

Haydon Dean - SOHQ

From: Barker Colin J - CommPO
Sent: 17 July 2009 15:33
To: [Redacted]
Cc: Haydon Dean - SOHQ
Subject: MPS response to Home Affairs Committee

Attachments: MPS response to Culture Committee.doc; Letter to Rt Hon Keith Vaz re phone tapping_17 07 09.doc

Mr Vaz,

I attach a letter from Assistant Commissioner John Yates, in response to yours to the Commissioner dated 15th July.

Additionally, I attach the MPS response to John Whittingdale MP, Chair of the Culture, Media & Sport Committee for your further information.

I have provided copies of both documents to the Home Secretary and the Chief Executive of the Metropolitan Police Authority.



MPS response to Culture Commit...



Letter to Rt Hon Keith Vaz re ...

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Not protectively marked

Metropolitan Police Service's response to the Culture, Media and Sports Committee

1. In December 2005, concerns were reported to the Metropolitan Police Service (MPS) by members of the Royal household at Clarence House, relating to the illegal tapping of mobile phones. As a result, the MPS launched a criminal investigation and this identified the involvement of two men, namely Clive Goodman (The Royal Editor of the News of the World newspaper) and Glen Mulcaire (A Security Consultant).
2. The two men were engaged in a sophisticated and wide ranging conspiracy to gather private and personal data, principally about high profile figures, for financial gain. This involved publishing material in the News of the World newspaper.
3. The MPS investigation found that these two men had the ability to illegally intercept mobile phone voice mails. They obtained private voicemail numbers and security codes and used that information to gain access to voicemail messages left on a number of mobile phones. It is important to note that this is a difficult offence to prove evidentially and for an illegal interception to take place, access must be gained to a person's telephone and their voicemails listened too, prior to the owner of the phone doing so. There will be other occasions where the two men accessed voicemails but due to the technology available at the time, it was not possible to prove via the telephone companies if they had accessed the voicemails prior to or after the owner of the mobile phone had done so. Hence, it was not possible to prove if an illegal interception had taken place.
4. Their potential targets may have run into hundreds of people, but the investigation showed from an evidential viewpoint, that they only used the tactic against a far smaller number of individuals.
5. The MPS first contacted the Crown Prosecution Service (CPS) on 20th April 2006 seeking guidance about this investigation, where an investigation strategy was agreed.
6. On 8th August 2006 both Clive Goodman and Glen Mulcaire were arrested and both made no comment interviews. On 9th 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 16th August 2006 when they were sent to the Central Criminal Court for trial.
7. During searches, Police seized vast amounts of material, some of which was used in evidence. It is reasonable to expect some of the material, although classed as personal data, was in their legitimate possession, due to their respective jobs. It is not necessarily correct to assume that their possession of all this material was for the purposes of interception alone and it is not known what their intentions was or how they intended to use it.

8. When Mulcaire's business premises were searched on 8th August, in addition to finding evidence that supported the conspiracy between him and Goodman regarding the Royal Household allegations, the MPS 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.
9. The prosecution team (CPS and MPS) 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.
10. 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.
11. 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 are a large number of potential offences.
12. 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.
13. In addition to obtaining evidence from these persons, the MPS 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.
14. This progress in the case meant that its preparation was completed by the time Goodman and Mulcaire appeared at the Central Criminal Court on 29th 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. Hence, in total 8 individuals were identified as having had their telephones illegally intercepted.
15. Anyone who had been approached as a potential witness for the criminal prosecution was advised and informed that they had been the subject of illegal interception. Thereafter during the course of the investigation police led on informing anyone who they believed fell into the category of Government, Military, Police or Royal

Household, if we had reason to believe that the suspects had attempted to ring their voicemail. This was done on the basis of National Security. In addition, appropriate Government agencies were briefed as to the general security risk that police had identified and advised that if they had any further concerns they should contact their own service provider.

16. For anybody else that may have been affected, police provided the individual phone companies the details of the telephone numbers (various) of the suspects and it was agreed that they (the service provider) would individually research, assess and address whether or not, and to what degree their customers had been the subject of contact by the suspects. It was thereafter a matter for the telephone companies to take appropriate action to reassure their customers and introduce preventative measures to ensure this type of interception did not recur.
17. On 26th 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. On sentencing the two men, Mr Justice Gross at the Old Bailey said the case was "*not about press freedom, it was about a grave, inexcusable and illegal invasion of privacy.*"
18. This case has been subject of the most careful investigation by very experienced detectives. It has also been scrutinised in detail by both the CPS and leading Counsel. They have carefully examined all the evidence and prepared the indictments that they considered appropriate. No additional evidence has come to light since this case has concluded.
19. There has been much speculation about potential criminal involvement of other journalists in this case. Whilst it is true to say that other journalists names appeared in the material seized by Police, there was insufficient evidence to support any criminal conspiracy on their part.
20. Due to renewed publicity in this case in the Guardian newspaper, the MPS Commissioner asked Assistant Commissioner John Yates to establish the facts around the original investigation into the unlawful tapping of mobile phones by Clive Goodman and Glen Mulcaire and any wider issues in the reporting by the Guardian. Assistant Commissioner Yates was not involved in the original case and clearly came at this with an independent mind. He released a press statement on 9th July 2009 and considered that no further investigation was required as from the publicity, no new evidence had come to light.
21. The MPS does recognise the very real concerns, expressed by a number of people, who believe that their privacy may have been intruded upon. In addition to those who had already been informed in line with the aforementioned strategy (i.e. those fitting into the category of Government, Military, Police or Royal Household and the remainder being informed by the telephone companies), Assistant Commissioner Yates committed to ensuring that the MPS has been diligent, reasonable and sensible, and taken all proper steps to ensure that where we have evidence that people have been the subject of any form of phone tapping, or that there is any suspicion that they might have been, that they were informed.

22. As a result, on 10th July 2009, the MPS released a further press statement stating *'The process of contacting people is currently underway and we expect this to take some time to complete.'*
23. It is also important to note that if new evidence came to light then the MPS would consider it. Nothing to date has been produced.
24. Following the CPS review of this case, the Director of Public Prosecutions, Keir Starmer QC confirmed the following;

'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. 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.'