Witness:	Brendan Gilmour
Statement No:	1
Exhibits Referred to:	BG/1, BG/2, BG/3, BG/4, BG/5
Date Statement Made:	23 March 2012

The Leveson Inquiry into the Culture Practices and Ethics of the Press

Witness:	Brendan Gilmour
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1. I have been asked to provide a statement for the purposes of the Leveson Inquiry. In preparing it I have sought to address all the questions asked of me in the Notice served pursuant to s.21 (2) of the Inquiries Act 2005. I begin each section of this statement by listing the questions to which I am responding.

(1) Who you are and a brief summary of your career history.

2. I started my police career on 19 August 1991 as a uniformed Police Constable with the Metropolitan Police Service (MPS). In 1996, I began my CID career as a Detective. I have served in various posts as a Detective Constable, Detective Sergeant, Detective Inspector and Detective Chief Inspector. These have included Murder Investigation Teams, Covert Human Intelligence Source Unit, Directorate of Professional Standards (DPS), National Crime Squad, Serious Organised Crime Agency, MPS Counter Terrorism Command and, currently,

the Specialist and Economic Crime Directorate. The majority of my service has been spent investigating Serious Crime. I currently hold the rank of Detective Chief Inspector.

3. In March 2002, I transferred as a Detective Sergeant from the South East London Murder Investigation Team to the DPS Intelligence Development Group (IDG). I remained in that post until I was posted to one of the Anti-Corruption Command (ACC) Operational Teams within the DPS as a Temporary Detective Inspector awaiting promotion. This temporary promotion occurred in November 2002 and I became a substantive Detective Inspector in March 2003, remaining on the ACC Operational Team.

4. My role as a Detective Inspector on this unit was to lead a team of officers who were tasked to investigate allegations of corrupt activity made against MPS employees or persons who were suspected of corrupting MPS employees.

5. I served on the DPS from March 2002 until May 2005, when I was then seconded to the National Crime Squad.

6. I have been provided with access to the original papers from Operation Glade but, given the volume of material, I have focused on the documents that assist me to answer the specific questions raised. I can recall the investigation in general terms, although rely completely on the contemporaneous documentary evidence for any detail.

(2) The Inquiry understands that you were the Investigating Officer for Operation Glade; please describe in broad terms the events that led to Operation Glade being set up and the context of the Operation.

7. Operation Glade was an investigation into the unlawful disclosure of confidential Police National Computer (PNC) records, in the form of criminal record office (CRO) histories and registered keeper details of privately owned vehicles. It was alleged that those confidential records were unlawfully obtained and subsequently passed onto the National Press in exchange for monetary payment. Of those ultimately convicted of the crime, Whittamore and Boyall were private detectives; King was an ex police officer; and Marshall was a civilian employee with the MPS.

8. Officers from Team D of the ACC undertook the police investigation into this activity. The investigation was code named Operation Glade and commenced in the early part of August 2003.

9. Operation Glade commenced as a direct result of an inquiry being conducted by the Devon and Cornwall Police that was code named Operation Reproof.

10. I am aware that, as a result of searches conducted as part of Operation Reproof, items were found in documentary and computer form, which indicated that PNC information was being obtained and passed to another private investigation company based in Surrey. This company was called "Data Research Limited".

11. Devon and Cornwall Police enquiries were undertaken in conjunction with the Information Commissioner's Office (ICO) who then undertook their own enquiry code named Operation Motorman. I am aware that this enquiry led to the Information Commissioner executing a search warrant on premises owned by Stephen Whittamore following which it became apparent that some areas of Mr Whittamore's work related to the unlawful obtaining of CRO checks on behalf of the national press. Devon and Cornwall Police instigated enquiries via the audit trail of the PNC in an attempt to identify who was conducting the unlawful police checks on behalf of Stephen Whittamore. This audit trail identified Paul Marshall who was employed as a Communications Officer at Tooting Police Station Control Room. Marshall's role was to despatch officers to calls received within the Control Room and to conduct searches of the PNC on behalf of officers.

12. The inquiry in relation to Marshall and the unlawful disclosure of criminal records history was referred to the ACC. I have reviewed the statement of the ICO, Senior Investigating Officer (SIO) Alex Owens, which can be found at exhibit BG/1, and note that he stated that the ICO would continue to investigate all other aspects of possible Data Protection Act offences that may have been committed by Stephen Whittamore (Alex Owens ICO SIO - MG11 dated 10/09/2003). I cannot specifically recall any formal agreement about this but believe that I would have agreed with this approach to ensure that the investigation remained manageable and focused on the MPS employee.

13. The IDG received the information initially. Their role was to scope the information and assess if there was a requirement for the operation to be tasked to an Operational Team for investigation. Part of this scoping process would have entailed the IDG officers liaising with the Information Commissioner and Devon and Cornwall Police.

14. I have reviewed the decision log which can be found at exhibit BG/2 and note that the ICO gave presentations to the IDG on 3 April 2003, 15 April 2003 and 9 May 2003. I was not present at those presentations.

15. When the IDG had completed their scoping, the matter was passed, through the formal tasking process, to the ACC for investigation. This tasking process was chaired by a Detective Superintendent. Investigations were generally allocated to the team which had capacity. I have reviewed the IDG tasking application form which can be found at exhibit BG/3 and note that another ACC SIO, DCI Paul Greenwood, was originally appointed to manage this investigation but due to changes in his responsibilities it was agreed that DCI Allen would be appointed the SIO.

(3) What were the terms of reference of Operation Glade and who established them?

16. The Terms of Reference are those that are recorded in decision 4 of the decision log (exhibit BG/2). They were as follows: -

"To investigate (covertly) at this time the allegations against Marshall in order to prove or disapprove his involvement in the offences alleged. The parameter of the investigation at this time will include Marshall himself, John Boyall and possibly Stephen Whittamore. There appears to be clear evidence that Marshall is conducting illegal PNC or CRO checks on behalf of John Boyall at the request of a number of reporters. The aim of the investigation will be to gather evidence of Marshall, Boyall and Whittamore's involvement in the misuse of the PNC or CRO systems with a view to prosecuting them for any offences disclosed or to prevent further misuse. Early consultation will take place with the CPS regarding appropriate charges should sufficient evidence be obtained."

17. The Terms of Reference for this investigation were proposed by the SIO, DCI Mick Allen. I do not specifically recall being consulted prior to the Terms of Reference being agreed but it would not have been unusual for myself and DCI Allen to have discussed them. The purpose of this discussion would be to agree that the objectives of the investigation were realistic and achievable taking into account available resources and other operational commitments. I am not aware if DCI Allen agreed the Terms of Reference with the Detective Superintendent responsible for Operations. I have examined the decision log (exhibit BG/2) and note that decision number 4 has been signed by a supervisor. I believe that this signature belongs to Detective Superintendent Fuller. The decision was entered by DCI Allen and details the parameters of the investigation in the early stages (12 August 2003).

18. I am not aware of any other discussions held with other officers with regards the Terms of Reference.

19. My role in this operation was to investigate the matter to establish if any offences had been committed. Specifically, as the IO, I was responsible for agreeing the tactics to be used in support of the SIO investigative objectives as defined within the Terms of Reference.

(4) Who briefed/tasked you in relation to this work? Did they give you any direction for the investigation other than the terms of reference?

20. This investigation was tasked to my team by the Detective Superintendent responsible for Operations, who I believe at that time was Tony Fuller. I do not recall the exact date of the tasking being received but note that DCI Allen makes his initial entry in the decision log (decision 4, exhibit BG/2) on 12 August 2003. Decision log entry number 2 states that the operation is to be tasked on 7 August 2003. I cannot confirm if the operation was tasked to the ACC on this date. The actual tasking process would have taken the form of a meeting between DCI Allen and Detective Superintendent Fuller. As mentioned previously, the Terms of Reference were set by DCI Allen. No other direction about how the investigation should be conducted was given to me. The parameters of this investigation (as is common to all investigations), remained under review throughout the relevant stages of the enquiry to ensure focus and effective use of resources.

21. After the formal tasking of the operation, I cannot recall receiving a briefing from IDG officers but assume that this would have occurred. It was an established practice for the IDG to provide the IO and Case Officer with an overview of the operation and to notify us of the extent of any activity already undertaken to prevent duplication.

22. I am aware from Operation Glade documents (exhibited as BG/4), which I have viewed, (Redbourn MG11 -01/02/2004) that DC Redbourn from the DPS IDG met with the SIO from the ICO, Alex Owen on 3 April 2003. The purpose of this meeting was to receive the initial ICO briefing of their investigation and to hand over documents which indicated that an MPS employee was concerned in the offences under investigation. From my review of various Operation Glade documents, this would appear to have been the first occasion that the ICO briefed their investigation into the MPS.

23. I do recall briefly meeting with Alex Owen in London shortly after the investigation was tasked to the ACC. I have no record of the date of this meeting but believe that he and a colleague were providing relevant documents to the Operation Glade Case Officer.

(5) Was the scope or direction of the investigation reviewed or altered in the light of developments as the investigation progressed? If so, please give details and explain why any changes were made.

24. There were changes to the direction and scope of the investigation during the operation. On 10 November 2003 (decision log entry number 20, exhibit BG/2)

I recorded a decision to arrest Alan King for the offence of conspiracy to corrupt. The reason for this was that evidence from telecommunications data and analysis indicated that King had been communicating with Marshall shortly before and after the PNC checks were conducted. This information led to the assessment that King was the conduit into Marshall, acting on behalf of Boyall and Whittamore.

25. Entry number 21 in the decision log (exhibit BG/2) details my decision to interview under caution the journalists who were suspected of being concerned in the offence of conspiracy to corrupt. In conjunction with the CPS, it was agreed that evidence existed which implicated a number of journalists in the offences under investigation. Material provided to Operation Glade by the ICO contained newspaper articles, ledgers and invoices from Whittamore indicating that PNC data had been requested and acquired. Contained within the ledgers and invoices were the names of journalists and costs for the information sought. It was from these documents that we identified the journalists concerned.

26. In consultation with the Case Officer, and with the knowledge of the SIO, I decided that the journalist interviews would not take place until Marshall and King had been further arrested and interviewed about new evidence which had been discovered. The delay in interviewing the journalists was to enable this new evidence to be fully assessed and considered for disclosure.

27. I have examined the decision log (exhibit BG/2) and note that on 10 November 2003 (decision 23) DCI Allen stated that the decision to interview the journalists

would be fully reviewed after the arrest and interview of both Marshall and King. His rationale for this was to allow for a full evaluation of the available evidence.

28. On 16 January 2004, (decision 28, exhibit BG/2) I have recorded a decision in the log to conduct interviews with the journalists concerned under caution but not under arrest. The decision not to arrest the journalists was an operational decision made by me. I have no doubt that I would have consulted with the Case Officer prior to arriving at this decision. I have no record of briefing Detective Superintendent Fuller of this decision but note from his entry in the decision log (dated 23/12/2003, exhibit BG/2) that he was aware of the proposed course of action. I believe that DCI Allen may have been posted to other duties by this time.

(6) To what extent, if at all, was there liaison during the investigation with other police forces? If there was liaison, please give details of the extent to which that liaison shaped or guided the investigation (if at all).

29. I did not personally liaise with other police forces during the course of this investigation. I am not aware of any liaison between the ACC Operational Team and any other police force. I have reviewed the statement of DC Redbourn DPS IDG (Redbourn MG11 - 01/02/2004 exhibited as BG/4) who states that she liaised with Devon and Cornwall Police to establish what enquiries they had made in relation to CRO checks. I assess that this liaison was part of the initial scoping and assessment phase of Operation Glade. I am not aware if DC Redbourn met with officers from that force.

(7) Did the CPS play any part in shaping or guiding the investigation in any way? If so, please give full details.

30. The CPS were aware of this investigation from the outset and involved at all stages of the investigation. I can see from decision number 2 (exhibit BG/2) that a meeting had been arranged with the CPS. This entry is dated 5 August 2003 and was prior to my involvement.

31. Decision number 4 (exhibit BG/2) is an entry made by DCI Allen, dated 12 August 2003, which refers to "early consultation with the CPS regarding appropriate charges should sufficient evidence be obtained".

32. On a non specified date between 15 August 2003 and 18 August 2003, I have made an entry in the decision log (exhibit BG/2) which refers to liaising with the CPS to establish which offences are the most appropriate for the subjects to be dealt with for.

33. On 6 November 2003, I, along with DCI Allen and DS Jason Tunn (Case Officer), attended a meeting with the CPS at Ludgate Hill. At that meeting advice was given on the fact that there would need to be an advice file before any charges in the matter. From the minutes of that meeting I see I had formed an opinion that the journalists should be arrested and interviewed as I assessed that they were ultimately responsible for instigating the checks to be carried out.

34. The involvement of the CPS from the early stages of all DPS investigations was common practice. This was due to the complex nature of the enquiries.

35. Decision number 18 (dated 10.11.2003, exhibit BG/2) records the fact that the CPS advice was not to charge until all the evidence was gathered. The CPS wished to see if it could be established that the charge of conspiracy to corrupt was provable and suitable. It was agreed to hold a further meeting with the CPS following a full forensic examination of computers seized from King's address as indicated at decision number 24 and 26.

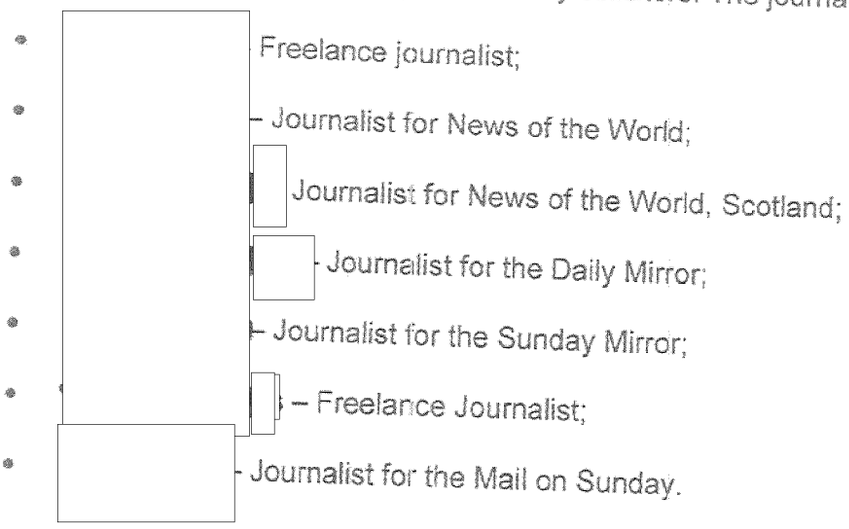
36. I note that I made a decision (entry 26 dated 26 November 2003, exhibit BG/2) to limit conducting research on a further 17 identified instances of PNC misuse by Marshall. This decision was made pending advice from CPS as to necessity to conduct full research. I have not been able to locate a response from CPS to this advice request and cannot therefore comment on the outcome. Within the rationale for seeking this advice I do refer to the intensive resources required to undertake this research.

37. My decision number 27 (dated 19 December 2003, exhibit BG/2) recorded that it was proposed to meet the CPS before the Christmas period to review the evidence gathered to date.

38. My decision number 28 (dated 16 January 2004, exhibit BG/2) records a decision to interview the journalists concerned in the unauthorised disclosure of police information and CPS advice that the journalists should be spoken to under caution. The decision to interview the journalists under caution as suspects in this matter was taken in response to the CPS advice. The decision

not to arrest the journalists was an operational decision which I would have taken in consultation with my Case Officer. This decision would have been notified to Senior Officers within the DPS Command. I do not recall any officer attempting to influence my decision in respect of this matter.

39. During the period 19 January 2004 to 31 January 2004, a total of 7 journalists were interviewed under caution. All attended police stations voluntarily at the invitation of police. All were represented by solicitors. The journalists were:



(8) Describe the level of cooperation from the media with your investigation. Was it satisfactory? Please explain your answer.

40. My interaction with the media was satisfactory. Solicitors representing the journalists contacted me in response to written invitations to attend police stations to be interviewed under caution. The journalists and their respective legal representatives attended the police stations at the appointed times. I believe that all of the arrangements to facilitate the interviews were conducted via the solicitors and not directly with the journalists.

(9) Please set out, in broad terms, the findings of the Operation. Please outline in particular the evidence of corruption among police personnel and the involvement of the media in the same (irrespective of whether that evidence was subsequently used to support the prosecutions).

41. The operation established that Paul Marshall had unlawfully used the PNC to obtain restricted information at the request of Alan King who was acting on behalf of Stephen Whittamore and John Boyall. Information gathered by the investigation established that Whittamore received information requests from numerous journalists and that payment was made for this information. Sufficient evidence was gathered to support the prosecution of Marshall, King, Boyall and Whittamore. The journalists were interviewed under caution but not under arrest. All of the journalists accepted that they had used Whittamore to obtain information but denied knowing that a corrupt police employee or unlawful methods were being used to access the information. CPS advice was sought in respect of all of the individuals either arrested or interviewed under caution during the course of this investigation. Specifically, the CPS was asked to advise as to the likelihood of a successful prosecution and appropriate charges.

42. Marshall, King, Boyall and Whittamore were charged with Conspiracy to Commit Misconduct in a Public Office. Marshall and King subsequently pleaded guilty. In April 2005, a charge of obtaining personal information contrary to Section 55(1)(a) of the Data Protection Act 1998 was added to the indictment against Boyall and Whittamore. Both pleaded guilty to this offence and the conspiracy charge was left on file.

43. On 15th April 2005, Marshall and King were each conditionally discharged for a period of two years at Blackfriars Crown Court.

44. On 15th April 2005, Whittamore and Boyall were also conditionally discharged. Boyall was ordered to pay costs of £1250.

45. On 6th March 2004, CPS advised that there was insufficient evidence to charge any of the journalists.

46. On 29th March 2004, a letter was sent to the solicitors representing the journalists, [redacted] advising them that there was to be no further action taken against them. These can be found at exhibit BG/5. The letter explained that insufficient evidence existed at that time to prosecute them (journalists) for any offence connected with the investigation. The letter also explained that if any further evidence came to light in the future then consideration would be given to prosecution. I have been unable to locate copies of the letters sent to the remaining journalists. I believe that we would have sent identical letters as the circumstances were the same for each journalist.

47. The sentences in this case were a disappointment to the police and the CPS and were viewed as being unduly lenient.

48. In May 2005, the CPS sought Counsel's advice as to the merits of a reference under section 36 of the Criminal Justice Act 1998 to appeal the unduly lenient

sentence. I am aware that Counsel advised against this course of action for a number of reasons. CPS may be better placed to articulate these reasons.

49. No other police personnel were found to be concerned in these offences.

(10) What involvement, if any, did you have in the charging decisions? Who made the charging decisions?

50. My involvement in the charging decisions would have extended to providing the CPS with all of the information necessary for them to decide on the most appropriate course of action.

51. The appointed CPS representative was responsible for making the charging decisions.

(11) What was the rationale behind the scope of those prosecutions? Why were no journalists prosecuted?

52. In my opinion, the scope of the prosecution was dictated by the evidence available to the investigating team, CPS and Counsel. In the circumstances, the CPS advised as to the most appropriate course of action in accordance with the Code for Crown Prosecutors. Whilst it was accepted that the journalists had indirectly caused the information to be unlawfully accessed, the investigation was unable to identify evidence which demonstrated that they (the journalists) knew the source of the information.

(12) With the benefit of hindsight, should the scope of your investigation and the prosecutions been broader? Please explain your answer.

53. The initial information provided to the investigating team indicated that journalists, through private investigators, (information providers) were using a corrupt police employee to access sensitive information held on the PNC. The investigation set out to establish the facts in response to that allegation. The outcome of that investigation led to the arrest and prosecution of some of the persons concerned and prevented that corrupt employee from committing further offences. In that respect the scope of the investigation and the prosecutions were appropriate.

54. The investigation examined the activities of the journalists but failed to uncover sufficient evidence to support a prosecution. Due to the high profile nature of the preceding investigations (Reproof and Motorman) the option to execute search warrants against the journalists was assessed as unlikely to yield anything of value as the media industry were aware of the on-going investigations. It was assessed that if any evidence had been present it would no longer have been in existence.

55. I believe that it is important to put this investigation into context in relation to the work undertaken by the DPS at that time. Whilst this investigation was recognised as a priority it was being conducted alongside approximately 40 other investigations across the Command with competing demands for finite resources. The allegation in this case was very specific and directed at a single police employee using the PNC for unlawful purposes. In 2003, the concept of

the national newspapers routinely using police employees to source sensitive information was still relatively unknown. On this basis, I believe the MPS response was appropriate. I have no doubt that if a similar allegation were to be made now the investigative approach would be significantly different.

I believe the facts stated in this witness statement are true

Signed [redacted]

Dated 23/3/2012