rules 2006. I have also made a supplemental statement, dated December 2011, about the statistics on complaints to the PCC. I make this statement in response to a Notice dated 10 February 2012 served on me under section 21(2). This requires me to provide evidence to the Inquiry Panel in the form of a written statement.
3. I do not waive privilege. Accordingly anything I say in this witness statement is not intended to waive privilege and should not be read as doing so.
4. I should make clear at the outset that I am not prepared to reveal the names of any confidential sources.
5. **Q (1) Please can you describe your experiences of the authorised or official interaction between you and the Police (whether Press Officers, individual Officers or anyone else connected with the police) when investigating a story. In particular:**
 - a. Please describe the usual course of contact, including whom you would first approach or, if relevant, may approach you as an individual journalist.
 - b. What would you expect to be told and learn?
 - c. Would this contact always be on the record?
 - d. Whether there is a consistency of approach across different police forces?
 - e. Your experiences of this type of approach and what purpose it serves?
 - f. What are its shortcomings?

g. What can be done to improve this method as a source of information for the press?

I am not a specialist crime reporter but in the course of 35 years as a journalist I have often dealt with the police in the UK and occasionally abroad.

a. Normally, I would approach a UK force simply by calling their press office to put a particular question or to ask for them to arrange a meeting with a particular officer. Separately, in the course of covering criminal trials, I have often approached the senior investigating officer direct outside the court, to ask for help. That request then often would be referred to the press office for approval.

Occasionally, I have been approached by police who knew I had covered a particular story in depth and wanted help from me. Avon and Somerset, for example, came to me for background on a network of British paedophiles in Amsterdam, two of whom had links to alleged child abuse in Bristol, because they knew I had spent a lot of time investigating them.

b. I would hope to be able to get the answers to specific questions and also background to criminal inquiries and cases and sometimes the background to policy decisions.

There are boundaries. I would not expect to be given any material which violated privacy unless that is clearly justified in the public interest; nor any material whose publication would impede an inquiry or jeopardise the safety of any individual. Occasionally, working with a source with whom I have an established relationship, it could happen that they would disclose material of this kind, so that I can understand what is happening but on the specific condition that I keep this sensitive information confidential.

c. Each of these approaches would involve an initial negotiation about whether or not what is said will be on or off the record – i.e. whether information should be overtly attributed. With a specific question, the press office will often have a line to give reporters on the record and may well add background on an unattributable basis. With an interview, more often than not, the press office and/or the officer would ask to talk off the record.

I would see nothing sinister in an agreement to work off the record. It is usually simply a question of making the source feel comfortable - if they are not being quoted, they do not have to worry about being misquoted. Sometimes it may also make them feel more free to speak honestly without having to worry about personal or political repercussions.

d. All of this would broadly apply to all police forces. However, there can be an important difference between a big city force, which has a well-resourced press office working around the clock; and a small provincial force, which may provide a far more limited service. At worst, this can mean that the press officer selects a story, displays it on the press office website (or leaves a summary on voicemail) leaving the reporter to download the official version of events with no opportunity to follow up or query details, because there is no live press officer available to take calls.

e. This kind of authorised contact is capable of generating material which is useful to all parties.

For the police, it can be an opportunity to appeal for information; to show that they are doing their job; to reassure the public who may have unnecessary fear of crime; to send specific signals to groups in the community and also to perpetrators; or simply to describe the nature of a particular crime with which they are dealing.

For a reporter, at the least, it is a source of strong human stories which are of interest to readers. Beyond that, it is often the case that crime raises important issues, for example about poverty or racism or about the police themselves.

f. However, this kind of authorised contact also can be problematic.

With rare exceptions, press officers see it as their legitimate role to protect the interests of the organisation or individual for whom they work. That may put them at odds with the legitimate role of a reporter.

It is unusual for a press officer to engage in knowing falsehood - it undermines their credibility and can ruin their chances of having influence in the future. However, under pressure, some press officers certainly will lie to reporters in order to protect their organisation.

More commonly, press officers will hold back information which might embarrass their employer; promote information which tends to enhance their reputation; select an angle which assists the employer. If they have to release embarrassing information, because it simply cannot be concealed, they may do so at a time of day which makes coverage unlikely; or on a day when coverage is diverted on to some more compelling story; or through a friendly outlet which will accept an angle which serves their interest in the hope that others will take the same angle.

There may also be a conflict of interest between the press officer and the police officer. If a senior officer chooses to provide a press officer with an inaccurate version of events, the press officer may not have the confidence or status to challenge that and can end up serving as a

vehicle for falsehood. Alternatively, a press officer may release information against the wishes of a police officer, in order to foster a relationship with a favoured outlet.

g. The underlying difficulty is that it has become accepted policy - in police forces and some other organisations - for the press office to be a monopoly supplier of information. This has been reinforced by internal regulation which has made it a disciplinary offence to speak to the press without permission. In a particularly worrying development, the last six months has seen some attempts to make it a criminal offence for an officer to speak to a reporter without permission.

If this 'monopoly' policy works effectively, the only information which is released about the organisation is that which is sanctioned by and channelled through the press office.

This policy is relatively new. When I first worked as a reporter, in Devon and Cornwall, in the late 1970s, I routinely spoke to serving officers who gave me information about local crimes. I am not aware of that ever crossing the boundaries I have mentioned in b above.

The policy is not universal. Working with police forces in the United States, I have been able to make phone calls direct to serving officers who have felt able to answer questions without any reference to press officers and without fear of being disciplined and, again, without crossing the boundaries.

The more effective the monopoly, the greater the chance of problems arising.

6. Q (2) Please can you describe your experiences or knowledge of what might be described as the unauthorised or unofficial interaction between the press and those connected with the Police. In particular:

- a. **Is the use of unofficial/unauthorised contact with the police a legitimate journalistic source of information and if so what makes this legitimate?**
- b. **Why is this form of contact an important journalistic method of sourcing information for a story?**
- c. **Why is this legitimate (but unauthorised) contact and the information it elicits not something which can be provided through Press Officers – i.e. a more formal or official mode of communication?**
- d. **Have the police informally ever given you prior notification about proposed arrests, raids or other action? If so, please elaborate.**
- e. **In your opinion, what motivates these unofficial police sources to provide information in this way?**

f. Are these type of sources typically limited to certain rank of officers?

a and b. Working on stories that involve the police, I have often dealt with officers without the knowledge or authority of the press office. I have worked in this way with officers from the lowest rank to the highest; in the Metropolitan police and in other forces.

This is a common and well-established practice and one which I believe is essential if reporters are to work effectively.

I have always regarded this as legitimate, as long as it remains within the boundaries I have described.

I think it is wrong in principle for the reporting of any organisation to be limited to the reproduction of an officially sanctioned version of events. The police spend public money, enforcing laws which have been passed in the name of the public, using considerable powers on behalf of and against members of the public. Accepting that there are boundaries, we need to know what they are doing.

I would say with confidence that the truth about the phone-hacking scandal would not have emerged in the way that it did without this kind of unofficial contact, which helped to break down the misleading official version of events which was being presented to the public, press and parliament by the Metropolitan Police

c. As above, there are occasions when this information can be provided through the press office but this channel is inherently unlikely always to provide all of the information which the organisation ought to make public.

d. I have not been given prior notice of raids or arrests. That would be more likely to happen with specialist crime reporters.

e. Unauthorised sources will have various motives.

I was once taken into the private office of a very senior Met police officer who showed me the confidential minutes of a meeting of the force's senior management team which I think was then known as 'the policy group'. He told me he was not allowed to do this but he did it because he wanted me to see that the force was serious about dealing with a problem which was causing public disquiet. In short, he did it for the good of the organisation in spite of what he regarded as a bureaucratic decision that minutes could not be shown to an outsider.

On another story, I was given significant information by serving officers who were deeply concerned that more senior officers were allowing violent criminals to commit serious crimes on the understanding that

they would provide intelligence. This eventually led to an independent inquiry by an outside force which confirmed their concerns. They were acting as classic whistleblowers, attempting to expose official misconduct which was being concealed from the public.

On another occasion, officers who were conducting an independent inquiry into allegations of police corruption provided me with help in order to put pressure on the force which was the target of their inquiries. They feared that that force was minded to destroy or conceal important evidence of corruption.

On two distinct occasions serving officers acting without authority have provided me with detailed information about the fiddling of crime figures which was taking place on the instruction of very senior officers. This meant not only that parliament and the public were being misled about the performance of the force but also that crimes were being falsely recorded as solved with the perpetrators going free and victims being cheated of justice.

In all these and other similar cases, the officers who helped me were running the risk of being punished through internal disciplinary procedures. In some cases, the forces set up leaks inquiries to try to identify these sources. In the event, none of them was identified although some left their force simply because they were so disillusioned with their managers.

One other case is worth mentioning. During the 1980s, a very senior officer occasionally provided me and a few other reporters with sensitive background information about the activities of Provisional IRA units on the mainland. He did this without the knowledge or permission of the press office. His motivation was entirely operational. He wanted certain information to reach the public domain because in one way or another, that would assist his work. He was in a position to know whether this information could be released without causing any kind of jeopardy. He did this without informing any press officer precisely because it was sensitive and he wanted to restrict to the minimum the number of people who knew what he was doing, to keep his hand hidden. My point is that there are many different ways in which unauthorised contact can have a legitimacy.

f. I have been given unofficial assistance by officers of every rank, from constable to chief constable.

7. Q (3) Please provide an overall picture of the type and frequency of your contact with the Police.

My contact with police is sporadic, depending entirely on the nature of the stories I am working on. I could go a year without any contact. I could go a month with contact on a daily basis.

8. **Q (4) In your opinion, what are the circumstances in which unofficial and/or sharing of information between the press and the police becomes illegitimate or improper?**

I think contact with police becomes illegitimate or improper in principle if a) the means of acquiring the information is itself illegal or improper (bribes, hacking); or b) as above, if publication violates privacy without a clear public interest justification, impedes an inquiry or jeopardises the safety of any individual.

9. **Q (5) How prevalent is this type of illegitimate contact between the press and the police?**

It is extremely difficult to provide a scale for illegitimate, inherently secret activity.

I know of clusters of activity involving the payment of bribes: through Jonathan Rees in the late 1990s; and through the former officer whom I called Z in Flat Earth News, who was active in Fleet Street for some 20 years from the early 1980s.

I believe that some senior police officers were the targets of voicemail hacking. This was certainly implied by evidence given by the Metropolitan Police to the culture, media and sport select committee in September 2009.

I am aware of cases where police operations apparently have been jeopardised by unauthorised leaks. I was told, for example, that this happened when Jonathan Rees bought and sold the details of the route from prison to court being taken by a notorious gangster, whose associates could have used the information to try to free him. I was also told that it had happened during the investigation into the murder of Jill Dando, where allegedly journalists bought and published information which was likely to make it more difficult to find the person who had killed a fellow journalist.

I recognise that there is a further area of concern that the relationship between News International and the Metropolitan Police may have become too close, possibly even collusive. I believe that the leadership of the two organisations perceived a long-term interest in co-operating. One of the results, I believe, was that there may have been occasions when there was some favouritism shown by press officers to News International titles and reporters. I think it is important to say that it was the relationship which led to the favouritism and not the other way around, i.e. it would be wrong to assume that a close relationship between reporters on the ground and police sources necessarily leads to an improper collusion or any other kind of improper behaviour.

10. **Q (6) What mutually beneficial arrangements underlie this type of exchange of information?**

I do not have the information to answer this question.

11. **Q (7) Do you have an awareness of what levels within the press and the relevant Police Force is this type of illegitimate contact known about or authorised?**

I know that the activities of Z were recognised by senior people at Scotland Yard, who saw him as an operational threat and attempted to stop him. They tried and failed. I have no reason to believe that this kind of illegitimate activity is authorised.

12. **Q (8) In your opinion, does it apply across all Police Forces and types of newspapers (we are not looking for names).**

I cannot make a realistic assessment of this activity across all police forces.

13. **Q (9) In general terms, what are your impressions about the culture of relations between the Police and the media? and Q (10) Does the relationship work to the benefit of the public interest?**

Historically, the relationship between press and police has had the potential to be mutually beneficial and to serve the public interest. I would say that this is true of official contact via the press office and equally true of unauthorised contact. There has been a lot of good work through both kinds of contact.

Historically, that relationship also has had the potential to fail, in two particular respects: first, that a press office which has managed to establish itself as a monopoly supplier of information has been able to provide an official version of events which may fall well short of providing the public with all that they should know; second, that unofficial contact has been exploited by some unscrupulous individuals with results that are clearly illegitimate.

At different times, different forces have experimented with variations in the relationship, sometimes encouraging a freer flow of information, sometimes tightening restrictions. Recently, in a reaction to the phone-hacking scandal which I regard as entirely unnecessary and probably counter-productive, the Metropolitan police - and, I believe, some other forces - have imposed a regime of silence on their employees.

14. Q (11) What, if anything, should be done to improve contact between the press and the police.

On balance, I would argue for a freer flow, as being more likely a) to provide a challenge to a misleading official version of events and b) to expose and check any illegitimate activity. On the latter point, I am told by an experienced American reporter that he has never heard of a US journalist bribing or attempting to bribe a serving US police officer - possibly the result of the freer access there.

No employer likes it when an employee releases information about them without their authority. The police are not the only employers who have tried to suppress that with disciplinary measures. The inquiry might consider whether UK law now offers sufficient protection to whistleblowers who try to defy their employers in the public interest.

Beyond that, it is extremely alarming to see that the Metropolitan Police and some other forces have moved the boundaries and are attempting to create a regime in which unauthorised contact is a criminal offence, of misconduct in public office. In so far as unauthorised contact has been an essential element in the publication of important stories, this appears to be a self-serving act by organisations which are more concerned with protecting their image than with serving the public. It is also deeply unjust to officers who have not broken the boundaries which I have tried to describe but who now find themselves threatened with prosecution and imprisonment for daring to speak without permission.

I believe that the contents of this witness statement are true.

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