

DEC-01/08

REPORT OF AN INVESTIGATION

BORIS JOHNSON

**MAYOR OF LONDON
CHAIRMAN, METROPOLITAN
POLICE AUTHORITY**

BY JONATHAN GOOLDEN, BA(LAW) SOLICITOR

24th February 2009

SCHEDULE OF EVIDENCE

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Our ref:
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Date: December 5th 2008

Dear Fiona,

I am writing to ask that you investigate potential breaches of the Greater London Authority and Metropolitan Police Authority (MPA) codes of conduct by the Mayor of London/Chair of the MPA. These breaches relate to remarks made by Boris Johnson at the plenary meeting of 3 December 2008 and in the recent press. I believe that Mr Johnson is in breach of both the GLA and MPA codes of conduct for members.

Clearly there are breaches of the general principles as prescribed by the Secretary of State for all authorities:

Selflessness

You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Duty to Uphold the Law

You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

General

You must not disclose information given to you in confidence by anyone, or information acquired by you, which you believe, or ought reasonably to be aware, is of a confidential nature.

I believe that Mr Johnson breached these general principles as a result of specific violations of the code's general obligations, which are outlined below.

Mr Johnson made public his view on the on-going investigation into criminal suspect Damian Green MP following a confidential conversation with a senior MPS officer. The

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Times reported on 29 November 2008 (attached) that Mr Johnson spoke "in trenchant terms" to Sir Paul Stephenson, and that a spokesman for Mr Johnson "told the acting commissioner that he would need to see convincing evidence that his action was necessary and proportionate".

This appears to be a clear breach of general obligation 4 (a) of the MPA and GLA codes of conduct: "You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought to reasonably be aware, is of a confidential nature".

By making details of a private conversation with senior police officers public, I believe Mr Johnson has committed a serious breach of the codes of conduct and undermined the relationship between the Chair of the MPA and the Metropolitan Police Service (MPS) with regards to operational policing and on-going criminal investigations.

It is appropriate for the Chair of the MPA to give senior officers in the MPS private advice and personal views. What is not appropriate is to then put this advice – and in this case Mr Johnson's prejudicial views – in the public domain for what can only be perceived as for political ends.

At the plenary meeting held on 3 December 2008, Mr Johnson freely admitted that, after receiving a briefing from senior police officers on the impending arrest of a criminal suspect, Damian Green MP, he and his political office had been in contact with Mr Green and others. As confirmed by Acting Commissioner of the Police of the Metropolis, Sir Paul Stephenson, at the plenary meeting, Mr Johnson received the information relating to Damian Green's arrest as Chair of the Metropolitan Police Authority. Mr Johnson told the Assembly on 3 December 2008 that he was subsequently in contact with Mr Green as "a friend and ex-colleague".

By discussing the on-going case with the criminal suspect to "ascertain...where the facts seem to lie" and letting be known his views on the on-going investigation, Mr Johnson has clearly breached general obligation 6 (a) of the GLA and MPA codes of conduct: "You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or another person, an advantage or disadvantage".

At the same meeting, Mr Johnson went on to pre-judge the outcome of the investigation by saying "I am yet to be dissuaded that it is likely to yield either a charge or a successful prosecution". The Mayor, as Chair of the MPA, has no business publicly commenting on – and potentially corrupting – an on-going police investigation.

As a result of the Mr Johnson's words at the plenary meeting and in the press, the public could understandably infer that – given his position as Chair of the MPA – he was privy to information which led him to take a view on the case and pre-judge its outcome.

By publicly pre-judging the outcome of an on-going police investigation and implying to the public that he had access to sensitive information regarding the investigation into his "friend and ex-colleague", I believe Mr Johnson has brought the MPA and office of Mayor into disrepute. He has therefore breached general obligation 5 of the GLA and MPA codes of conduct: "You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute"

It is my view that Mr Johnson has broken the GLA and MPA codes of conduct, by:

1. publicly undermining an on-going criminal investigation following information received in confidence;
2. contacting a criminal suspect in an on-going investigation
3. pre-determining in public, as Chair of the MPA, the likely outcome of a criminal investigation, thereby potentially compromising any future legal proceedings

I believe the breaches above fall under the remit of both the GLA and MPA Standards Boards. I would ask that you keep me informed as to how you intend to progress this referral. I am willing to clarify any issues raised in this letter and provide additional information if necessary.

Yours sincerely

A handwritten signature in black ink that reads "Len Duvall". The signature is written in a cursive style with a large initial 'L' and 'D'.

Len Duvall OBE
London Assembly Member for Greenwich and Lewisham

Cc Catherine Crawford, Chief Executive, Metropolitan Police Authority

From Greater London Authority website – 12th February 2009

Boris Johnson - Biography



Boris Johnson, Mayor of London
Elected on 2 May 2008

Boris Johnson was born in June 1964 in New York. His family moved to London when he was five years old.

Few Londoners have entirely English descent, and Boris is no exception. He describes himself as a 'one man melting-pot', with French, Turks and Germans among his ancestors.

Boris went to primary school in Camden and was subsequently educated at the European School in Brussels, Ashdown House and then at Eton College. He later read Classics at Balliol College, Oxford as a Brackenbury scholar. During his time at Oxford University he became president of the prestigious Oxford Union. After graduating he moved back to London.

Much though he envies and admires the City, he lasted a week as a management consultant before becoming a trainee reporter for The Times. His career in journalism has seen him undertake various jobs. After a short time as a writer for the Wolverhampton Express and Star, he joined The Daily Telegraph in 1987 as leader and feature writer. From 1989 to 1994 he was the Telegraph's European Community correspondent and from 1994 to 1999 he served as assistant editor. His association with The Spectator began as political columnist in 1994. In 1999 he became editor of the paper and stayed in this role until December 2005.

Besides his work as a journalist, he has published several books, including 'Lend Me Your Ears, Friends, Voters and Countrymen', an autobiographical account of his experience of the 2001 election campaign, and a novel, 'Seventy-Two Virgins'.

He regularly appears on TV and has been a contestant on Have I Got News For You. He has also produced a series on Roman History from his book of the same name, The Dream of Rome.

In 2001 he was elected MP for Henley on Thames, replacing Michael Heseltine. He has held shadow government posts as Vice Chairman, Shadow Minister for the Arts and Shadow Minister of Higher Education. In July 2007, Boris Johnson resigned from his position as shadow education secretary so that he would be free to stand as Conservative candidate for Mayor of London. He resigned as MP for Henley shortly after becoming Mayor of London.

As well as being a passionate cyclist, he enjoys painting, playing tennis and spends much of his time bringing up his four children with his wife Marina in North London.

House of Commons (Hansard)

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Government Information (Unauthorised Release)

11.21 am

The Secretary of State for the Home Department (Jacqui Smith): With permission, Mr. Speaker, I should like to make a statement on the current police investigation into the unauthorised release of government information. As has been widely recognised across the House, some very important principles are at stake in this matter: that nobody should be above the law; that the police should have the operational independence to conduct their investigations without fear or favour; that Members of this House should be able to do their work and be able to hold the Government to account; and that the impartiality of the civil service should be protected. Members of this House will, of course, understand our obligation not to prejudice an ongoing police investigation, but I shall be as helpful as I can in my statement.

On 8 October 2008, following consultations with the Home Office, the Cabinet Office requested the assistance of the Metropolitan Police Service in investigating a series of leaks. That request was made by the Cabinet Office, as it has ultimate responsibility for the security and integrity of the working of government. No Cabinet Office Minister was involved in the decision. The request followed a number of internal Home Office leak inquiries, which had not identified the source of the leaks. There was concern that an individual—or individuals—in the Home Office who had access to sensitive material was prepared to leak that information.

Faced with what appeared to be the systematic leaking of classified information over a sustained period, given the damage that that was doing to the effective conduct of Government business and because of the sensitive issues, including national security, that the Home Office deals with, I agreed with the view of Sir David Normington, my Department's permanent secretary, that it was essential to request police assistance in identifying the source of those leaks. The sustained level of leaking that had already taken place clearly suggested that this could go on, would escalate, and that more information of greater sensitivity could potentially leak. *[Interruption.]*

Since the request for police assistance was made— *[Interruption.]*

Mr. Speaker: Order. Allow the Home Secretary to speak. The subject is important.

Jacqui Smith: Since the request for police assistance was made, the Home Office has co-operated fully with the police investigation. A full list of relevant leaks, including

those involving highly classified material, was passed to the police for their consideration.

As acting commissioner Sir Paul Stephenson set out in his statement yesterday, after initial inquiries the Crown Prosecution Service was consulted. The police officers involved were satisfied that they had reasonable grounds to make an arrest of a junior Home Office civil servant. On 17 November, I was informed by Sir David Normington that an arrest of a Home Office civil servant was likely in the next few days. On 19 November, the Home Office civil servant was arrested on suspicion of misconduct in public office. On 27 November, the police arrested the hon. Member for Ashford (Damian

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Green) on suspicion of conspiring to commit misconduct in a public office and aiding and abetting, counselling or procuring misconduct in a public office.

As the statement issued by Sir David Normington on 28 November made clear, he was informed by the police at about 1.45 pm on 27 November that a search was about to be conducted of the home and offices of a member of the Opposition Front Bench. Sir David was subsequently told that an arrest had been made. This was the first time that anybody in the Home Office was informed that a Member of this House was the subject of the police investigation. I have made it clear that neither I nor any other Government Minister knew until after the arrest of the hon. Member that he—or any other hon. Member—was the subject of a police investigation or was to be arrested. I hope that those who have asserted the contrary will now withdraw their claims.

Let me be clear that even if I had been informed, I believe it would have been wholly inappropriate for me to seek to intervene in the operational decisions being taken by the police. I will not do that and I should not do that. On 1 December, I spoke to the acting commissioner to reassure myself that the investigation was being pursued diligently, sensitively and in a proportionate manner—[Hon. Members: “Sensitively?”] Sir Paul informed me— [*Interruption.*]

Mr. Speaker: Order.

Jacqui Smith: Sir Paul informed me of his intention to set up a review of the handling of the case to date, which I welcomed. The following day he announced that Chief Constable Ian Johnston would conduct that review. In that telephone call with Sir Paul I expressed my support for the operational independence of the police from political intervention—as I have done previously, as I have done since, and as I will continue to do.

Nobody in the House should doubt the sensitivity of the investigation or the importance of the issues involved. I welcome your statement yesterday, Mr. Speaker, and your decision to set up a Committee of seven Members of this House. Your statement also set out the circumstances in which the police asked for and gained consent to search the parliamentary office of the hon. Member for Ashford. I spoke to Sir Paul Stephenson yesterday evening to seek his clarification of those events. Assistant Commissioner Bob Quick has subsequently written to me to set out his understanding of the obligations the Met were under and his account of the steps they took. I am placing a copy of that letter in the Library. Sir Paul also assured me that Ian Johnston’s review will cover those issues.

I wholeheartedly support the right of every hon. Member to do their job, to hold the Government to account, and to make available information that is in the public interest, but the systematic leaking of government information raises issues that strike at the heart of our system of governance. Such activity is not about merely creating political embarrassment, for me or for any other Minister. Such activity threatens the respected role of the civil service in supporting our democracy in a politically impartial, honest and professional manner, and it drives a coach and horses through the civil service code, which states that civil servants should act

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“in a way which deserves and retains the confidence of Ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in some future government.”

All of us, on both sides of the House, have a right to expect that our vital role should be protected, and we have a responsibility, too, to respect the law and uphold the proper workings of the civil service. I would be surprised—and indeed dismayed—if any hon. Member thought that that was not the case.

I commend my statement to the House.

Mr. Dominic Grieve (Beaconsfield) (Con): I thank the Home Secretary for previous sight of her statement. The issues at stake are indeed very serious. They involve basic ministerial oversight over counter-terrorism police operations against a Member of this House which were heavy-handed and incompetent at best, and at worst an unwarranted assault on our democracy— [*Interruption.*] Let us be equally clear what is not at stake. We can all agree that MPs are not above the law, and that the police have no place in politics. Nor does this have anything to do with national security. There is not the slightest evidence of that, and Her Majesty’s Opposition— [*Interruption.*]

Mr. Speaker: Order. I now call for silence for the Opposition spokesman.

Mr. Grieve: There is not the slightest evidence of that and Her Majesty’s Opposition take the integrity of official secrets as seriously as the Government, despite attempts by Government spokesmen to smear and spin to the contrary.

The Home Secretary has regularly briefed me and my predecessor on matters of national security. Can she name one occasion when she has raised any concern that her confidence has not been kept? Can she now confirm that no known leaks from her Department relating to national security involve my hon. Friend the Member for Ashford (Damian Green)?

This episode has nothing to do with national security and everything to do with political embarrassment. Nor is it about confidentiality in the work place, matters for which employment law provides a perfectly adequate remedy. If there have been 20 leaks or more, as the Government are briefing, the problem extends well beyond any facts relevant to my hon. Friend. It heralds a systematic breakdown in trust between

officials and Ministers, arising from the Home Secretary's willingness to conceal failings in her own Department on matters of manifest public interest.

The Home Office initiated the leak inquiry and knew that Opposition Members had commented on four disclosures reported in the media. Is it the case that for eight days after the arrest of Mr. Galley, the police were investigating my hon. Friend, but the Home Secretary had not the faintest idea about it? If she was cut out of the loop, was the Minister for the Cabinet Office or any other Minister or official there informed by the police that a Member of Parliament was the target of their investigation? If the Cabinet Office was kept updated, why was not the Home Secretary? Why was the Cabinet Office not kept updated if it had initiated the investigation?

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Were counter-terrorism police operating without any Home Office ministerial notification, oversight or accountability from start to finish?

The Home Secretary has stated— [*Interruption.*]

Mr. Speaker: Order.

Mr. Grieve: The Home Secretary has stated that she was unaware at any point before the arrest that any Member of this House was part of the police investigation. Can she clarify some details? **What was the exact remit of the investigation requested by the Cabinet Office of the police? Was it strictly confined to a request to investigate the commission of a criminal offence, and will she now put a copy of the written referrals from the Cabinet Office to the police in the Library so that we can study them? When did she or her officials receive updates on the police investigation? Who provided them and what did they cover? Did she at no point ask who the subjects of the investigation were, because it is clear that in the early stages of the investigation she was kept informed? Did she ask any questions at all?**

Does the Home Secretary still cling to her utterly flawed defence that there is nothing she could have said or done in advance of the arrest even if she had been aware? She undermined that implausible excuse on Tuesday by seeking assurances from the acting Metropolitan Police Commissioner that the investigation was being pursued diligently, sensitively and proportionately. If she can ask those basic questions after the arrest of my hon. Friend, why did she not ask questions before? She could have asked whether police had asked to interview my hon. Friend on a voluntary basis. She could have asked whether the deployment of more than 20 counter-terrorism officers to arrest a Member, search his offices, search Parliament and seize documents, phones and computers was proportionate and necessary. She could have asked whether the Director of Public Prosecutions had been consulted.

Did the police try to obtain a warrant to search the House of Commons office from a magistrate before they came to see the Serjeant at Arms, and if so, were they refused? Were the police acting in compliance with the Police and Criminal Evidence Act 1984 and its codes? I have to say that the letter from Mr. Quick on the subject is a masterpiece of obfuscation. Does the Home Secretary agree with him, or with you, Mr. Speaker, in your statement, that no proper statement of rights to refuse entry was given to the Serjeant at Arms beforehand? I am afraid that I have to say that Mr. Quick's letter and your statement, Mr. Speaker, are incompatible.

Of course Home Secretaries make statements about police operations. The right hon. Member for Norwich, South (Mr. Clarke) did so immediately after the 7/7 attacks, as did the Home Secretary herself after the Glasgow and Haymarket attacks. Based on her own practice, does she now accept that this can be done without prejudicing an investigation, and should be done in serious cases to maintain public confidence?

Finally, seeing what is now emerging, does the Home Secretary regret her wilful ignorance in this whole affair and the decision to wash her hands of the basic responsibilities that come with her office? Who is in charge of the police, if she is not?

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Jacqui Smith: May I first draw the hon. and learned Gentleman's attention to the public statement of Sir Paul Stephenson on the subject of whether counter-terrorism police officers—as he described them—were involved in the operation? As Sir Paul Stephenson makes clear, following the reorganisation in New Scotland Yard of the previous special branch and the previous counter-terror branch they are now working together under the heading of the counter-terrorism command. As he pointed out, it is not accurate to claim that they were counter-terror police officers; nor, as he has made quite clear, was this a counter-terror investigation.

The hon. and learned Gentleman asserted several times that “there is not the slightest evidence”. He does not know what evidence the police have. I do not know what evidence the police have—but I do know that it is wholly appropriate that the police should use their professional judgment to follow the evidence during the course of a police investigation without fear or favour. That comes to the heart of what appears to be a misunderstanding by the hon. and learned Gentleman and other Opposition Members about the difference between the operational independence of the police during an investigation and appropriate and important methods of accountability that, whether through the criminal justice system, the procedures set up by the House or the review that Sir Ian Johnston is carrying out, will appropriately report but will not interfere with the operational independence of the police. I made it completely clear in my statement that even if I had been informed about the investigation of a Member of this House I would have considered it wrong to intervene in that investigation. I am interested that the hon. and learned Gentleman does not seem to take the same view.

On the point about the subjects of the investigation and when I was informed, it seems sensible and obvious to me that I would have been informed about an investigation taking place within the Home Office and the potential arrest of a Home Office official, and I was. I was not informed about the investigation and potential arrest of a Member, and I hope that the hon. and learned Gentleman—although he has not taken this opportunity—will remove his continued assertion that I am not telling the truth.

On the point about whether any other Minister asked for or received specific assurances, I believe that I have made it clear that no other Minister did.

Finally, I think that the hon. and learned Gentleman would have more ably demonstrated that he believes that all the principles that I outlined are important if he had expressed any concern whatsoever about the nature of leaking from Departments. The Home Office deals with some of the most sensitive issues across Government. I believe that for a potential future Home Secretary to be so unconcerned—cavalier—

about the leaking of information from the Home Office is a serious issue for the security of that information, for the impartiality of the civil service and for the good governance of this country.

Chris Huhne (Eastleigh) (LD): I am concerned at the new principle that the Home Secretary appears to be setting out that the leaking of information from the Government is in all circumstances something to be deplored. The reality is that the House's formal procedures for holding the Executive to account are so weak that

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the hon. Member for Great Grimsby (Mr. Mitchell) has described them from the Government Benches as like "heckling the steamroller". In the circumstances where this Parliament is a constitutional poodle by comparison with other Parliaments in the western democratic world, it is essential that other means of having checks and balances are there.

The leaking of information has a long and honourable precedent. Let me, for example, cite the official in the Secret Intelligence Service, called Desmond Morton, who briefed the then Back Bencher, Sir Winston Churchill, about the gathering threat of German rearmament. That was an essential part of the pressure put on the appeasement Governments of the day to take account of the threat to national security. So even matters of national security may, it seems to me, be justified as leaks to hold the Government to account.

In this case, will the Home Secretary confirm that she was merely concerned about a potential breach of national security and that there were no actual breaches of national security? The elision in her answer was very clear to any Opposition Member, and she needs to clarify her position. She is also unclear in her statement whether Sir David Normington told her, after she was informed by the police, that there would be a search of the premises of an hon. Member and whether she was then concerned. If not, why not? Again, in her answer, she elides between the arrest and the search. Surely, if the police were informing her most senior official—I assume that her most senior official informed her—that, in fact, a search was impending, that should have been enough to ring alarm bells with the Home Secretary.

Does the Home Secretary agree at the very least that the police action in this matter should cause us, as a House, as a Parliament and as a legislature, to reopen the issue of taking away responsibility for the security of the House from the Serjeant at Arms, since a clear principle is at stake? Does she now agree that the muddle in which she has landed herself in this case should be clarified, not least with a parliamentary privileges Bill—as recommended by a cross-party Committee nearly 10 years ago—a civil service Bill to ensure that our civil service is as impartial as it should be, and is always protected from undue political pressure, and a Bill to restore protection for whistleblowers who act in the public interest? We need to bring back the protections for whistleblowers that the Government and their predecessor abolished.

Jacqui Smith: The hon. Gentleman started off with an impassioned defence of leaking. I have argued—and I think that I have made it clear in my statement today—that I believe that the role of Members of this Parliament in using information that they gain access to, certainly in some of the circumstances to which the hon. Gentleman has referred, has happened, should happen and will continue to happen. That is an important element in the accountability of Government in this country. But

it is also absolutely right that, if civil servants believe that the activity of their Government Department is unethical or improper, they should have a route through which they are able to take that issue up. That is why the Home Office has a clearly communicated whistleblower policy through which civil servants are able to raise issues of concern, including externally with the Civil Service Commissioner, and why this Government

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have put in place the Act covering the disclosure of public information referred to by my right hon. and learned Friend the Leader of the House, to give further protection to individuals in those circumstances.

In this case, however, we were concerned about a potential systematic series of leaks. The original leak inquiries—which took place when it was not clear who was responsible, or whether it was one person or more than one—did involve, in the reference from the Cabinet Office, issues that related to national security, as of course does the work of the Home Office. For the hon. Gentleman to phrase his question as to whether we were “merely” concerned about a possible leak of national security, represents an underestimation of the significance of our role in safeguarding the information that we deal with.

In relation to the hon. Gentleman’s specific questions about action between search and arrest, I was not informed about the search of the hon. Member’s office until after both the search and the arrest had taken place.

Keith Vaz (Leicester, East) (Lab): I thank the Home Secretary for her very full statement. Of course I accept that she was not informed of this circumstance until after it had occurred. The first telephone call appears to have been made to the Mayor of London, and the second to Sir David Normington. The Home Secretary was then informed. This is the second occasion on which she and the Mayor have taken a different view on the issue of policing in London and, in my view, this does not bode well for the imminent appointment of the next Metropolitan Police Commissioner. In respect of the two inquiries that have been set up so far—the Johnston inquiry and the inquiry that Mr. Speaker is setting up—and any other inquiries that Select Committees might want to set up, will my right hon. Friend give the House an undertaking that she, other Ministers and civil servants will be prepared to come and give evidence to those inquiries, and that there will be full co-operation so that all the facts of this matter can be brought before the House?

Jacqui Smith: I can certainly give my right hon. Friend an assurance that I will be perfectly willing, as I have been today, to give the fullest possible information—in a way, of course, that does not prejudice any investigation. I—and, I am sure, other Ministers—will be willing to give the fullest possible information. With respect to my right hon. Friend’s concerns about the appointment of the Metropolitan Police Commissioner, may I put on record—I believe that the Mayor shares this view—that we understand that this is an appointment of vital importance both for London and for the national interest, and that we will work closely to make sure that we get the best candidate for that extremely important job.

Mr. Kenneth Clarke (Rushcliffe) (Con): The Home Secretary has confirmed that she was the only Minister who authorised the involvement of what is usually called the special branch in the investigation of incidents of which she was the only victim

and from which she had already suffered only political embarrassment. Can she tell the House whether she challenged or discussed that recommendation, and in particular what legal advice she sought about the matter being moved into the

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sphere of a criminal investigation? At what stage were the Law Officers asked for their opinion? At what stage was the Director of Public Prosecutions asked for his opinion? Did she obtain the advice of even Home Office lawyers?

Jacqui Smith: The right hon. and learned Gentleman is wrong. I did not authorise the investigation into the leaks and I did not say that I had. Completely appropriately, the Cabinet Office, which has responsibility—and, I suspect, probably did in his day as well—for the integrity of Government information, asked the police for assistance in the investigation, following a series of leak inquiries which had been inconclusive. I think that that was wholly appropriate. As I said in my statement, I agreed with the view of Sir David Normington that it was appropriate that the matter be referred to the Cabinet Office and that that then involved the police in the investigation. When there has been a process of internal leak inquiries and the use of external inquirers, and there is the serious issue of the systematic leaking of matters that could be extremely sensitive, it seems to me appropriate for Government to ask the police to help with those investigations. The only basis on which the police will carry out those investigations is if they suspect that a criminal investigation may be necessary.

John Reid (Airdrie and Shotts) (Lab): On the basis of the statement by the Home Secretary, I have no doubt at all about her integrity and truthfulness in this matter. It ill behoves Opposition Members to imply that there is a lack of either. I also accept the integrity and impartiality of the vast majority of civil servants who day in, day out serve Governments of all persuasions, despite their own personal opinions. That should be placed on the record. However, I would be wrong if I did not express some unease about two aspects of the matter. **One is fact that having been told—quite properly, in my view—that there was contact on this subject between one politician connected with the Metropolitan police service, the Mayor of London, and the person at the centre of the investigation, that must be looked at.** Secondly, I am surprised, to say the least, that the Secretary of State for the Home Department was not informed that her opposite number, effectively, was about to be arrested. If I had been told after the event that that had been done, I cannot think that I would have remained as placid as she has in the circumstances. Notwithstanding the fact that she has said that even if she had been informed, she would not have acted differently, I do not think that we should take that as a ruling that someone in her position should never be informed. For my part, I would have wanted to be informed, and to express a view on the matter. I hope that she will look at those processes without prejudice.

Jacqui Smith: It is, of course, completely appropriate that the process of both the investigation and the information that was passed on should be part of questions and consideration after the police investigation. With respect to my right hon. Friend's first point, I believe the Metropolitan Police Authority and certain Members have already questioned what the Mayor knew, who he chose to share that information with and who he chose to communicate it to. It seems wholly appropriate for them to do that. On the second point, about whether

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and when I should have been informed, it is a matter for the Metropolitan police as to the point at which I was informed. I have made clear the questions that I asked after

being informed. On the subject of placidity—I think that sometimes it behoves Home Secretaries to deal calmly with issues that are of significance, such as the present matter.

John Hemming (Birmingham, Yardley) (LD): The Home Secretary may be interested to know that, following the Government's example of using the criminal law to persecute Opposition politicians for being too effective, the States of Jersey have initiated a criminal investigation into Senator Stuart Syvret, which should cause grave concern because of the situation in Jersey. Has the Home Secretary had any advice as to which elements of leaked information were covered by the Freedom of Information Act and the fact that the civil servant would have had a duty to reveal that information? Does she find it a little odd that one faces a criminal investigation for revealing certain information that one has a duty to reveal?

Jacqui Smith: Although the hon. Gentleman's point was very broad, covering a range of cases, I listened with interest. He made some important points, which I am sure people will want to return to, not least as part of the accounts that are being done here.

Mr. David Winnick (Walsall, North) (Lab): I entirely accept the integrity of my right hon. Friend. I do not question that in any way, and it is quite likely that the political points that the hon. Member for Ashford (Damian Green) was trying to make were matters with which I would hardly agree. Does my right hon. Friend accept that no one has suggested for one moment that MPs are above the law? Of course we are not above the law, but is there not a distinction between that and our role as Members of Parliament carrying out our parliamentary duties and being able to do so without fear or favour? If that is undermined, parliamentary democracy is undermined.

Jacqui Smith: I agree with my hon. Friend that both the principle of the important and significant role of Members of Parliament and the principle that nobody is above the rule of law need to be upheld in the present situation.

Mr. Michael Howard (Folkestone and Hythe) (Con): Did the Home Secretary at any time give any indication to officials that she did not want to be kept informed of the progress of the investigation?

Jacqui Smith: No.

Andrew Mackinlay (Thurrock) (Lab): A little while ago I had a hand in getting the Prime Minister to reaffirm the Wilson doctrine, and he extended it to modern electronic surveillance. On the face of it, it would appear that the Wilson doctrine has been abrogated by the police in this case. Clearly, the e-mails of the hon. Member for Ashford (Damian Green) were looked at. I venture to suggest that he was listened in to, and that there has been access to all our e-mails. Can the Home Secretary tell us whether the Wilson doctrine has been abrogated? Will she place in the Library the reply that she sends to the letter that I sent her two days ago on that specific point?

Jacqui Smith: I am sorry my hon. Friend has not received the reply to the letter, which I sent him yesterday and in which I made it clear that the Wilson doctrine as outlined by the Prime Minister has not been abrogated.

Peter Bottomley (Worthing, West) (Con): On two of the occasions when I have talked to the commissioner or other senior police officers about operational matters, one shortly after the death of Stephen Lawrence and the other after the police had put an anti-terrorist team to search the home of Sergeant Gurpal Viridi, one of their own members, I did not find any objection from the police, and I did not think I was doing anything wrong, so I hope the Home Secretary will not be too delicate about discussing issues. It is a perfectly proper thing to do. Will she have a chance to read column 52 of yesterday's *Hansard*, which shows the Minister of State, Department of Energy and Climate Change making a number of allegations and assertions about the civil servant involved, and tell the House whether she thinks that was proper, and whether it was prepared by someone on the Government Front Bench? Lastly, can she confirm that malfeasance in public office is not always a criminal offence?

Jacqui Smith: I have not read the passage to which the hon. Gentleman refers. The point about misconduct in public office is that it is potentially a criminal offence—*[Interruption.]* Well, that depends whether it has happened. As a common law offence, it is also a legitimate part of the criminal process of this country.

Sir Gerald Kaufman (Manchester, Gorton) (Lab): When my right hon. Friend was considering these issues, did she take into account such precedents as the prosecution and imprisonment by the Conservative Government of a woman civil servant for handing over details of Michael Heseltine's diary to *The Guardian*, and the prosecution of Clive Ponting, when the Conservatives wanted to imprison him but he was acquitted on a public interest defence—which they immediately abolished, so that nobody else could have a public interest defence? In considering these issues, will my right hon. Friend take into account the synthetic indignation of the Conservatives, who seek one law for a Tory Government's iron heel and another law for a Labour Government?

Jacqui Smith: My right hon. Friend is right, of course. When we talk about disclosure of information from Government, we are in areas of the utmost controversy that go to the heart of the nature of our democratic system and to the heart of the nature of the role of the civil service in this country.

Although I did not consider those precedents in detail, I certainly thought about them and also about previous, extremely sensitive investigations into senior political figures. In some of those cases, I do not remember hearing the sort of outrage that we are hearing around this issue.

David Davis (Haltemprice and Howden) (Con): If the issue was really a serious matter of national security, why were the arrests not carried out under the Official Secrets Act?

Jacqui Smith: The right hon. Gentleman is right that there have been circumstances under which issues of national security have resulted in the use of the Official
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Secrets Act. There have also been occasions on which the offence of misconduct in public office has been appropriate. Of course, there have not yet been any charges in this area and that is, of course, the responsibility of the police in terms of the evidence that they have. I made the point earlier to the hon. and learned Member for Beaconsfield (Mr. Grieve) that neither he nor I—nor the right hon. Gentleman—have seen the evidence to make the appropriate decisions on the investigation, and, with the involvement of the Crown Prosecution Service, on the nature of any charges, which may or may not emerge.

Ms Patricia Hewitt (Leicester, West) (Lab): I believe that my right hon. Friend the Home Secretary and her permanent secretary have behaved absolutely appropriately on this occasion. May I bring her back to the Freedom of Information Act 2000, which was raised by an Opposition Member? Does she agree that that Act—which was introduced by this Government, of course—has fundamentally changed the situation? It makes available to the House, the public and the media an immense amount of information that would never have been made available under any previous Government, whether Conservative or Labour. Furthermore, under that Act we have an independent Information Commissioner whose job it is to hold the balance between the public interest in disclosure and the public interest in good government, including confidential advice to Ministers. In those circumstances, is it not—
[Interruption.]

Mr. Speaker: Order. The right hon. Lady has given me an opportunity to remind the House that there should be only one supplementary to the Home Secretary.

Jacqui Smith: My right hon. Friend makes a very important point about the willingness of the Government to put in place, quite rightly and legitimately, the appropriate ways for members of the public and Members of the House—and civil servants, when necessary—to make information publicly available. I am thinking of the Freedom of Information Act, the whistleblowing processes that I outlined and the legislation that we have put in place to support whistleblowers. Given that record, my right hon. Friend is right that as a Government we have proved ourselves to be more open than any previous Government—and, incidentally, more open than any proposals put forward by Opposition Members.

David Howarth (Cambridge) (LD): Does the Home Secretary not accept that there is a vast difference between threatening to sack someone for breach of confidentiality and setting the criminal law attack dogs on them? Is she saying that because the Home Office deals with some matters of national security, any leak from the Home Office is now a criminal matter—even though we know that in this case no real matters of national security were at stake?

Jacqui Smith: Once again, I have to say that a Member is claiming a greater knowledge of the evidence than he can possibly have. When there has been systematic leaking and internal leak inquiries have not been able to discover its source, at a certain point I do believe it appropriate to ask the police for their assistance in that investigation.

Mr. Adam Ingram (East Kilbride, Strathaven and Lesmahagow) (Lab): I thank my right hon. Friend for her statement and how she has conducted herself so calmly throughout this affair. Why should Her Majesty's loyal Opposition have thought it necessary to take legal advice on this matter? Does she share with me the view that perhaps, in their wish to see great transparency and openness, they should publish the brief that they gave to counsel and the legal advice that they obtained?

Jacqui Smith *rose*—

Mr. Speaker: Order. What the Opposition do is not for the Home Secretary to account for.

Sir Nicholas Winterton (Macclesfield) (Con): Surely the Home Secretary will be aware that leading members of the Labour Governments since 1997 were expert and very successful in using leaked material during the last Conservative Government. In respect of a point made by the right hon. Member for Airdrie and Shotts (John Reid), a former Home Secretary, is she not aware that she should have been informed by the police in a case involving a Member of this House? It is an exceptional situation. How many of the 20 leaks that she has mentioned involved national security?

Jacqui Smith: On the first point, about the use of information, I should say that today I have made absolutely clear my view that it always has been the case—and will remain so in future—that hon. Members and others who receive information should be able to use it in the public interest and that hon. Members should be able to carry out their role as Members of the House. However, I do not accept that that implies that there is no responsibility on the Government to investigate when leaks become systematic, happen in Departments that deal with some of the most sensitive issues, including national security, across Government, and risk undermining the principles of the impartiality of the civil service code.

On the point about being informed, I think that I was clear in my response to my right hon. Friend the Member for Airdrie and Shotts (John Reid) that I was not, and that was a decision for the Metropolitan police.

Alan Keen (Feltham and Heston) (Lab/Co-op): Perhaps I am a bit old-fashioned, but I have been made to feel nauseous on so many occasions since this event broke. The statements made by people have often demonstrated their self-importance rather than tried to solve the problem. To be constructive, may I ask the Home Secretary whether the advice to Back Benchers of any political party should be that one telephone call from a civil servant on an issue of national security should be reported immediately to the security people, and one telephone call on an issue not of national security should lead to a fatherly or motherly talk to the individual—"Look sonny, don't do this. Go and get another job if you don't like it"?

Jacqui Smith: My hon. Friend offers me the opportunity to give advice. Hon. Members are very aware of their responsibilities, with respect both to their own roles and to the impartiality of the civil service. That is how Members of this House should and do act.

Mr. Edward Leigh (Gainsborough) (Con): Following the intervention from the right hon. Member for Airdrie and Shotts (John Reid)—the Home Secretary’s distinguished predecessor who sits behind her and said that he would have liked to have been tipped off that his opposite number was about to be arrested—what lessons has the Home Secretary learned from this incident about the future? Does she think that in future it might be wise for the Home Secretary to be informed if an Opposition spokesman was about to be arrested for doing his job?

Jacqui Smith: What I have learned is that if we believe in the principle of the operational independence of policing, we should put that into practice, however difficult and tricky the circumstances.

Tony Lloyd (Manchester, Central) (Lab): I want to comment on exactly that theme. Had my right hon. Friend been informed and attempted to interfere with that operational freedom, she would have faced legitimate demands for her resignation. Opposition Members—former Home Secretaries—have said that they would have interfered with police operational independence. My right hon. Friend has done exactly the right thing and will be supported by people throughout the country on that basis.

Jacqui Smith: I thank my hon. Friend for that. I think that it would have been wholly inappropriate for any Home Secretary to intervene in a police investigation in the way that some have tried to imply they would have done.

Mr. Roger Gale (North Thanet) (Con): The shadow Home Secretary asked the Home Secretary a number of questions that she failed to respond to. Let me try a couple of them again. First, did the police apply to a magistrate for a search warrant to enter the House of Commons? If not, why not? If they did, were they turned down? Secondly, is she personally satisfied that this operation was carried out under the terms of—

Mr. Speaker: Order.

Jacqui Smith: On the first point—the only point—I have made it clear that I asked some of those questions yesterday evening. Bob Quick, the Assistant Commissioner, responded to me today, and I have placed that letter in the Library. [Hon. Members: “Answer!”]

Mr. Speaker: Order. I usually let a statement run for an hour, but if there are such levels of shouting I will cease the statement now. That is the danger that right hon. and hon. Members run. Shouting like that is not something that I will tolerate.

Dr. Nick Palmer (Broxtowe) (Lab): I share the fairly widespread concern about the allegations of, or suspicion of, criminal activity by an hon. Member and about the tendency of the police in recent years to take a more dramatic role in political controversy than we would wish. However, we are not considering one aspect, which is non-criminal. Does the Home Secretary agree that if any hon. Member seeks systematically to encourage a breach of the civil service code, regardless of whether it is criminal, it is a reason for shame?

Jacqui Smith: My hon. Friend is right. It is important for all political parties and for anybody who believes that they may, at some point, form the Government of this country, that we uphold the political impartiality of the civil service as set down in the civil service code. That is one of the four important principles that are brought into sharp relief in this situation.

Adam Price (Carmarthen, East and Dinefwr) (PC): Where does the literally unwarranted—apparently—intrusion into the parliamentary office of a Member of this House leave the whole concept of parliamentary privilege and the Bill of Rights, which is surely a fundamental part of our constitution? Will the Home Secretary issue guidance to the police that when a Member of this House is to be arrested in relation to his political activities as such, the advice of the Law Officers should be requested in order to see whether it constitutes a breach of parliamentary privilege?

Jacqui Smith: Mr. Speaker made very clear yesterday the situation with regard to parliamentary privilege. The Police and Criminal Evidence Act 1984 lays down the requirements for search and for arrest.

Clive Efford (Eltham) (Lab): Does my right hon. Friend agree that the position that she has been invited to adopt is that civil servants should be allowed to treat her Department as an Aladdin's cave of secrets that they should be free to leak, and that civil servants' judgment alone will determine what is in the public domain and what is not? Did the level at which these leaks came from her Department suggest to her that the person who leaked may have had access to information relating to national security? Can we be sure that all the leaks—

Mr. Speaker: Order.

Jacqui Smith: There were concerns at a point at which it was unclear as to how many people were involved in leaking, but it was clear that there had been systematic leaking. That was, of course, the reason for asking the police to investigate. Some of the other issues that my hon. Friend raises should be left to be the subject of a police investigation. However, he is absolutely right in his suggestion that everybody in this House should be in a position of upholding the civil service code.

Mr. Andrew Mackay (Bracknell) (Con): Returning to the letter from Mr. Quick to the Home Secretary yesterday, relating to the lack of writ that was provided when the search took place of the office of my hon. Friend the Member for Ashford (Damian Green), there is a clear difference of opinion, or a major difference of fact, between what the Speaker said yesterday and what Mr. Quick said. Who does the Home Secretary believe? I know who I believe, and it ain't Mr. Quick.

Jacqui Smith: Unlike the right hon. Gentleman, I am not so quick to jump to judgment. That is why I believe that Ian Johnston's review, set up by Sir Paul Stephenson, and the ability of this House to consider the issue through Mr. Speaker's Committee, are both important.

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Tom Levitt (High Peak) (Lab): I am sure that the whole House agrees that it is absolutely right that civil servants should hold political views, that they should join

political parties, and that they should take part in legitimate political activity in their own time. However, in light of the fact that they need to behave in a professional manner at all times and to uphold the civil service code, and in light of what my right hon. Friend has called the “systematic leaking” of information, are there grounds for an inquiry to see whether there are any leaking Tory moles placed in other Government Departments?

Jacqui Smith: I do not think that that is an issue for me to comment on today.

Mr. John Maples (Stratford-on-Avon) (Con): Prior to 1989, the Government could have used the Official Secrets Act in this case. The Home Secretary is sitting next to one of the world experts on the Official Secrets Act, who will be able to remind her that in 1989, almost exactly 20 years ago to this day, the then Conservative Government amended the Official Secrets Act to restrict the application of the criminal law to a very narrow band of Government information. It may surprise the Home Secretary to know that the whole Labour party, including the current and former Prime Minister, voted against that legislation on the grounds that it did not go far enough in liberalising the situation and still applied the criminal law to far too much information. As a result, the Government have had to dredge up an old common law offence to put the frighteners on officials, MPs and, presumably, journalists. If they want to criminalise information like this, why do they not amend the legislation by repealing the 1989 Act?

Jacqui Smith: The idea that the Government have dredged up the several circumstances in recent years when the offence of misconduct in public office has been used against public servants is just wrong. The decision on what offence is charged is, of course, for the police, alongside the Crown Prosecution Service. I am sure that the hon. Gentleman agrees it would be wholly inappropriate in this situation for Ministers to offer an opinion about what any potential charges should be.

Mr. Mike Hall (Weaver Vale) (Lab): With regard to the cash for honours investigation, the Leader of the Opposition said that it was right that these matters should be investigated and that the police and the CPS should make decisions about how to proceed. If that principle was right in that case, surely it should apply in this case, and should not be influenced by the contrived outrage of the Conservatives.

Jacqui Smith: I believe that that should be the principle in all cases.

Mr. Douglas Hogg (Sleaford and North Hykeham) (Con): Yesterday, Mr. Speaker, you told us two things in your statement: first, that there was not a warrant; and secondly, that the police failed to tell the Serjeant at Arms that she was entitled to refuse access. That was a breach of code B52 of the statutory codes. Furthermore, on any view, the Serjeant at Arms had no authority to allow access to the hon. Member’s possessions. Consequently, the police were acting unlawfully in all

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three respects—no warrant, no statement that the Serjeant at Arms was entitled to refuse access, and, in any event, having access to material to which they were not entitled. When did the right hon. Lady first know that the police were guilty of such illegality?

Jacqui Smith: I think, frankly, that the right hon. and learned Gentleman is confusing his role as a Member of this House with his presumably desired role as a member of the judiciary. [*Interruption.*]

Mr. Speaker: Order. The House must calm down.

Mr. David Kidney (Stafford) (Lab): The police must be free to follow the evidence. However, our constituents sometimes complain to us that when they have been the subject of an investigation, the question arises as to whether the police's methods were proportionate to the seriousness of the criminality that is suspected. Sometimes we get the answer to that years or months later as the result of a trial; sometimes we get it as the result of an investigation by the Independent Police Complaints Commission. At this early stage of this case, the only question to which I want to know the answer is whether the police had legal advice about the seriousness of the criminality that they suspected in order to make that judgment about proportionality before they made the decision to act. Does the Home Secretary know whether the police had legal advice?

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Jacqui Smith: Sir Paul Stephenson has stated publicly the point at which the police consulted the CPS. Secondly, on the issue of proportionality, as I said, I welcome the fact that Sir Paul Stephenson is asking Ian Johnston to review the appropriateness and proportionality of the investigation.

Mr. John Redwood (Wokingham) (Con): Can the Home Secretary explain what was unique about this case that led to them to want the police to be involved, when the police were not invited to investigate the systematic leaking of price-sensitive information about banks and bank capital, or to look into the extraordinary leaking of practically the whole pre-Budget statement, which was really a Budget? Surely that was systematic leaking on a grand scale. What was different about it?

Jacqui Smith: There have been other situations where the police have been asked by the Cabinet Office to help with investigations.

Mr. Parmjit Dhanda (Gloucester) (Lab): The Home Secretary has been clear and unambiguous today. Will she go further on the point of my hon. Friend the Member for Thurrock (Andrew Mackinlay) about the Wilson doctrine? Can she reassure all hon. Members that our home numbers, work mobiles and the phones that we use in this House are covered by the Wilson doctrine, as well as our e-mail accounts?

Jacqui Smith: As I have suggested, the Wilson doctrine applies, and it applies as outlined by the Prime Minister.

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Points of Order

12.21 pm

Damian Green (Ashford) (Con): On a point of order, Mr. Speaker. I invite the Home Secretary to correct a factual inaccuracy in her statement. She said that I was arrested “on suspicion of conspiring to commit misconduct in a public office and aiding and abetting, counselling or procuring misconduct in a public office.” I have a copy of my arrest warrant here, and the phrase “counselling or procuring misconduct in a public office” does not occur. I was not arrested for counselling or procuring misconduct in a public office. She will understand the seriousness of her mistake, and I invite her to withdraw those words immediately.

Mr. Speaker: I ask the Home Secretary to reply.

Jacqui Smith: I would certainly be prepared to take that up with the Metropolitan police—[Hon. Members: “Oh!”]

Mr. Speaker: Order. Hon. Members should allow the Home Secretary to answer in the way that she wants to answer. It is not for me to tell the Home Secretary—or any other hon. Member—how she should answer. Home Secretary, have you anything to add?

Jacqui Smith: I was quoting from a public statement made by the Metropolitan police on 28 November.

Mr. Dominic Grieve (Beaconsfield) (Con): Further to that point of order, Mr. Speaker. In answer to one of the questions that was asked, namely whether an application had been made to a magistrates court for a warrant to come on to these premises, the Home Secretary replied that we should be referred to the letter of Mr. Quick, which she had placed in the Library. But the letter from Mr. Quick does not go into that in any way at all. Is it not a contempt of this House to be treated in this fashion?

Mr. Speaker: We are now extending the question session given to the Home Secretary.

Simon Hughes (North Southwark and Bermondsey) (LD): On a point of order, Mr. Speaker. Can you confirm that the House has power, if necessary and on matters of national security, to go into private session, as it did during the war, for example, to be briefed by the Prime Minister? Secondly, given that we have heard a ruling from the European Court this morning which says that the retention of DNA samples is not legal, can you ask the Home Secretary before she begins her contribution to the following debate when she will announce the Government’s response to that? That matter appears to be relevant to the case of the hon. Member for Ashford (Damian Green).

Mr. Speaker: The second point is not a point of order. The hon. Gentleman can seek that information from the Home Secretary at any time through the various facilities we have. On his other point, the House can sit in private if it deems it necessary.

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Mr. Michael Jack (Fylde) (Con): On a point of order, Mr. Speaker. If it turns out, on investigation, that the Home Secretary used incorrect words in her statement, would it be in order for the official record of the House to be so corrected?

Mr. Speaker: It is up to the Home Secretary. The words and the statements that she makes are up to her.

Mr. Richard Benyon (Newbury) (Con): Further to the point made by the hon. Member for Thurrock (Andrew Mackinlay) concerning our e-mails and the House of Commons server, Mr. Speaker. Can you confirm that the House of Commons server is covered by the Wilson doctrine, and that it cannot be accessed by the police or any other authorities to access our e-mails in order to investigate circumstances that we lawfully as Back Benchers and Members of this House have taken up on behalf of our constituents and others?

Mr. Speaker: As the Chairman of the House of Commons Commission, I have a serious responsibility to look after the computer system that we all use, including myself. I will look into this matter, rather than give an off-the-cuff answer from the Chair.

Mr. Gerald Howarth (Aldershot) (Con): Further to the point of order of my hon. Friend the Member for Ashford (Damian Green), Mr. Speaker. Given the unreliability of the information upon which the Home Secretary has relied today, how on earth can this House possibly give any credence to anything that the Home Secretary has said today in respect of the Metropolitan police? [*Interruption.*]

Mr. Speaker: Order. So far there has been some excitement in the Chamber, but we have kept our comments temperate, and we should continue to do so.

Dr. Julian Lewis (New Forest, East) (Con): On a temperate point of order, Mr. Speaker. Has the Home Secretary given you any notice that she intends to place in the Library of the House a list of the actual—not potential—leaks that led to the calling in of the police, so that Members will be able to see whether any of them involved national security, something that she has refused to tell us today?

Mr. Speaker: That is certainly not a point of order. It is a matter for the Home Secretary.

Mr. David Burrowes (Enfield, Southgate) (Con): Further to that point of order, Mr. Speaker. In line with your suggestion of temperate language, have you considered the point made by my hon. Friend the Member for Worthing, West (Peter Bottomley) about the intemperate language used by the Minister of State, Department of Energy and Climate Change when he, in effect, accused my hon. Friend the Member for

Ashford (Damian Green) of procuring a spy, giving information on political opponents and stealing confidential information?

Mr. Speaker: That is not point of order. There are times when I tell Ministers that they should be temperate in their language, but I make no comment on the point that has been raised.

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Mrs. Theresa May (Maidenhead) (Con): On a point of order, Mr. Speaker. With regard to the Speaker's Committee on the search of offices on the parliamentary estate, could you clarify the situation and perhaps give the Leader of the House an opportunity to retract her suggestion about who is able to choose the members of that Committee? Yesterday, in your statement, you said clearly that you would be setting up

“a Committee of seven senior and experienced Members, nominated by me”.—[*Official Report*, 3 December 2008; Vol. 485, c. 3.]

In business questions earlier, the Leader of the House said also that she believed that you would be nominating that Committee, but the motion on Monday says that the seven Members appointed by the Speaker will be

“reflecting the composition of the House”.

In other words, you and you alone will not be able to choose the Members. Our understanding is that the membership would be selected by you and you alone.

Mr. Speaker: I have expressed my wish, and I stand by my statement. The right hon. Lady may recall that one hon. Member did ask about the terms of the motion, and I made it perfectly clear that the rules of this House say that it is for the Government to put down the motion. All I can say to this House is that there is also a facility to put down amendments. I cannot go any further than that.

John Reid (Airdrie and Shotts) (Lab): On a point of order, Mr. Speaker. Following the point of order made by the hon. Member for New Forest, East (Dr. Lewis), who asked the Home Secretary whether she would give a list of documents that have been leaked from the Department, I know from experience that by definition the only person who knows what has been leaked from that Department is the recipient of the leaked documents. Would you therefore urge anyone who has received anything that concerns national security to bring it before the whole House?

Mr. Speaker: I think that it is time to move on.

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From **The Times**

November 29, 2008

Mayor Boris Johnson orders Met chief Sir Paul Stephenson to justify raid

Sean O'Neill, Crime Editor

Having rid himself of one troublesome police chief, Boris Johnson, the Mayor of London, raged yesterday at another. He spoke “in trenchant terms” to Sir Paul Stephenson, the Acting Metropolitan Police Commissioner, after being told on Thursday that Damian Green was to be arrested.

Sir Paul was seen as the Mayor’s preferred choice to succeed Sir Ian Blair, but the Green affair may well dent his chances. Mr Johnson said he found it “hard to believe” that anti-terrorism police had been used to “target an elected representative of Parliament for no greater crime than allegedly receiving leaked documents”.

A spokesman for Mr Johnson said: “The Mayor told the new acting commissioner that he would need to see convincing evidence that this action was necessary and proportionate. He suggested that this is not the common-sense policing that people want when London faces a real terror threat.”

Scotland Yard sources said the decision to arrest Mr Green was taken by Assistant Commissioner Bob Quick, head of Specialist Operations, who is understood to have acted on advice from the Crown Prosecution Service.

Police sources said that their inquiry had been instigated by a request from the Cabinet Office and was handled by Counter-Terrorism Command. Mr Johnson was informed as chairman of the Metropolitan Police Authority.

London Assembly Plenary

3 December 2008

Transcript of Question and Answer with the Metropolitan Police Authority and Metropolitan Police Service: Opening Statement

Boris Johnson (Chair, Metropolitan Police Authority): Good Morning, Jennette. Thank you for very much for having me along. I am delighted to be here in my capacity as Chairman of the Metropolitan Police Authority (MPA) for the first time, and I am very pleased that the Acting Commissioner [of the Police of the Metropolis], Sir Paul [Stephenson], Tim Godwin [Acting Deputy Commissioner] and Catherine Crawford [Chief Executive, MPA] are here as well.

I just want to begin by saying something obvious, which is that I think the Metropolitan Police are doing a very fine job at the moment in London. If you look at the crime figures, which are on the whole extremely healthy and going down, one of the biggest jobs we have is to reconnect those facts with public sentiment and to give people the actual sense of security that they are currently lacking, in addition to the improvements in crime that the Metropolitan Police is delivering.

I do not want to pre-judice or prejudice any of the subjects that you have just mentioned, Jennette, and I intend to minimise my involvement in any conversation about that. I am very pleased that Sir Paul is here to try to settle some myths, lay some myths to rest, and he is going to make a statement about the inquiry into Damian Green, and he is also going to say something about Baby P. So over to you, Sir Paul.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): Thank you. Chair, I will go straight into my statement if that suits you.

Jennette Arnold (Chair): Thank you.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I would like to take this opportunity to address certain issues concerning our on-going inquiry into the alleged leaking of information from the Home Office.

Clearly, this is a case that has generated a great deal of public attention and important debate. Amidst all of this our priority is to conduct a thorough and lawful investigation. As with all police operations, we go where the evidence takes us. The police work within the rules, regulations and laws as laid down by Parliament, as you would expect us to do.

This is an on-going investigation and everyone must tread carefully and with caution when speaking about the details, and I include myself in that. The Contempt of Court Act 1981 applies as soon as anyone is arrested. However, there is a large amount of comment and speculation already in the public domain, and I think it is right and proper for me to present some facts surrounding this investigation, which lie at the heart of how the Metropolitan Police Service [MPS] operates.

It has already been widely reported that the MPS was called in by the Cabinet Office at the beginning of October to investigate suspected criminal offences in relation to a substantial series of leaks from

the Home Office, potentially involving national security and the impeding of the efficient and effective conduct of government.

After the initial inquiries the Crown Prosecution Service were consulted. The police officers involved were satisfied that they had reasonable grounds to make an arrest [of] a junior civil servant working in the Home Office. I must make this clear; the decision to arrest was made by police officers.

On November 19th a 26-year-old-man - and of course his identity is now in the public domain - was arrested at his home address, interviewed at a police station and bailed to return early next year. During a search of his address a number of items were seized.

On the 21st November the same man voluntarily attended a police station where he was arrested and interviewed again before being re-bailed. Later the same day a second consultation was held with the Crown Prosecution Service where potential offences were discussed further.

As I said before, it is our duty to follow the evidence, wherever that may take us. It was as a result of our initial investigations and arrest that a decision was taken by officers, under the command of Assistant Commissioner Bob Quick, to arrest an MP - and again that MP's identity is now of course very much in the public domain - and to search three addresses connected with him under authority of Warrants, and his offices at the Palace of Westminster. So that is four addresses; three under warrant and one under a separate procedure at the Palace of Westminster. The written authority to conduct a consensual search of those offices was obtained from the Serjeant at Arms at the Palace of Westminster.

Officers have an obligation to locate and secure evidence to avoid any circumstances where potential evidence could be lost. With this in mind, the decision was taken to arrest and search the relevant addresses in accordance with the Police and Criminal Evidence Act.

The arrest and searches were carried out on 27th November and, following interview, the MP, whose name is now in the public domain, was released on bail to return in February. An initial report and evidence has been given to the Crown Prosecution Service for consultation on the next steps of this inquiry.

The public interest in this case means that there has been inevitable and large amounts of speculation and comment around certain of our actions. I would like to deal with some of those now.

Firstly, it has been questioned why counter terrorism officers were involved and suggested that counter terrorism laws were used to make the arrest. Let me make it quite clear; the arrest and searches were carried out under the Police and Criminal Evidence Act. Clearly this inquiry is not terrorist-related.

In 2006 the Special Branch were amalgamated with the Anti-Terrorist Branch to become the Counter Terrorist Command. Investigations of this nature, which previously were always carried out by Special Branch, are now within that Counter Terrorist Command remit, even though they are not related to terrorism.

It has also been suggested that the Metropolitan Police Service used the civil servant who was arrested in an attempt to entrap Mr Green. This is not true and indeed the civil servant's own legal representatives, I understand, have confirmed this was not the case.

Speculation that the Metropolitan Police Service used electronic listening devices is also untrue.

Clearly, this was always going to be a sensitive investigation and it is right that we should be held to account at the appropriate time. The decisions taken by officers within the Metropolitan Police Service will be judged through the criminal justice system and any other mechanisms that the appropriate authorities deem necessary. It is right that we are properly held to account in this way.

Yesterday I asked Chief Constable Ian Johnston, who is also the Chair of the Association of Chief Police Officers National Crime Business Area, to review the operation to date. In my opinion, this is the appropriate and professional action to take and is considered good practice in major police investigations. I have requested that he provide me with an interim report in seven days and any final report hopefully within two weeks.

At issue in this investigation – and indeed in the work of the service as a whole – is our ability to maintain operational independence. The police must be able to act without fear or favour on any investigation whomsoever may be involved when there are reasonable grounds to suspect that they may have committed criminal offences.

And let me deal finally with the suggestion of any political or Ministerial influence on this or any other police operation, under my command.

I would strongly refute that I or any senior officer under my command have or would allow any improper influence of our operational judgement and actions for political purposes. That is not what we do. Thank you Chair.

Jennette Arnold (Chair): Thank you. Did you have something to say about the Baby P case?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): Would you like me to go straight on to Baby P?

Jennette Arnold (Chair): Yes, please.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I think there is a very proper expectation that I say something about this terrible, tragic case.

It is horrific, the tragic death of a young boy we have seen in our newspapers; we have seen various reports.

Those directly responsible for his death have been found guilty and await sentence.

Nobody could have read the news reports of Baby P's death and not been deeply saddened and moved and felt quite shocked about what has gone on here, and I include myself in that.

Therefore it is right and proper that questions are asked, should be asked, have been asked about why the various agencies, including my agency, charged with protecting vulnerable children and charged with protecting Baby P were not able to save that child's life, in order to try and prevent the same thing happening again.

I want to talk about three things.

Firstly, what have we already done: Like all other agencies involved, the Metropolitan Police Service conducted an internal review of its processes. These reviews contributed to the Strategic Case Review. Although the Strategic Case Review has been criticised by the Joint Area Review of Haringey Children's Services it should be noted that the MPS internal review was considered to be 'good'. But I don't make that statement in order to evade any responsibility because there is criticism of all agencies here.

The Strategic Case Review made 43 recommendations, three of which were specifically for the Metropolitan Police Service. They were all acted upon and not just in Haringey but across all child abuse investigation teams across London.

The Metropolitan Police Service Child Abuse Investigation Command also took a number of their own actions, including new training regimes for police officers and staff.

The second thing I would like to address is what we are doing now: On Monday the Joint Area Review of Haringey Children's Services was published. A new, independent Serious Case Review is to be conducted by February. We welcome this, and the need for independence to ensure that all available learning is identified and properly promulgated and actioned upon. This new process requires all internal reviews to be re-done.

We have already begun that internal review. To ensure independence, a Detective Superintendent from our Serious Crime Review Group, the people who are charged in the Metropolitan Police Service to regularly review serious cases of the most serious type, will oversee this process and that is a different officer from the previous review.

Lastly, what we will be doing next: Tomorrow the Acting Chief Inspector of Constabulary, Denis O'Connor, will be writing to me with an additional report. This will make a number of detailed recommendations that he has brought out of further inquiry, making recommendations specific to the police, which we will act upon.

And finally let me just say where things have gone wrong we will work with our partners to put them right. Our priority has to be to ensure that effective safeguards, policies and practices are in place and that we don't demur from our responsibility and we don't become defensive about these matters. The recommendations from the reviews must be implemented so that London's children are properly protected.

Len Duvall (AM): Can I make a declaration in relation to the last item. At the last MPA meeting I made a declaration that is appropriate. I make a declaration here. For the last three weeks I have been working in Haringey on that case and I will not be participating in answering any questions. I do not believe I have to leave the room but I just wanted to make that declaration clear.

Jennette Arnold (Chair): Thank you. We now have Members who would like to put some questions, starting with Mr Arbour.

Tony Arbour (AM): This is a question for the Chairman of the Police Authority. Do you not think that in the Green matter the Commissioner was between a rock and a hard place? Whatever he did was going to be seen to be wrong. By acting in the way he did he has been seen as the tool of the Government. Had he not acted in that way he would have been seen to be protecting a Conservative Member of Parliament.

In the light of that, do you not think now will be an appropriate time for the Metropolitan Police Authority to press to see that its Chairman should be directly elected, so that the Commissioner is never again seen to be the one who has to carry the can for such an affair. It will be the responsibility, therefore, of the directly elected Chairman of the Police Authority.

Boris Johnson (Chair, Metropolitan Police Authority): Well, Tony, I understand the suggestion that you are making, which is that there should be some measure of democratic accountability for the police. There is, of course, through the election of the Mayor, who is entitled since October to become a Chairman of the MPA, as I have. The difficulty that you describe that presented itself to Sir Paul is of course one that also presents itself to any of us who are called upon to speak on this matter, because, after all, if we are seen to be trying to counsel caution in respect of the arrest of a Tory Member of Parliament (MP) then we could be held to be improperly trying to influence events. On the other hand, if we do not counsel caution then we can be said to be falling down in our duty to protect the Metropolitan Police from the consequences of an action that might be widely misinterpreted.

There are difficulties. I think that the best thing we can do now, frankly, in this particular case is just let the police get on with it. The process must continue; it just has to run its natural course. After that time I think it may be that within the MPA we should look at what went on, whether anything went wrong and what lessons we want to draw from it. I really think it would be a mistake now for us to offer any kind of running commentary, or any kind of view on what is taking place, and indeed what has taken place.

Tony Arbour (AM): There is no question, Chair, of this being a running commentary on the matter. This is simply getting to the heart of the embarrassment which a professional police officer has been put into, as far as this is concerned. I would have thought it was our function; it was the function of anybody who is democratically responsible for the activities of the police to seek to ensure their independence. I am merely proposing this as a way of seeing that this is done. I do not think we can ever have a commissioner being put in this position again.

Boris Johnson (Chair, Metropolitan Police Authority): Do I take you to be suggesting, Tony, that whoever was the elected Chairman of the MPA would actually have political oversight of operational decisions? That, or take responsibility for such decisions, and would actually be in a position to countermand officers if they came to that person and said that they wanted to make such a controversial arrest? Is that what you are proposing?

Tony Arbour (AM): No, I am not. The last thing I would want is for a politician to be responsible for operational activities, but manifestly this is not an ordinary operational activity by any stretch of

the imagination. It has clearly been seen as a political matter. Under those circumstances it is right that a political person should be seen to carry the can either way.

Boris Johnson (Chair, Metropolitan Police Authority): I accept your point in principle. The difficulty, it seems to me, is how to ask the political person to carry the can for a decision he or she cannot actually influence. That seems to me to be the democratic problem that you are highlighting.

Roger Evans (AM): Can I welcome the decision to set up an urgent review of what has happened so far, to report back within the next couple of weeks? Can I invite the Commissioner to share the terms of reference of that review with us?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): Firstly to make clear what the review is, it is a quality assurance process. I have seen much comment about that review in the media this morning. Actually it is what we do; we review lots of cases and it is for no other purpose than to quality assure. It is about establishing the circumstances leading up to the arrests of the two individuals. I personally found someone who is held in huge regard nationally, very experienced and Chair of the National Crime Committee, to provide an independent and professional view to me whether the police action is, as you would expect, lawful and proportionate, and a professional view on the conduct of that investigation and also on the future direction for that investigation. In essence, they would be the terms of reference.

Roger Evans (AM): Right, thank you. That is very clear. Will the results of that review be made public, or is it an internal review?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): The results of that review, its status, will be subject to the needs of the investigation. It will of course be a disclosable document within that investigation. If there is to be a prosecution then quite clearly that could not be disclosed in advance. If there is not to be an investigation then that is something to be further looked at¹.

Roger Evans (AM): Right. *The Times* this morning stated that the Home Secretary had sought certain assurances from you in connection with this routine review, which is being carried out. What was the nature of those assurances and were you able to give them?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): The Home Secretary sought assurances but that is not the reason why I did the review. I had informed the Home Secretary that I was considering doing a review when she contacted me, but she was properly seeking assurances that this inquiry was lawful, necessary and being diligently carried out, because of the very extreme high profile nature of the coverage.

Brian Coleman (AM): A question for the Chairman of the Metropolitan Police Authority: Many of my constituents were delighted to see the departure of the former Commissioner. You are now engaged in recruitment of the new one. Those same constituents have been horrified to see the scenes on television of Metropolitan Police officers acting in a way that would not go amiss in

¹ Sir Paul Stephenson provided a clarification in relation to this answer later on in the meeting, as set out on page 9 of this transcript.

Mugabe's Zimbabwe. Will you ensure that candidates for the top job at the Metropolitan Police are those who are not going to carry on this system of working and that those candidates who are busy running to the media - one thinks of Mr Jones of the Association of Chief Police Officers (ACPO) - frankly making statements which in many of my constituents' views do not fit in with the sort of police commissioner they want to see.

Boris Johnson (Chair, Metropolitan Police Authority): I think, Brian, that we have an extremely powerful field of the candidates. I am very pleased to see how many top police officers have put in for the post. I have no doubt that the Home Secretary, in consultation with the MPA and with me, will come to the right conclusion in the end. I think there will be a very good new Commissioner and someone who is not going to bow to the will of a politician in the conduct of his or her duties.

Brian Coleman (AM): But will bow to the democratic will of the people of London, as expressed through you, Mr Mayor.

Boris Johnson (Chair, Metropolitan Police Authority): It is certainly the case that we have a very interesting constitution here, which is that the Metropolitan Police Authority is there to set police priorities, it is there to help the police, and it is there to set the police budget. I do not think that anybody in London believes that it is the function of any elected politician to direct the operational functions of the police, and nor should we seek to do so.

Len Duvall (AM): Can I welcome the remarks from Sir Paul Stephenson clarifying matters. I do welcome part of some of your remarks around where the police must be allowed to carry on and see this through, and at the appropriate time people will come back and look at it. In light of that, do you think it was appropriate to share your comments publicly about the ongoing police investigation was right?

Boris Johnson (Chair, Metropolitan Police Authority): I do. Obviously it was very difficult and I described the difficulty and the dilemma earlier on in my answer to Tony. You had a situation in which to be seen to say nothing about a investigation that was going to cause the most fantastic political commotion, to be seen to do absolutely nothing to warn or counsel the police about the possible consequences of that arrest would, I think, have been a falling down in my duty as Chairman of the MPA.

Len Duvall (AM): Can we go back then? In terms of those comments that you made, do you actually understand where they could be seen to influence a police investigation? Going back to your earlier remarks that you said we want to avoid, in terms of that? Was it not more appropriate to say, as you said in your opening statement, "Look, the police have to carry out what they are doing; I have a view about that; at the right time I will make my views known"?

Boris Johnson (Chair, Metropolitan Police Authority): I think it was entirely right for the Chairman of the MPA to issue his own layman's view about the likely political consequences of an arrest in the case of a leak inquiry. That was what I did and I do not think I have been in any way disproved by events. Indeed, if anything, I said that the action, the arrest would, "Go off like a rocket" I think was the phrase I used. I think I spoke of a huge political convulsion about it and I think that was true. I think it is the duty of the Chairman of the MPA who has to protect the police and has to counsel them, to warn of cases in which tactics will be perceived as heavy handed and disproportionate and will cause an adverse reaction.

Len Duvall (AM): It seems to me entirely appropriate, but when then does a private conversation become a public conversation during a police investigation? Do you understand the seriousness of that, while there is an ongoing police investigation? A private conversation, where you are urging caution and the checks of balances of those issues, when that becomes public?

Boris Johnson (Chair, Metropolitan Police Authority): I think you will accept, Len, that nothing I said or nothing which was one conversation in any way turned the course of that inquiry, since the moment we had it the events were in train. I am interested in Jennette [Arnold's] doctrine of prejudice or pre-prejudice. There could be no prejudice in this matter since there have been no charges. Indeed that was the point that I made.

Len Duvall (AM): Can I go back to my earlier question. When does a private conversation between you as Chair of the MPA and senior police officers about an ongoing investigation, which is controversial, when should that become public?

Boris Johnson (Chair, Metropolitan Police Authority): Well, perhaps I should be arrested for leaking the details of my own conversations! I really think, Len, that --

Len Duvall (AM): I think you are trivialising the question I am asking.

Boris Johnson (Chair, Metropolitan Police Authority): I am not. It is extremely serious and I think it is the function of the Chairman of the MPA to warn and counsel. I did absolutely nothing to impede it, nor could I possibly impede the investigation. I think people would have been --

Len Duvall (AM): I never suggested that you impeded it. I said, "The perception of" in terms of the information that you receive in your office of when is that used in a public domain, and the implications it may have for an ongoing investigation. I am not suggesting you are impeding it.

I will go on to ask another question. Can you then tell me, have you or any of your office spoken to anyone outside the Police Service connection with these investigations? It is a 'yes' or 'no' really.

Boris Johnson (Chair, Metropolitan Police Authority): Well, of course I have spoken at length to my wife, for instance.

Len Duvall (AM): No, connected. If you are telling us that she is connected with the investigation I would be quite surprised. Connected with the investigation; you or your office?

Boris Johnson (Chair, Metropolitan Police Authority): I expect that of course there have been contacts but I certainly do not propose to go into it.

Len Duvall (AM): OK, well we will take that as that. No doubt that will be part of future questions around that. I did say connected with the ongoing investigation but you chose not to answer.

Do you intend, though, to carry out, while you are in this office of Chair of the Metropolitan Police Authority, to use information that you have been given for political advantage?

Boris Johnson (Chair, Metropolitan Police Authority): I really object to the line of questioning.

Len Duvall (AM): I will ask it again. Sorry I cannot do it in Latin for you to make it clearer. You have said that there are a number of things that you intend to do in carrying out your duties as Chair of the MPA. You have given a number of commitments to the MPA members of how you are going to do your duties. You have already indicated that private conversations could go into the public domain. I am asking you, do you and/or your political office intend to use police information, ongoing operational information, for political advantage?

Boris Johnson (Chair, Metropolitan Police Authority): No.

Len Duvall (AM): Thank you.

Jennette Arnold (Chair): Can I just go back to the point that I made; there is an issue for Members who are members of the Metropolitan Police Authority, who in that role may well find themselves unable to take part in any actions that may arise. That is something that we have met before, so it is just a reminder for Members in terms of the dual role that they hold on this body. So that is what I was referring to.

Boris Johnson (Chair, Metropolitan Police Authority): What are you driving at there, Jennette?

Jennette Arnold (Chair): That should Members who are sitting here today, who are Members of the Metropolitan Police Authority, be on the Standards or the Disciplinary Committee of the MPA, they are not seen to be saying anything that would stop them taking part in those actions. It was that general reminder, which is quite appropriate.

I see Sir Paul wanting to make a comment. Sir Paul, was it in response to a question that you have heard?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I think I need to give a clarification because I do not want to mislead this body. It was in response to the question by Roger Evans. You asked whether we would make the review public and I think I said that it would form part of the evidence shared and would depend on whether there was going to be an investigation or not. Of course there is an investigation; I meant it would depend on whether there is going to be a prosecution or not. So I apologise for that.

Jennette Arnold (Chair): Thank you.

Roger Evans (AM): I think we got the idea.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I thought it was important to clear it up.

Len Duvall (AM): Can you just answer this question? When you spoke to the Mayor, did you speak to him as the Mayor of London or did you speak to him as the Chair of the Metropolitan Police Authority?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I think as you know, I would have spoken to Mr Johnson as the Chair of the Metropolitan Police Authority, but I would go no further than that.

Len Duvall (AM): Right, thank you.

Joanne McCartney (AM): I want to ask on the Baby P inquiry. I should say I am the Assembly Member for Enfield and Haringey. Although I know some of the people involved I have not been involved myself.

I am glad to hear, Sir Paul that you said there will be a London-wide review and you have taken some action London wide. It seems to me that some of the things that I have heard about the review so far have been about lack of communication and the same issues that have happened before in other tragic circumstances. Can I just ask, in the review that you are doing, are you looking across London at all child protection teams, as to how you can help integrate teams under one roof, as it were, and so that that communication can take place, and that if there are funding implications that this will be given your priority as far as funding is concerned?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): What I can confirm is that if after this thorough review if there is a need to make structural changes then we will make those structural changes. I am not trying to evade it. I am actually being very open about this. We are not being defensive. If out of this review we need to make those changes we will. There are various ways of improving communication and it is not always a structural change, but all options are open.

In terms of funding, what I can confirm is in my recommendations to the Police Authority, because of course it is the Police Authority and the Mayor and the GLA who set the budget, it will not be an issue of funding that stops us doing the right thing for children in London. We obviously have to make the right decisions to stretch funding right the way across a lot of serious matters, but it will not be a funding issue, as far as we are concerned, that stops us implementing the recommendations and taking the right action that comes out of these tragic circumstances.

Richard Tracey (AM): This is a question for the Acting Commissioner. Acting Commissioner, various of my constituents have reminded me that one of the platforms on which we were elected to the Assembly in May was common sense policing in London. Can I put it to you, would you consider the definition of 'common sense policing' to include the infringement of deeply entrenched centuries old constitutional privileges of a Member of the House of Commons?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): The only reply I can give to that, Richard, is for 33 years I have been known as a common sense policeman. I will continue to be known, as far as I am concerned, regarding the people who know me well, as a common sense policeman. What I am not going to do is comment on the internal nature of the inquiry and the evidential matters we have, which will eventually bring a judgment as to whether this was proportionate and diligent.

Richard Tracey (AM): I have to ask you, you do have an understanding of 'constitutional privilege,' I take it, because it is really a cardinal principle of the operation of this country, its governance and indeed its policing?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I certainly think I have an understanding of it, yes.

Richard Tracey (AM): Thank you.

Andrew Boff (AM): Can I ask how often you have been called in shore up leaks in the workings of Government and how often the Metropolitan Police is used for that?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I might not use the term 'shore up leaks'. I cannot give you how often, but it is not unknown for us to be called in where there has been a leak and where that leak threatens either national security or Government where there might be criminal offences. We do not do conduct matters, but where there are potential criminal offences it would be entirely appropriate for us to be called in.

Andrew Boff (AM): Bearing in mind that this leak if it had been a leak of lies, nobody would have bothered because it would not be in fact. It was a leak of factual information has been coming from the Home Office, I understand, so you must have been called in by the Home Office presumably to respond to their concerns?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I think I have addressed that in my statement and I do not think I should go any further into that.

Andrew Boff (AM): Right, OK. I think it would be interesting to know, however, perhaps in the future, if we can have an idea of how many times the Metropolitan Police have been used by the Home Office to control information in this way.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): We are not being used to control information. We are actually being called in to investigate potential criminal offences. We are not used to control information.

Andrew Boff (AM): Presumably somebody made a complaint?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): Yes, they made a complaint.

Andrew Boff (AM): It would be interesting to know how many complaints of that nature were made over a period, to get an idea whether or not this was routine, or whether or not this was something in particular that concerned the Home Office.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I hear what you are saying.

Andrew Boff (AM): Thank you.

Darren Johnson (Deputy Chair): Yes, this is a question for Chair of the MPA. Under the previous Commissioner and now with this latest Damian Green case we have had a series of high profile cases where the judgement of senior Metropolitan Police officers has been called into question. What

needs to be done to improve public confidence in the judgment of senior Metropolitan Police officers?

Boris Johnson (Chair, Metropolitan Police Authority): As I said we are very lucky to have an extremely powerful field of candidates for the next Commissioner. I have no doubt that matters are improving and will improve considerably.

Darren Johnson (Deputy Chair): Is that the only criteria: find the right Commissioner and everything else falls into place?

Boris Johnson (Chair, Metropolitan Police Authority): I think if and when this inquiry on this particular matter comes to an end, however it eventuates, I do not know if it produces charges, a court case, I do not know. I think it would be unlikely but whatever happens I do think that there is a case for looking at some of the difficulties the police find themselves in, in cases of this kind. Particularly the operation PACE (Police and Criminal Evidence Act 1984) as it affects arrests. I think we should have a serious discussion in the MPA about the way in which the police seem to be driven to make these arrests because of formal requirements of PACE, when actually a more common sense approach might do. If we had something for legitimate discussion, after this particular inquiry is over, that is something I think we should get on with.

Darren Johnson (Deputy Chair): OK.

Mike Tuffrey (AM): One of the most troubling aspects of this affair is the extent to which national security is again being cited as a justification for all manner of action. I am not asking you, Sir Paul, to comment on that, as you would understand the national security implications, if any, of this affair. I would want to make a point that we see from Mumbai how some threats to our security are very real and the nation is now looking to you as Acting Commissioner to give impartial advice on national security matters.

Can I put it to you that one of the reasons for the loss of confidence in your predecessor was when he moved from giving impartial advice on an issue, such as the 42-day detention without trial, to moving to a position where MPA officers were lobbying individual MPs, opposition MPs to vote for the Government line, so there is some history here. Given that, do you accept that national security should only be used and only be cited when there is solid evidence of a threat, albeit often only known to you and your officers, and if so what confidence can you give us that you will be sparing and measured in the advice you give when you cite national security as an aspect of an affair?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): Let me start with your second point. I can give you absolute assurance that I will always be sparing and measured in any comments I make on any matters of national security or anything else involving policing or the search of our public. I always have and I always will. I have a track record of doing so.

Coming back to your first point about national security, when in effect a complaint is made, or in effect we are asked to look at potential criminal offences, where one of the potential areas is the potential of national security being undermined, it is right and proper that we should investigate.

Mike Tuffrey (AM): It is just the newspapers this morning are full of remarks attributable to police sources but not names, citing that because national security was at stake because it was a Home

Office matter somehow various things had to be done. I do put it to you there is a confidence issue that needs to be worked on here.

Can I put a question to the Mayor. Similarly Londoners, when faced with the possibility of things like a Mumbai attack, will look to you to give advice, speaking for the whole of London, based on authoritative evidence that you have been given. What confidence can you give us that you will act as a spokesperson for London and not as a cheerleader for your party's advantage?

Boris Johnson (Chair, Metropolitan Police Authority): A most peculiar question if I may say so, Mike. Obviously the function of the mayor is, in the tragic circumstances you describe, ready to be the public face of the emergency services, to explain what is going on, to articulate the feelings of London and of the wider community, and that is what I will do and what you would expect me to do.

Mike Tuffrey (AM): The reason I ask the question is that it seems to me that you do need to be clear what role you are playing at any given point, and to accept that as Mayor of London and as Chair of the MPA you should be sparing when you use information. I do not want you to comment on the particular case. I am just putting it to you that you do need to be sparing and clear what hat you you are wearing when.

Boris Johnson (Chair, Metropolitan Police Authority): I see where you are trying to go, but if you look at what has happened in the last few days and if you look at the torrent of abuse that has been directed at the Metropolitan Police Service and against this particular action, not just from the Conservative Party, not just from the Liberal Democrats, but also of course from a great many outraged people in the Labour Party; I think it was entirely right as Chairman of the MPA to give my feeling, my instinct, my hunch, in advance, that I thought that this would probably go very badly and people would take a lot of convincing that this action was not disproportionate. Of course you have to wait for the outcome of the inquiry, but I have to tell you, for my own part, I still remain to be convinced that it was not disproportionate. So I abide by what I said.

Mike Tuffrey (AM): OK. I am looking forward to that, thank you.

John Biggs (AM): This is to the Chair of the Police Authority. Would you agree with me that the majority of British people feel that Members of Parliament are overly precious and cosseted and that they should be subject to as much scrutiny as anybody else?

Boris Johnson (Chair, Metropolitan Police Authority): I do agree and I think, funnily enough, one of the interesting things about this whole story is the way there is a kind of huge media hoo-ha and there is a huge political hoo-ha, but there are plenty of people out there who think actually the police should just get on with their jobs and arrest MPs. Why should MPs be above it all? I think that is quite right. My own feeling though is simply that, as I have said before, I think that this particular action could easily be construed as disproportionate. I am yet to be dissuaded that it is likely to yield either a charge or a successful prosecution. You know, that was why I spoke as I did in advance, and I think I was absolutely right to do so.

John Biggs (AM): Would you agree also the only countries were the politicians are above the law are countries which are not real democracies?

Boris Johnson (Chair, Metropolitan Police Authority): Yes.

John Biggs (AM): Good. This is a blurry line, I think we appreciate, between your role as Mayor and Chair of the Police Authority. Have you, on this matter, had any conversations with Mr Green, or members of your office with Mr Green?

Boris Johnson (Chair, Metropolitan Police Authority): As I said there have been contacts but I do not propose to go into them now.

John Biggs (AM): So there have been conversations between you or your office and Mr Green or his office?

Boris Johnson (Chair, Metropolitan Police Authority): There certainly have.

John Biggs (AM): Since this matter broke?

Boris Johnson (Chair, Metropolitan Police Authority): Yes.

John Biggs (AM): Would you consider those conversations to be, with hindsight, appropriate?

Boris Johnson (Chair, Metropolitan Police Authority): Look, I am not involved in an investigation. I am not in any way part of the operational side of this. I think it is perfectly proper for me and my office to try to ascertain as well we can where the facts seem to lie and to take a view. I do not propose to go into the detail of any conversations I may or may not have had, but since you asked me a direct question I will give you a direct answer: yes, there certainly have been conversations.

John Biggs (AM): Would you not accept that, as well as the power that comes to you from being able to appoint yourself as Chair of the Police Authority, there are handicaps as well, there are duties that flow from that in terms of your need to --

Boris Johnson (Chair, Metropolitan Police Authority): I think there is a duty to inform myself about what is going on and to avoid unnecessary errors.

John Biggs (AM): Do you not agree that there is a risk that the public perception might be that you, as a rather inexperienced chair of the Police Authority, by definition, are straying into --

Boris Johnson (Chair, Metropolitan Police Authority): It is a very young organisation. It is a new institution. We are in new democratic territory here.

John Biggs (AM): -- a risk of straying or being perceived to stray into operational policing matters?

Boris Johnson (Chair, Metropolitan Police Authority): How can I possibly be accused of straying? I am a mere toenail in this. The police get on with their job and the police conduct the investigation. There is actually nothing I can do about it.

John Biggs (AM): Is there not a risk that the public perception would be that, if you are speaking to someone who could become an accused person, a witness or a suspect in a criminal matter and you

are Chair of the Police Authority, that there is a conflict in the public mind between your two roles there?

Boris Johnson (Chair, Metropolitan Police Authority): No one in this matter has yet been charged. We have had the mutterings of the mediums. We are yet to see the ectoplasm. I want to see it. I do not wish to be provoked in this matter. If you asked me what I thought about this case it would be, quite frankly -- it is my hunch that it will not produce either a charge or a prosecution.

John Biggs (AM): But you do not know that, do you? As Chair of the Police Authority you need to sit above that and protect the Police Service, your officers, through the Commissioner, in executing their duties. It may turn out to be completely bonkers but ...

Boris Johnson (Chair, Metropolitan Police Authority): I certainly think there is every case for warning the police about the political consequences of what they are doing, which I did. As we go forward and we look at the way PACE operates, we look at the way the police follow these cases, we look at the way a leak inquiry seems to generate police action in this way, I think there is every case for us jointly trying to help the police not to get themselves in this kind of predicament again.

Jennette Arnold (Chair): Is there another question?

John Biggs (AM): Yes, I do have another question to the Acting Commissioner, which is, is it not the case that as Acting Commissioner, any Commissioner, in order to perform effectively needs to have a relationship of confidence between themselves and the Chair of the Police Authority and that that must involve a clear understanding of when matters are private and should not be shared in a wider public field?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I have always enjoyed a healthy relationship with every chair of every police authority I have worked with. I enjoy that relationship now. I am not going to be drawn further into the debate that is going on on my right-hand-side here. What I can say is that no one, no politician, has improperly influenced me, or Assistant Commissioner Quick -- whose officers are conducting this investigation and making decisions on it -- for political purposes from any side of this equation.

John Biggs (AM): Would you agree that there is a risk that there is a perception, maybe in the lower ranks or wherever, that politicians who are in a dual role as being a politician on one hand and a Police Authority representative on another hand are straying over those boundaries that officers will not feel confident to share matters they should properly share with those members?

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I will simply say that the officers under my command will take my direction and I will tell them there has been and there will be no improper influence.

Navin Shah (AM): I would like to revisit the issue about constitutional privilege. Can I ask the Chairman of the MPA and Acting Commissioner, does constitutional privilege mean that anyone can be above the law, including MPs?

Boris Johnson (Chair, Metropolitan Police Authority): If you ask me, Navin, I think actually this doctrine can be slightly over egged. I am rather with John Biggs that MPs should not be above the

law. The law is there to be enforced. The question in this case is whether it was enforced in a proportionate way. That is all. I think that my beloved former colleagues in Parliament are jumping up and down about whether the Speaker of the House comes in and all that kind of thing. Clearly there may be questions to be answered there, but in principle MPs are ordinary citizens who must obey the law.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): If I can add, I think it is clear that no one is above the law. That is the way we operate. I am satisfied by my inquiries that this operation has been conducted completely within the law. I hear and understand the issue of proportionality. I hear that and that is to be judged in due course, but it has been conducted within the law. Indeed what we have done in searching premises has been conducted precisely within the law.

Navin Shah (AM): Chair, I hope that the Members opposite appreciated what they just heard. Thank you.

Len Duvall (AM): Thank you for the way that you answered John Biggs' question. In light of your answer, will you go away and reflect to see that it is appropriate, and I might have some sentiments about where you think the outcome of things may go, for you or your office to talk to a potential suspect, even though you have no role at all, but you may have information and be given information in briefings, during a criminal investigation? Will you go away to reflect?

Boris Johnson (Chair, Metropolitan Police Authority): The answer is yes. I will go and reflect on almost everything you say today. I will guarantee that I will reflect on --

Len Duvall (AM): Do you think it was unwise for you to do that?

Boris Johnson (Chair, Metropolitan Police Authority): No, I do not. I think I had every possible right to inform myself about what was going on in any way that was most expeditious.

Len Duvall (AM): Why would you do that if you are not part of the investigation of this process? What information were you seeking? Why would you seek information from a potential suspect in a criminal investigation, while the police are in an ongoing investigation, in your role as Chair of the Metropolitan Police Authority, or even as Mayor of London? I find that bizarre. I think the public would find it bizarre.

Boris Johnson (Chair, Metropolitan Police Authority): I think they will find it extremely rational. They will find it absolutely logical and defensible. Here is why: because I, as Chairman of the MPA, sought to express my views about what I think would be the likely political consequences of arresting a Member of Parliament in the course of a leak inquiry, making his children cry and all the rest of it. I thought I did the right thing there. I wanted, for the sake of my own conscience just to talk to Damian [Green] and see that I had understood circumstances correctly. I see absolutely no harm in that whatever. If I am going to provide advice, and my initial advice was of course based on a hunch, which has been completely vindicated by events, but I wanted later on to check whether that hunch was indeed correct. I think it was absolutely the right thing to do.

Len Duvall (AM): Based on not listening to an independent inquiry that has been set up, based on your hunch through talking to various parties you have reached a conclusion.

Boris Johnson (Chair, Metropolitan Police Authority): Sorry?

Len Duvall (AM): It is really about your role and about talking to a potential suspect and arriving at decisions that you have reached conclusions about police activity, rather than waiting for an investigation. I will leave it there. I do not think --

Boris Johnson (Chair, Metropolitan Police Authority): You will leave it there because I think I have answered your question conclusively, which is that it was entirely right to offer advice. It was then entirely right on the basis of a hunch. It was then entirely right, which has been proved correct, to go back and check with the Damian Green who is, as you can imagine, a friend and ex-colleague of mine, which is one of the reasons I am in the difficult position that Tony [Arbour] described earlier on. I think it is completely right, and as I say it is my view that this inquiry --

Jenny Jones (AM): Mr Mayor, I would like to agree with you that this does look a disproportionate use of police powers, albeit within the law. Can I just remind you that they also use other powers disproportionately? If you are going to perhaps start to look at what powers they have used and whether it is disproportionate, perhaps you will also like to look at the use of Section 60 [of the Criminal Justice and Public Order Act 1994], which is entirely beyond what was expected when that law was enacted. I would say it is an abuse of the law that the police are affecting. It is not only one MP, one white, middle-aged MP. It happens to young black and ethnic minorities of all kinds here in London. They are stopped and searched and they are often detained for long periods. So if we are going to look at police powers that would be a good area as well.

Boris Johnson (Chair, Metropolitan Police Authority): Well, Jenny, thank you. I happen to think that Stop and Search is being conducted with as much tact and sensitivity as is possible and I think more or less in accordance with the overwhelming wishes of local communities. Perhaps I will ask Paul or Tim [Godwin] to say something about Section 60 and its application.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): I hear what you say about your view on disproportionality, both in this investigation and in Section 60. By not getting into the debate in this investigation I am in no way agreeing with you, I just hear your view on it.

Let me turn to Section 60. I think Section 60 is about trying to save the life of young kids. I think we are using it properly. We are using it robustly, but we are constantly talking to people in communities and certain neighbourhood panels and volunteers there and we are driving knife crime down. We are sensitive to the overuse of it. We are sensitive to how this can be misinterpreted by certain communities. We are doing huge amounts of work there to try and make sure those communities understand what we are doing and why we are doing it. We are taking a lot of people from the community out on these search operations to ensure that we maintain public support. My prime duty is to actually prevent crime and to save life. That is what we are doing and knife crime is currently 12% down. I think one of the reasons for that is this robust policing operation and maybe we should have done it earlier.

James Cleverly (AM): Thank you, Chair. Mr Mayor, it is quite clear the implication that a number of members opposite are trying to make in their line of questioning. Rather than dancing around the issue and trying to muddy water, I would like to ask you a very explicit question, which I think is the

question that they were trying to ask. Have you shared any operationally sensitive material that you may have received in your capacity as Chair of the MPA with Damian Green MP?

Boris Johnson (Chair, Metropolitan Police Authority): Certainly not.

James Cleverly (AM): Thank you.

Jennette Arnold (Chair): OK, can we now go on to the questions.

Sir Paul Stephenson (Acting Commissioner of Police of the Metropolis): May I be permitted to make one very brief statement? That is: thank you for those questions, thank you for the opportunity for getting some facts on the record around our current operation. Of course we do look forward at some time to be able to share the full facts of the investigation, so judgements that have been made about it can be properly informed. We look forward to the opportunity at some time in the future, whatsoever the opportunity might be. Thank you.

Session 2008-09, 11 December 2008

Announcement of new inquiry

Policing process of Home Office leak inquiries

The Home Affairs Committee is today announcing the scope of its investigation into the *Policing process for Home Office leak inquiries*. The inquiry will focus on the way in which the Home Office reacted to the suspected leaks of information and the procedures followed by the Metropolitan Police when they were asked to investigate further.

Keith Vaz MP, Chairman of the Committee said:

"It is important that the decisions and actions of the Home Office and police are thoroughly examined in the context of existing guidelines.

"The Home Affairs Committee will take evidence from Home Office Ministers and those involved in the process in successive weeks; this will give Members the opportunity fully to explore the aspects of this serious matter that cause them concern."

The remit of the Home Affairs Committee is to examine the expenditure, administration and policy of the Home Office and its associated public bodies.

UNCORRECTED TRANSCRIPT OF ORAL EVIDENCE
To be published as HC 57-i

House of COMMONS
MINUTES OF EVIDENCE
TAKEN BEFORE HOME AFFAIRS COMMITTEE

POLICING PROCESS OF HOME OFFICE LEAK INQUIRIES

Tuesday 20 January 2009
RT HON JACQUI SMITH MP and SIR DAVID NORMINGTON KCB
Evidence heard in Public Questions 1 - 153

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Oral Evidence
Taken before the Home Affairs Committee
on Tuesday 20 January 2009
Members present
Keith Vaz, in the Chair
Tom Brake
Ms Karen Buck
Mr James Clappison
Mrs Ann Cryer
David T C Davies
Mrs Janet Dean
Patrick Mercer
Margaret Moran

Gwyn Prosser
Bob Russell
Martin Salter
Mr David Winnick

Witnesses: Rt Hon Jacqui Smith MP, Secretary of State for the Home Office, and Sir David Normington KCB, Permanent Secretary, Home Office, gave evidence.

Q1 Chairman: Home Secretary, Sir David, welcome to this session. This is the first session of our inquiry into the policing process of Home Office leak inquiries. Next week we hope to have the Metropolitan Police and the Mayor of London giving evidence to this Committee. Have there been any developments since your statement to the House on 4 December when you first told the House about the circumstances surrounding the leak inquiry and the arrest of Mr Green?

Jacqui Smith: I do not believe there have been any developments in the way in which you are asking, Chairman. Perhaps I could just say by way of introduction to this part of the session that obviously my Permanent Secretary and I have agreed to appear in front of you. We will be as helpful as we can, as I hope I was when I did the statement in Parliament before Christmas. At the same time, I am sure the whole Committee would understand that we have got to be very careful not to prejudice an ongoing police investigation. I think it is worthwhile just reminding people that in the statement I made to the House I was very clear that I thought there were four important principles at stake: that no one should be above the law; that the police should have the operational independence to conduct their investigations without fear or favour; that Members of the House should be able to do their work and be able to hold the Government to account, and that the impartiality of the Civil Service should be protected. Throughout this whole process I have been at pains to support the operational independence of the Metropolitan Police and to uphold the Civil Service Code. I will be as forthcoming as I can. I think it is probably worthwhile saying that it does remain my view that it is inappropriate to comment on issues arising from the handling of the police investigation whilst it is ongoing. When the investigation and any possible proceedings arising from it do reach a conclusion, I am clear that at that point there will be a range of issues arising from both the investigation and in fact the whole episode that we will want to follow up, but obviously it is difficult to go into detail on some of those today. We will be as helpful as we can, Chairman.

Q2 Chairman: Thank you very much. You have always been very generous with your time whenever the Committee has asked you to give evidence. We are not just examining you today on this inquiry, there are a number of other issues that have arisen since your last evidence session to the Committee which we wish to touch on, counter-terrorism and indeed the accountability of the police. In respect of what you have just told the Committee, we have taken legal advice and we are confident that our inquiry will not impinge on any ongoing investigation by the Metropolitan Police. You mentioned the possibility of a review at the end of this process. Is that likely to be an internal review of what has happened or an external review? I understand you cannot talk about the substance, but have you made up your mind as to what sort of review you have in mind?

Jacqui Smith: It depends what you mean by external review. If you mean internal only to the Home Office, then the answer is no.

Q3 Chairman: So there is likely to be something that goes beyond the Home Office after all these matters have been settled?

Jacqui Smith: Yes.

Q4 Chairman: You will be initiating a review that goes beyond an internal review?

Jacqui Smith: Yes.

Q5 Chairman: Sir David, in a letter that the Director of Security at the Cabinet Office sent to the Metropolitan Police that started off this whole matter the issue of the type of documents leaked was raised and in that letter he talked about documents relating to national security. What most excited you about the documents that you had lost? What documents have actually been leaked that caused you concern?

Sir David Normington: By definition, I do not know for sure what has been leaked. I know that the Home Office has had just over 20 leaks of documents, emails or information over 2007/08, but I do not know whether there is more material that has been leaked which is not in the public domain. I think it is important to say about that letter, which was the letter from the Cabinet Office inviting the police to do the investigation, that it is really saying three things: first of all, we are very concerned about the damage to the operation of the Home Office, and that was serious just in terms of the relationship with ministers and the confidence that people could have in us; secondly, there was the concern that since it was clear that the leaker or leakers was close to the heart of the Home Office there was a potential risk to national security, and thirdly, there is a wider context here which the letter refers to of Cabinet Office concern about the leaks over a number of years of national security information, some of which there was a possibility had come from the Home Office. That is the context for the decision to call in, in my case, first the Cabinet Office and then the police.

Q6 Chairman: We will come on to the systematic leaking of documents. You were satisfied, because it is in the public domain, that the civil servant concerned was an assistant private secretary and that it is at that kind of security level that the documents would have been cleared at?

Sir David Normington: He was not an assistant private secretary. He provided administrative support. He was an administrative officer and he provided administrative support to a number of parts of private office.

Q7 Chairman: So in terms of the ranking, it would be below the ranking of assistant private secretary, would it?

Sir David Normington: Yes.

Q8 Chairman: He was an admin officer working in the Home Office?

Sir David Normington: Yes.

Q9 Chairman: On the question of the documents that were leaked by the Home Office, presumably you would find out about it because you would open The Guardian or The Times or whatever and you would see the document in there, so you knew the leak was occurring.

Sir David Normington: Yes.

Q10 Chairman: From the newspaper articles?

Sir David Normington: Yes. That was usually the way it was done, mainly from newspapers.

Q11 Chairman: And ministers would be concerned. Home Secretary, presumably that is how you would have found out something was leaked.

Jacqui Smith: You find out that something has been leaked if it appears in the newspapers, but it does not necessarily follow that everything that has been leaked appears in the newspapers. I think that is part of the concern that the Permanent Secretary was representing, that when you get to a situation where there have been 20 leak investigations over a period of two years that does then raise questions about the extent to which other information, classified information, may be at risk as part of that process.

Q12 Chairman: I want you to paint the picture practically of what happened. You find out that there was a leak. You get in in the morning, you would see Sir David and say, "Sir David, yet another leak. What are we going to do about it?" What was the kind of language used that so excited ---

Sir David Normington: It was not quite like that.

Q13 Chairman: Tell us what it is like then. How did it go if it did not go as I described?

Jacqui Smith: The responsibility for initiating a leak inquiry rests with the Permanent Secretary who has responsibility for the security of the Department. The Cabinet Office has broader responsibility with regard to security responsibility for the Government. Is there frustration amongst ministers of whatever potential political persuasion - and this is represented very clearly in the Civil Service Code - about the extent to which it is possible to do the everyday business of Government if you think that you are being the subject of a series of leaks? Yes, of course there is.

Q14 Chairman: I am trying to give you the practicalities here. Did you raise it with him? Did he raise it with you? Was it a collective raising of frustration? How was it done practically when you knew this was happening?

Sir David Normington: It was a bit of both really. We were completely frustrated and very concerned about the situation. We seemed to have somebody or some people who were deliberately and maliciously leaking material for political purposes. From my point of view that is despicable, it is disloyal, it is completely undermining the work of the Home Office and it is completely unacceptable, I do not need to be told that by the Home Secretary. Often on that day we would have had a conversation where we exchanged our frustration and our anger about what was happening.

Q15 Chairman: Steam would be coming out of ears!

Sir David Normington: From both of us, I think.

Q16 Tom Brake: Home Secretary, can I just ask you on what day you finally opened a newspaper to read about a link and you decided there is a systematic pattern of leaking going on and we now need to take firm action? At what point in recent history did the Home Office reach a point where they felt that there was a coordinated campaign of leaking?

Jacqui Smith: I think the point that the Permanent Secretary has made is that it probably was not one single occasion, but when you have a situation where you have had about 20 leak inquiries over a period of two years then after a while it becomes apparent that this may not be simply a series of separate or individual leaks but it may be more systematic and that it may relate potentially to an individual who, given the work that

we do in the Home Office, may have access to information that should be kept secret. That is the sort of process that you think about and that raises the sort of concern that the Permanent Secretary has already expressed.

Sir David Normington: Last summer, after a lot of these leaks had occurred and we decided to investigate almost all of them, we decided to ask someone to have another look back at them all to see if they could find a pattern. So in our minds there was an issue about whether this was systematic or not. In fact, they did not really find anything which gave us a lead and in a sense that is the first sign where we are thinking this must be more than just random leaks, this must be systematic, but at that point it did not tell us the answer to that question.

Q17 Tom Brake: So there was not one single leak that triggered this action, it was just a cumulative effect of a series of leaks?

Sir David Normington: Yes. In late summer, when I came back from my holidays, I sat down with the Cabinet Secretary and we discussed the seriousness of what we were facing and that is the point at which we talked about bringing in more expert help.

Q18 Mr Winnick: This sort of leaking that you described is totally without any justification at all. I doubt if any member of the Committee would say otherwise. You indicated in reply to a question from the Chairman that the actual position of this civil servant was relatively junior. Am I right?

Sir David Normington: Yes.

Q19 Mr Winnick: And yet this junior civil servant had handled information that concerned national security. Is that what you are telling us?

Sir David Normington: I have to be careful. There are two answers to that. He had security clearance only up to the level of "secret". He was working in places, therefore, where he would have access to some sensitive material. I have never gone on to claim that he leaked national security information; indeed I must not make that assumption. A lot of the material that was leaked to the press was not national security information.

Q20 Mr Winnick: I am rather puzzled. I can understand that it is virtually impossible for the Department to be running properly and smoothly when this sort of action is taking place, no one would justify it. The use of the term national security I find difficult to understand. There is a lot of immigration statistics that could be used and will be used in party political battles on the Floor of the House of Commons and all the rest of it, it is all part of our political process, but what percentage of the leaking would you say concerned national security?

Sir David Normington: Could I just be completely accurate about this? When we discussed with the Cabinet Office whether we needed further help and we decided to seek the help of the police we did not know who it was who was leaking, so we did not refer to a specific individual who was very junior. We asked a question about how we could find out who was leaking. It was the knowledge that the person or people must have had access to the Home Secretary's office and to her papers that gave us a great deal of concern that national security information might be at risk. The Cabinet Office also had a concern that there had been separate leaks, not of Home Office documents, but of a series of other material across Government, which did have a national security classification, which had been in the Home Office. It is that set of things which caused us to be very concerned about it. Most of the material that was leaked to the press and which the Chairman referred to was classified but it did not have the highest

national security.

Q21 Gwyn Prosser: You have also said that when you reported it to the Cabinet Office there was the potential to do damage to national security. In the letter from the Cabinet Office to Bob Quick, the Assistant Commissioner, he says, "We are in no doubt that there has been considerable damage to national security already ..." How do you reconcile the difference between those two stances?

Sir David Normington: I am talking about three things: first of all, material leaking from the Home Office on a persistent basis which was undermining the Department; secondly, the risk that posed to national security because we did not know who it was and we did not know what they might have and what they might be leaking, and thirdly, the Cabinet Office's concern, which is what they are particularly referring to, that there had been a wider set of leaks of national security information over quite a number of years. Some of that material had been in the Home Office and they had been, as they say in the letter, concerned that that had come from the Home Office as well. The question was whether this was all linked. That is what that is about.

Q22 Mrs Dean: Can you say exactly when you decided that the internal inquiry could go no further?

Sir David Normington: I continued to ask for internal inquiries of the leaks we had into September, but during September last year the discussions with the Cabinet Office led us to thinking that we needed the police's help and the police were written to on 8 October. In parallel with those discussions we continued to investigate the latest leak. There was one at the beginning of September.

Q23 Mrs Dean: Can you say whether the action you took was that of best practice in these situations?

Sir David Normington: I believe it was best practice. The Cabinet Office has overall responsibility for security in Government. They have provided a memorandum to the Public Administration Committee which sets out what the best practice is in this area and when you should seek their help and when you could bring in the police. I believe, because of what I have described, that we were following best practice.

Q24 Ms Buck: Let us return to the issue of what the Home Office advised the Cabinet Office. We have seen the letter that was sent to the police. In what terms was the referral to the Cabinet Office made? Did it use the same form of language? Did it use the words "national security" at any point?

Sir David Normington: It was not like that. The Cabinet Secretary and I had a discussion. We agreed that that should be followed up with some more detailed discussions about our problem between the Home Office and the Cabinet Office and during that effectively we laid out for them all our information and said, "How can you help?" We then had a discussion with them about the means of help. They put it together with what they knew about their investigations across government and it was out of that that we decided that the police should be invited in.

Q25 Ms Buck: So this was a series of discussions?

Sir David Normington: It was a series of discussions. There was not a moment when I wrote formally to the Cabinet Office to commission it, it was not like that.

Q26 Ms Buck: What advice did they give you back on the basis of the presentation that you made to them about this structure of leaks and the content?

Sir David Normington: They believed we should refer this matter to the police. They believed that this was serious enough. They had some wider context which they also took into account in that decision. I believed that was right. In a sense I could have said, "No, I'm not having the police in my Department." It is a very big step. I do not want you to think I took the decision lightly at all.

Q27 Chairman: In the letter of 8 October who is the Director for Security and Intelligence at the Cabinet Office?

Sir David Normington: It is somebody called Chris Wright.

Q28 Chairman: He wrote to Bob Quick and the only department mentioned in this letter is the Home Office and the important phrase is, "We are in no doubt that there has been considerable damage to national security already as a result of some of these leaks and we are concerned that the potential for further damage is significant." In answer to Mr Winnick you said the words "national security" had never been used by you. We accept that, but this was used in this letter.

Sir David Normington: I did use the term "national security" in discussions with the Cabinet Office. I did not claim that most of our leaks had national security classifications.

Q29 Chairman: Are we saying that some of the leaks relating to the information that Mr Galley had in his possession, in answer to what Mr Winnick has said, were national security issues? Were any of them to do with national security?

Sir David Normington: I do not know what Mr Galley has and has not leaked.

Q30 Chairman: That bit is in the public domain.

Sir David Normington: I still do not know.

Q31 Chairman: Having read the newspapers, do you not know whether or not it is national security?

Sir David Normington: Let me be clear. I know about the leaks that have appeared in the newspapers.

Q32 Chairman: That is all you know on those leaks?

Sir David Normington: I made no comment on whether that is linked with Mr Galley and I must not do that.

Q33 Chairman: On all you have read in the newspapers so far ---

Sir David Normington: Most of those leaks were not regarding national security.

Q34 Chairman: Let us just be clear. Of the leaks you have read about in the national newspapers so far, which is all this Committee is aware about, we read the same newspapers as you do, are any of those leaks issues of national security?

Sir David Normington: Over the two years at least one of those leaks has.

Q35 Chairman: And you do not know whether or not they are traced to Mr Galley at all?

Sir David Normington: I do not and I have never made any suggestion that they are because that would be quite wrong of me. That is in a sense what is being investigated.

Q36 Chairman: In terms of the internal discussions that were going on in the Home Office, you were keeping the Home Secretary informed daily, weekly, monthly, were you?

Sir David Normington: Probably weekly.

Q37 Chairman: As part of a general discussion?

Jacqui Smith: We meet weekly.

Q38 Chairman: The steam coming out of ears discussion!

Jacqui Smith: We do not spend the whole of our weekly meetings with steam coming out of our ears, Chairman!

Chairman: I am very pleased to hear it.

Q39 Mr Winnick: Home Secretary, I can understand the police being called in. What causes a great deal of concern to Parliamentarians is the fact that the police invaded the office of a Member of Parliament, it now appears, arising from the Speaker's statement, without a search warrant. As a Member of Parliament, leaving aside your very senior Cabinet position, are you concerned that the police acted as they did?

Jacqui Smith: Yes, I am a Member of Parliament but I am also the Home Secretary. I am therefore not only responsible within Government for the police service but I am also the Home Secretary within whose Department the inquiry started. Therefore, I do believe that it is wholly inappropriate for me to go further than I have gone in the statement that I made to Parliament before Christmas about the rights or wrongs of the way in which the police investigation has been carried out. I would just remind the Committee that Sir Paul Stephenson, the Acting Commissioner, has asked Ian Johnson to carry out a review of the process and the methods that were used by the police. Secondly, in relation to the point about the legality of the search that was done in Parliament, Bob Quick wrote a letter which has been made available to Parliamentarians and also the committee that Mr Speaker has set up to determine precisely those issues that you talked about.

Q40 Mr Winnick: Are you of the view at this particular stage that what happened as far the police are concerned in the Palace of Westminster was right?

Jacqui Smith: You are asking me the same question that you asked me last time. I have just explained to you why I believe that as Home Secretary, during the course of an ongoing police operation, it is not appropriate to make comments on the methods that are being used as part of that police operation.

Q41 Mr Winnick: Will you be willing to come back to this Committee and answer questions on this particular aspect once the police inquiry has been completed?

Jacqui Smith: I think I have made quite clear that once the investigation is complete, if there are any subsequent issues to do with the investigation that are worthy of further consideration, then we would do

so.

Q42 Chairman: Have you seen a copy of the Johnson review?

Jacqui Smith: No.

Q43 Chairman: Do you expect to see a copy?

Jacqui Smith: That was an internal review that was made available for the Metropolitan Police. I do not necessarily expect to see a copy of it, no.

Q44 Chairman: We accept there is an operational independence for the police, but this case is exceptional, is it not, in that you asked for an update of precisely what the police is doing which you have then placed in the Library of the House? That is not a routine thing for a Home Secretary to do, is it?

Jacqui Smith: There are certain things about which Bob Quick has written to me. When I made my statement to Parliament I was also clear about the conversations that I had had with the Acting Commissioner about the process that was then underway. It is worth saying, as I said at that time, that I have been extremely clear in every conversation that I have had with the Acting Commissioner that in my view the process of the investigation is wholly for the police to determine, but what I was interested in was that, where it was possible for information to be made available, for example, to Parliamentarians, I facilitated that happening. I was clear that that was an investigation that was being done proportionately and in a way such that the Commissioner was able to reassure not just me and in public statements that he made to the GLA that this investigation was being pursued in an appropriate way.

Q45 Chairman: Your last letter to him, your request for information, was put in the Library of the House in December. Have you written to him since?

Jacqui Smith: No.

Q46 Chairman: Do you intend to write again?

Jacqui Smith: No.

Q47 Chairman: Why is that?

Jacqui Smith: I do not believe that what is most appropriate here whilst a police investigation is going on is some sort of running commentary either from the Home Secretary or from the Acting Commissioner.

Q48 Martin Salter: As we have heard, on 8 October the Cabinet Office wrote to the police asking them to investigate systematic leaks from the Home Office. They claimed that there had been "considerable damage to national security already as a result of some of these leaks". This was a claim that was then ridiculed by the Opposition in the strongest possible terms. However, on 28 November I note that the former Shadow Home Secretary rather destroyed this claim by admitting that matters covered by the Official Secrets Act were being passed to the Opposition. He is on the record on 28 November as saying, "Our job when that information comes to us is to make a judgment: is it in the public interest that this should be known publicly or not? In about half the cases we decide not to because we think there are reasons, perhaps of national security or military or terrorism reasons, not to put things in the public domain." Here we have it in black and white that the Opposition are admitting that they are receiving leaks of information that would be covered by the Official

Secrets Act. What is your reaction to the claims made by the former Shadow Home Secretary? Secondly, why on earth was the Official Secrets Act not used to make the arrests?

Jacqui Smith: On the first one, as I have made clear in the Chamber of the House of Commons, I do tend to agree with you that it makes the case that the former Shadow Home Secretary appears to be proud of the fact that there has been a systematic gaining of information by himself and people who have worked for him that relates to the range of issues that you have talked about, which more than slightly suggests that our concern that there was systematic leaking going on had at least "some basis", in the words of the previous Shadow Home Secretary. On the second point about whether or not any charges would be made under the Official Secrets Act, that is a decision for the police in consultation with the Crown Prosecution Service in terms of the evidence which may or may not be available at the time at which those decisions are taken.

Q49 Martin Salter: Do you think it is entirely possible that the police had gone after the wrong politician?

Jacqui Smith: Given that I did not answer the question that Mr Winnick put to me, I think it is probably a good idea that I do not answer that one either.

Q50 David Davies: Home Secretary, did the police operation focus on all of the leaks or merely the one which you know of which related to national security?

Jacqui Smith: I do not accept the premise of your question. First of all, I think the Permanent Secretary and the letter from the Cabinet Office makes very clear the basis on which the reference to the police was made. Secondly, I do not know the details of the evidence on which the police are basing their investigation and neither does anybody else in this room.

Q51 David Davies: The Permanent Secretary has just told us that he knows of only one leak which he felt related to national security that was referred to him beforehand. The law is quite clear that the other leaks do not relate to a criminal matter and therefore the police investigation should have been focussed, and should continue to focus, on the one leak that you know of that related to national security, should it not?

Jacqui Smith: No.

Q52 David Davies: Or are the police just helping you out because your Department is a bit embarrassed by certain other information that leaked out?

Jacqui Smith: First of all, the Permanent Secretary has been very clear, as is the Cabinet Office letter, that the reason for the reference to the police and the reason for the concern was on three counts: first of all, the systematic leaking of Home Office information and the detrimental effect that that was having on the operation of the Department; secondly, given that it was not clear at that point who was doing the leaking, where they worked, what they had access to and given the sensitive nature of the information that we routinely deal with in the Home Office, that that leak of potentially being at the heart of the Home Office did make other information vulnerable, and thirdly, that more widely the Cabinet Office had concerns about issues related to national security. Where there had been leaks, some of that information may well have been in the Home Office.

Q53 David Davies: So they investigated on the basis that it might have

done?

Jacqui Smith: There is no question as to whether or not those leaks had necessarily been part of the 20 leaks. As the Permanent Secretary made clear, at the point at which the reference was made to the police there was no "he", there was not anybody identified. That was the point of making a reference that was agreed by the Cabinet Secretary and the Permanent Secretary and with which I agreed.

Q54 David Davies: Are you ever informed in advance when individuals are arrested?

Jacqui Smith: Sometimes, yes.

Q55 David Davies: But not in this case?

Jacqui Smith: No.

Q56 David Davies: Did you or anybody else in your Department ask for you not to be informed if a Front Bench politician was going to be arrested?

Jacqui Smith: As I have answered at least three times on the record in Parliament, no.

Q57 David Davies: Sir David, you must have had some idea when you read the papers that if you launched a police investigation it could end in the arrest of an Opposition politician. Did you ever discuss that possibility?

Sir David Normington: Of course not. It is a mile away.

Q58 David Davies: You have never discussed that possibility with anyone?

Sir David Normington: No.

Q59 David Davies: Finally, Home Secretary, is the Assistant Commissioner a friend of yours? I just wondered why you kept referring to him as "Bob" in some of the interviews that took place afterwards.

Jacqui Smith: He is not a friend of mine. I believe that I have a wholly professional relationship with him.

Q60 David Davies: That is why I call you Home Secretary and not Jackie.

Jacqui Smith: You have called me Jackie at various times, David, and we are certainly not friends.

Chairman: If he was a friend of yours, he probably is not any longer since you did not shortlist him for the Metropolitan Commissioner's job.

Q61 Mr Clappison: Sir David, I have seen the brief statement which you issued about this. When was it that you actually knew that a member of the Opposition or any Member of Parliament was subject to this police investigation?

Sir David Normington: At 1.45 on the twenty-seventh, which is in my statement.

Q62 Chairman: Of November?

Sir David Normington: Yes, when I was rung by Bob Quick to be told that the offices and homes of a Conservative Front Bench spokesman were to be searched.

Q63 Mr Clappison: In your statement you said, "I was informed by the Metropolitan Police at about 1.45 that a search was about to be conducted at the home and offices of a member of the Opposition Front Bench. I was subsequently told that an arrest had been made." Did you know that a member of the Opposition Front Bench or any MP was the subject of an investigation before that?

Sir David Normington: No.

Q64 Mr Clappison: So that had never come up in your experience?

Sir David Normington: No.

Q65 Mr Clappison: Did you find it surprising that you were not told about that?

Sir David Normington: No, I do not think so. I was very focussed on my leaker. My whole aim has been to find my leaker. It is a matter of record, as we have discussed, that the Opposition had been using some of the material that my leaker or leakers had used. It is just a mile from that to believing that an Opposition Front Bench spokesman would himself become the subject of an investigation. I did not believe that was going to happen and I am afraid it did not occur to me that it would.

Q66 Mr Clappison: It was not within your range of contemplation? You never drew a connection between the fact that the Opposition had received this information but that they might be the subject of the investigation?

Sir David Normington: I did not believe that a Front Bench spokesman would be the subject of the investigation, no.

Q67 Mr Clappison: There is a sense here that this has all got out of hand and that it has resulted in something which has a very serious impact as far as Parliament is concerned. You have put your case for this today, but how would you draw a distinction between this case and the many other cases which there have been in the past, including with other oppositions and other governments, of leaks which have taken place then?

Jacqui Smith: As I have also previously said in Parliament, I think it is absolutely incumbent on us as politicians to defend the right of politicians to use information that they get access to in a variety of ways, either to make their political case or to hold governments to account; that is wholly part of our function. There is a significant distance between that and a process from the point of view of the Civil Service which is about a systematic series of leaks.

Q68 Mr Clappison: The characteristics which you have used to try and differentiate this would apply to leaks which there have been in the past. They have been systematic and they have been on information which is embarrassing to the Government.

Jacqui Smith: I am not quite sure what you are referring to.

Q69 Mr Clappison: I am not going to go into it. You know that there have been previous leaks which have been admitted by members of oppositions in the past which have been used to embarrass the Government of the Day. I am asking you what the distinction is between that and this. This has all got out of hand. On this occasion we have seen the police coming into Parliament and searching a Member of Parliament's desks and offices and arresting him.

Jacqui Smith: I think I have been very clear that the difference is the systematic nature of the leaks that have occurred this time, as the Permanent Secretary has outlined. Incidentally, of course, as the Home Office civil servant has himself placed on the public record in a statement that was given by his solicitor, this was a "close to regular" series of leaks over a period of time. I do think that that is fundamentally different in terms of the impact that it has on the ability of a government of any persuasion to be able to operate and, given the nature of the business that we deal with in the Home Office, the potential risk to information that we have a duty on behalf of the country to maintain securely.

Q70 Chairman: Let us just look at the timescale here on 27 November. You were informed at 1.45, that is when Bob Quick telephoned you?

Sir David Normington: I was just out of the office. I would have taken it about 15 minutes earlier.

Q71 Chairman: So at 1.30?

Sir David Normington: Somewhere around that. I came back and rang him straight back.

Q72 Chairman: And he informed you, "We're going to arrest Damian Green"?

Sir David Normington: He did not actually. This is quite important. He said, "We're going to search the offices and homes of a Conservative Front Bench spokesman."

Q73 Chairman: And he did not tell you who that was?

Sir David Normington: I asked who it was and I was told that it was Damian Green.

Q74 Chairman: So you knew at 1.30 ---

Sir David Normington: I knew at 1.45. That is when the conversation took place.

Q75 Chairman: Were you shocked? Were you surprised? Did you expect it?

Sir David Normington: I was extremely surprised and I expressed that surprise.

Q76 Chairman: You did not say, "Why are you going to do this?" This is a gentleman who shadows the Home Office.

Sir David Normington: I said something like, "Well, I hope you have the evidence for that."

Q77 Chairman: And his reply was?

Sir David Normington: I can tell you what I said. I think it is not fair to say what he said.

Q78 Chairman: So your surprise ended with you saying, "Well, I hope you have got the evidence to do what you are proposing to do"?

Sir David Normington: Yes, though I think the tone of my voice was surprised.

Q79 Chairman: Was surprised?

Sir David Normington: Yes, of course.

Q80 Chairman: We are trying to get all the colour behind this and the mood music. You then decided, "Gosh, I must tell the Home Secretary".

Sir David Normington: Yes, I certainly did.

Q81 Chairman: Did you feel "Thank goodness, we've found the leaker"?

Sir David Normington: This was not the moment of feeling pleasure about finding the leaker because the leaker had already been arrested the week before.

Q82 Chairman: So you already knew about the leaker and you knew that he had been arrested. So this came in as an extra surprise, did it?

Sir David Normington: Yes.

Q83 Chairman: So you wanted to tell the Home Secretary but you were not able to, were you?

Sir David Normington: Yes, I was.

Q84 Chairman: The Home Secretary was told at 3 o'clock.

Sir David Normington: At 1.45 I received this news. The Home Secretary was in Brussels at a Home Affairs Council meeting. I therefore went straight round to her Private Secretary who arranged to pass this information to her straightaway.

Q85 Chairman: So personally, on taking the call in the Home Office, you rushed round to the private office.

Sir David Normington: Yes.

Q86 Chairman: You knew the Home Secretary was not there because you know what she is up to.

Sir David Normington: Yes, I do, but I said we need to get this information to her.

Q87 Chairman: At about what, 2 o'clock?

Sir David Normington: After 1.45.

Q88 Chairman: So you told the Private Secretary.

Sir David Normington: Yes, and it took about 20/25 minutes because you were in a meeting.

Q89 Chairman: You were at the JHA in Brussels, were you not?

Jacqui Smith: Yes.

Q90 Chairman: Eventually you got the call at what time?

Jacqui Smith: For that piece of information, at about 2.20.

Sir David Normington: There is a further step there. At about 2.25 I was rung again by the Metropolitan Police and told that Damian Green had been arrested.

Q91 Chairman: At 1.45 you were told an arrest might take place, were you

not?

Sir David Normington: No, I was told that the offices and homes were going to be searched.

Q92 Chairman: And at 2.25, after the Home Secretary was told about the search, you were informed about the arrest?

Sir David Normington: Yes, of Damian Green.

Q93 Chairman: And then you had to tell the Home Secretary again.

Sir David Normington: Yes. Just before that the Cabinet Secretary came on because he had received ---

Q94 Chairman: "Came on"?

Sir David Normington: Came on the phone to me because he had received the same information in parallel via the Cabinet Office and we agreed that we needed to tell the Home Secretary and the Prime Minister as soon as we could.

Q95 Chairman: So at 2.25 you knew about the arrest. What time did the Private Secretary tell the Home Secretary?

Sir David Normington: The same process was gone through again. The Home Secretary had to be got out again. That was at round about three.

Q96 Chairman: That is the same time that the Prime Minister was informed, is it?

Sir David Normington: I believe so.

Q97 Chairman: During all these conversations that took place with Mr Quick did he tell you that the Leader of the Opposition and the Metropolitan Police Commissioner were also being informed of either the search or the arrest?

Sir David Normington: He told me at 1.45 that the London Mayor, David Cameron and the Cabinet Office had also been given this information.

Q98 Chairman: So you were told first?

Sir David Normington: I do not believe so.

Q99 Chairman: You will know next week.

Sir David Normington: I was probably told last, but I think that may be just an accident of timing in that period between one o'clock and quarter to two when there were those conversations going on.

Q100 Chairman: As the Permanent Secretary at the Home Office, were you surprised either that the Metropolitan Police Chairman was being informed about this or that the Leader of the Opposition was being informed? Did either of those pieces of information come as a surprise to you or is this routine?

Sir David Normington: I did not think it was very surprising at the time. I certainly would have expected the Mayor, who is also the Chairman of the Police Authority, to have been told, I think that would have been quite normal practice. I assumed that it was a courtesy that the Leader of the Opposition's office or he himself had been told, but I did not think anything of that.

Q101 Chairman: This is routine, is it, when high profile individuals are arrested ---

Jacqui Smith: I do not think there is anything about this investigation that is routine for precisely the reasons that we are sat in this room discussing it today. I think it is a bit hard to say that is something that routinely happens.

Q102 Chairman: But you did say in answer to Mr Davies that there were other occasions when you were telephoned as Home Secretary to be informed that individuals were being arrested.

Jacqui Smith: I said there were other occasions on which I might be told in advance that somebody was going to be arrested, particularly some recent high profile cases, some terrorist cases, for example.

Q103 Chairman: How often does that happen, once a year, twice a year?

Jacqui Smith: I would say probably more than twice a year.

Q104 Chairman: Half a dozen?

Jacqui Smith: About that.

Q105 Mr Clappison: I appreciate it is all happening fairly close together. You told the Home Secretary about the search before the search took place or as it was taking place?

Sir David Normington: I do not know when the search took place, but I believe that the search was taking place around that time. I believe that I was being told as the operation was underway. I have not checked that.

Q106 Mr Clappison: Because the Home Secretary was asked about this very thing on the Floor of the House and she said, "I was not informed about the search of the Honourable Member's office until after both the search and the arrest had taken place."

Jacqui Smith: I think what we have been very clear about today is that the Permanent Secretary was told at about 1.45, that I was at the Justice and Home Affairs Committee and was told at about 2.20, that the Permanent Secretary was told at about 2.25 that an arrest had taken place and I was told again at 3 about the arrest. You can judge whether or not between 2.20 and 2.25 the arrests took place. I do not think that we know. I think we have been pretty precise with our timing.

Q107 Mr Clappison: The search is something which has caused considerable concerns, as I am sure you would agree, in this place. It is important to know whether you knew before or after the search took place that it was going to take place.

Sir David Normington: We do not know precisely when the arrest took place, but we think it took place at about five to two. Others will be able to confirm that.

Q108 Mr Clappison: The search is what I am interested in.

Sir David Normington: I am afraid I do not know. The search and then the arrest took place in that period. I am afraid I do not know the precise time.

Chairman: We will put that to the police when they come and give evidence.

Q109 David Davies: Many people will find it very surprising that you admit and previous Home Secretaries I have spoken to have said that routinely they are told when high profile people are going to be arrested because there are likely to be questions asked, media reports, et cetera. They are sometimes given some notice of that. People will find it astonishing that you were not told in advance about a Front Bench spokesman shadowing your own Department being arrested for putting into the public domain documents that embarrassed your Department. Do you find it surprising that you were not told in advance that this was going to happen?

Jacqui Smith: I think I responded to Mr Winnick on that. In terms of some of the issues that it would be well worthwhile us considering in the long term, that may well be one of them.

Q110 David Davies: Do you think you should be informed next time in advance?

Jacqui Smith: Let us be clear about this. I have been informed about either high profile or sensitive arrests in advance. Previous Home Secretaries have not been informed about other politically sensitive arrests before they happened for reasons that I suspect will be obvious. So there is a precedent for not informing Home Secretaries about politically sensitive arrests as well.

Q111 Chairman: Are you talking about the cash for honours investigation?

Jacqui Smith: Yes.

Q112 Mr Winnick: Sir David, you were told that the MP's office was going to be searched. Was it made clear to you that the office in question would be in the House of Commons? Would you not have asked that? We all have offices here. It would have been the first question, would it not?

Sir David Normington: I did not have that conversation. I am just trying to recall. I think I assumed that the parliamentary office was going to be searched and also the constituency office. I am afraid I cannot recall whether I actually specifically spoke about that issue.

Q113 Mr Winnick: You are one of the most senior civil servants. You are obviously so experienced about the relationship between Parliament and ministers and the rest. What I find surprising is that you would not have recognised at once, not the identity of the Opposition spokesperson, but the very fact that Parliament itself would be involved and which led to the statement by the Speaker. That did not occur to you at the time or tell the Home Secretary accordingly?

Sir David Normington: The whole thing seemed very sensitive to me. I thought it was completely out of the ordinary. I did think that the searching of Parliament would be a particular issue.

Q114 Mr Winnick: You did believe it would be?

Sir David Normington: I did, yes, but I am afraid I did not have a particular conversation about that. I was rather taken aback by the whole conversation, as you can imagine. I thought it was a rather surprising turn of events.

Q115 Mr Winnick: On reflection, do you think it would have been appropriate to have said to the police that this is a very sensitive matter regarding Parliament itself and as the Permanent Secretary you would notify the Home Secretary on that aspect at least?

Sir David Normington: I am being reminded of something by my colleagues. I said who I was told had been informed. I was told that the Speaker had also been informed.

Q116 Chairman: By Mr Quick?

Sir David Normington: By Mr Quick.

Q117 Chairman: At 1.45?

Sir David Normington: Yes. I was trying to recall precisely what went through my mind.

Q118 Mr Winnick: You did not tell the Home Secretary?

Sir David Normington: I think we passed all that information on, yes.

Q119 Mr Winnick: That a parliamentary office would be searched?

Jacqui Smith: Was being searched because that was at 2.20.

Sir David Normington: I believe we passed all that on. If you are asking me did I make a particular issue with Mr Quick about Parliament, no, I did not.

Q120 Chairman: Practically everyone was told. At 1.45 you were told and the Speaker was told, the Leader of the Opposition was told and the Mayor of London was told. Presumably their offices were aware that this arrest was going to take place and the Home Secretary was then told as well. Are you glad that you were not told in advance of the action?

Jacqui Smith: I am neither glad or unglad. That was the situation.

Q121 Chairman: You have told this Committee for the first time that you are going to have a review, not an internal review, but possibly an external review of all the issues surrounding this matter. That must mean that you have concerns about what has happened.

Jacqui Smith: No. I think it is important, given the sensitivity of what has happened, that we take time, once the investigation and any subsequent action is over, to consider whether or not there are any lessons to be learned from that.

Q122 Chairman: And you have changed that position from 4 December because when you spoke in the House and made your statement there was no intimation from you at that stage that you planned to look at these issues at the end.

Jacqui Smith: What I have always been very clear about - and I think it is worth emphasising today, particularly given the question that you asked me about whether or not I was glad or not glad - is that, even if the circumstances had been different, I think it would have been wholly wrong for a Home Secretary to intervene in the process of a police investigation and operation. However, I do think there are questions, as I have said, that it would be worthwhile considering and reviewing at the point at which that investigation and any subsequent action is concluded.

Q123 Chairman: Will that be when, if any charges are dropped against Mr Green, your review starts? When will be the end game as far as you are concerned?

Jacqui Smith: The point at which I am confident that no investigation or any subsequent action, if it exists, could potentially be prejudiced by what I will be asking to happen at that particular point.

Q124 Chairman: That concludes the questioning on our inquiry into policing processes. Thank you very much for giving evidence today. After we hear from the police next week it may well be that we write to you requesting further information if the timelines do not catch up. I want to turn now to counter-terrorism. When you were last before the Committee the issue of 42 days was very much in your mind. You were obviously pleased that the House of Commons had supported your view that there should be a 42-day period. That was followed by a defeat in the Lords. You went before the House and you made a statement announcing the initiation of a new Bill. What are the big differences between the Bill that you are currently proposing to put before the Commons in an emergency and the previous Bill in respect of the 42-day issue?

Jacqui Smith: My memory about this might be faulty, but I think the last time I appeared before the Committee was actually after the point at which I had made a statement to Parliament about that.

Q125 Chairman: Your mind is not faulty; my mind is faulty! You are quite right, it was two sessions ago.

Jacqui Smith: I have already answered questions from the Committee about the Counter-Terrorism (Temporary Provisions) Bill that we have prepared. The differences really stem from the fact that the proposals that we put forward in the Counter-Terrorism Bill (and now the Counter-Terrorism Act) were about enabling Parliament to discuss the principle of the issue away from the situation of an emergency or a situation in which any application to detain somebody for longer than 28 days might need to be made. It was my view then and it is still my view now that it is better to consider those issues in the calm of the parliamentary process before the emergency arises rather than when and if the emergency arises. The differences effectively were the provisions that were in place for the particular bringing into place of the order making power, were it to be necessary, and the quite considerable safeguards that were placed around that because what we were talking about was legislating then for something that was going to happen in the future. The Counter-Terrorism (Temporary Provisions) Bill actually is based on the current provisions for extending the period of pre-charge detention with a few important changes and therefore on tried and tested processes which have been the subject of considerable discussion within Parliament previously.

Q126 Mr Winnick: What do you say to the view that the Government will not accept the decision of Parliament over 42 days?

Jacqui Smith: I do not accept that. The first thing that I have always made clear is that I think the responsibility of Government is to ensure that when it comes to the security of this country against terrorism, we give those that we are asking to carry out that task, the police, prosecutors and others, the tools that they need to do the job. As this Committee has recognised, there could be a potential scenario in the future where the scale of a potential attack or the scale of a foiled attack or the complexity of the investigation might necessitate, in order to get to a situation of bringing charges, considering whether or not somebody should be held longer than 28 days. What I am concerned about is putting in place, as my proposals do, not a way to ignore the views of Parliament, but to provide Parliament with the opportunity to put those provisions in place if and when those circumstances arise.

Q127 Mr Winnick: The Government was defeated on 42 days. There is a

feeling that, since the Government was defeated but it is not willing to give up, if there was - as we all hope will not be the position - a terrorist attack in this country the Government will bring in this measure more or less immediately.

Jacqui Smith: I do not think the Government or any government is ever willing to give up on thinking about the tools, whether legislative or otherwise, that are necessary in this country to counter terrorism and I certainly will not do that whilst I am Home Secretary. I think I answered these questions the last time I came to the Committee. Our first response in any terrorist investigation would be to carry out that investigation as fully as possible in order, if there were charges to be laid, to ensure that that happened within the current 28-day period, in fact as quickly as possible. Were a situation to arise where the attack or the foiled attack or the complexity was of such a scale that I or any future Home Secretary felt it was important to ask Parliament to give, not the ability for anybody to be held longer than 28 days, the Director of Public Prosecutions the ability to ask for somebody to be held for longer than 28 days, then I presume that that Home Secretary may well bring forward this piece of legislation to Parliament for their decision at that particular point.

Q128 Patrick Mercer: Thank you very much for the explanation you have given so far. I am slightly confused. I fully understand that this Act can be invoked and yet we seem to be having two differing views from colleagues, subordinates of yours. The Security Minister, Lord West, a few weeks ago described the situation as having never been more serious and that the threat, if anything, was escalating, yet in a recent interview the Head of MI5 suggested that things, however temporary, were reasonably quiescent. What is it?

Jacqui Smith: I do not think there is a conflict between those views. I asked the Director-General of the Security Service specifically whether or not he agreed with the headlines around his interview that suggested that the threat was reducing. He was very clear with me, as he was in his interview, that the threat to the UK remains severe. That means an attack is highly likely. It could happen with no warning. He said in his interview, "There is still an al-Qaeda core in northern Pakistan trying to organise attacks in the UK. There are a number of networks in the UK and they are alive and kicking. There is plenty of activity and a few people who want to cause carnage." He went on to say, and I wholeheartedly agree with him about this, that the actions of both his service and the police and prosecutors in effectively investigating and in many cases bringing to conviction those who have been plotting terrorist attacks in the UK does mean that there has been success in dealing with some of that end attack planning, but as he pointed out, there remains a very complex and serious risk from the networks of the sort of threat that he outlined in his interview.

Q129 Margaret Moran: Have you consulted with the new DPP and the judiciary on the provisions of the Bill, and are they satisfied with the provisions as they relate to detention?

Sir David Normington: The provisions of the Bill are based on the current provisions for extending the period of pre-charge detention which have had the support of Parliament in terms of quite detailed discussion and been brought forward. Were it the case at any point in the future that it was necessary to bring in this piece of legislation, then the whole point of it is it enables the DPP, him or herself, to be the person that makes the application, were that legislation to be passed, if anybody needed to be held for longer than 28 days in those circumstances.

Q130 Margaret Moran: So you have consulted?

Jacqui Smith: Have we consulted specifically on this Bill? No, because it is based on the provisions which are currently in existence.

Q131 Chairman: I have just returned from India. In visiting any of those five star hotels in Mumbai or Goa you are subjected to quite serious searches. Yet when I went to a hotel off Park Lane recently there were no such searches. Does it worry you that in those areas that might be the subject of a terrorist attack those private sector organisations are not really prepared? We had pictures of the January sales where thousands of people were going to some of our biggest shops on Oxford Street. Is it not a worry to you that there are no searches going on in any of these areas?

Jacqui Smith: The protection of this country from potential terrorist attacks is always a worry for any Home Secretary. I think the Mumbai attacks have caused us to consider the protective security arrangements that we have in place in the light of those attacks and a lot of detailed work has been done and will go on in relation to that. There is always a balance - which, if he were here, I am sure Patrick Mercer would accept given some of the very important work that he has contributed to on our work on protection in crowded places - between enabling people to go about their daily lives free in this country, which is what terrorists quite often are seeking to undermine and attack, and having in place appropriate protective security measures, not all of which are instantly visible to people when they are out shopping or in hotels.

Q132 Chairman: If you go to any of these hotels, which must be potential targets, there are no checks at all.

Jacqui Smith: We have taken the opportunity of the review that we have done to accelerate the publication of protective security guidance to both hotels and hotel security professionals and that is aimed at giving them the best advice on protective security. We have a network of officers and counter-terrorism security advisers who are able to supplement that advice by visiting specific venues and delivering training and we are taking that forward. The work that we are currently doing more widely on the review of the CONTEST strategy, which is the subject of consideration by a Sub-Committee of this Committee, also gives us the opportunity to make sure that all the lessons that we can learn from what happened in Mumbai are more broadly fed into the review of the overall counter-terrorism strategy and that is what we are doing and I think it will be evident in terms of that new strategy as well.

Q133 Mr Winnick: Some of us continue to be concerned about the fact that extremists in prison are indoctrinating people and sometimes converting them to their version of Islam, a version that would be rejected by the vast majority of Islamic people, and then grooming them for terrorism. Are you satisfied that enough is being done in prisons? We have visited some over the years and looked into the subject. Are you satisfied that all that can be done is being done at the moment to prevent what I have just mentioned?

Jacqui Smith: I do not think any of us can be satisfied that everything that we need to do in this country to counter extremism and radicalization is being done, which is precisely the reason why I have put a strong emphasis on that prevent element of our counter-terrorism strategy. What I am satisfied about is that there has been a significant increase both in money being invested, for example, in the area of prisons, in training that is taking place for imams and other religious leaders within prisons, and in work that is being done with prison officers. This is a significant stepping up of that activity over what existed previously. This is most

certainly something, along with the broad range of areas with respect to prevent, that we are both concerned about and actively engaged in improving the provision around.

Q134 Chairman: Let us move on to police authorities. The Committee would like to thank you for accepting our view that in the Policing and Crime Bill that you have just published you should not have proceeded with proposals for the election of police authorities. Given that you have decided to do that, how do you intend to address the democratic deficit that there is clearly going to be in those committees?

Jacqui Smith: At the moment we are engaged in a major programme of reform within policing which has at its heart how we can make policing even more visible, accountable and responsive to local people. That involves both the development of neighbourhood policing, which is now in every neighbourhood across the country, the development of that through the Policing Pledge, which all police forces signed up to at the end of 2008, that puts in place the basic standards that people can expect in terms of their relationship with policing, monthly meetings and access to the neighbourhood policing teams, monthly crime information and broader information to be able to make judgments, a commitment that local people's priorities will be represented in the local element of the Pledge, and a stripping away of all targets apart from a very important target which is to raise confidence amongst local people, which we are currently in the process of agreeing with all police forces already, which will transform the way in which the police service thinks about its relationship with local people. The provisions that we have already started to put in place with respect to police authorities, it is a new programme of inspection, reform the way in which police authorities and their members are trained and supported. When you add to that the new duty that the Bill (it had its Second Reading in Parliament yesterday) has, I think that is a pretty wide programme of action to deliver greater responsiveness and accountability. I am still of the view that I think there is a potential role for direct election on police authorities, but as I have said previously, actually some of the arguments that have been made had some power. I think there is more work that we need to do to develop what is the right model to take that forward without some of the pitfalls that others have identified.

Q135 Martin Salter: May I thank the Home Secretary for seeing sense on this issue or at very least allowing breathing space so that we come forward with better policies. It was slightly maddening in this Committee to find your original proposals being supported by the Member for Monmouth and attacked by your own side, but we are where we are! My concern, Home Secretary, is how we improve engagement without overtly politicising what should be a neutral police force. Is not engagement something that is delivered at a local and community level, not up there in the tier of police authority, which is by its nature, certainly in my neck of the woods, a very large beast, it is three counties welded together? Should we not be looking at much more local models of engagement?

Jacqui Smith: I agree with you completely that our first priority is how we make that engagement real at a local level. That is why the things that I have outlined, the neighbourhood policing, the development of the Pledge, the monthly meetings, the local pledge in which people can identify the three priorities in their neighbourhood that alongside their neighbourhood policing team they will work on, are crucial. Nevertheless, I do think that it is the role of police authorities to ensure that that is continuing to be delivered and that is the reason for the new duty that we are proposing. I think there is an argument that a more directly accountable police authority will be stronger in its insistence that precisely that neighbourhood engagement is taken forward and underway. It is happening, we are absolutely committed to it and so are all of the police forces that signed up to the Policing Pledge, but we need to make

sure that the structures are there to maintain that into the future.

Q136 Gwyn Prosser: Are there any lessons which other forces in the country can learn from the changes which have already been made within the Metropolitan Police Authority?

Jacqui Smith: We made it clear in the Policing Green Paper that there are unique elements to the way in which we structure the governance of policing in London that relate to there being an elected Mayor and to the relationship between the Mayor, the GLA and the police authority. I am not convinced that there are that many lessons that can be learned from the London experience.

Q137 Gwyn Prosser: For good or for bad?

Jacqui Smith: You are slightly tempting me to repeat my view that one of the reasons why there is more concern about what I think is correct direct democratic accountability within police authorities is a suggestion that perhaps some of the activities of the Mayor at the end of last year raised questions about the politicisation of the police and the operational independence. I do not want to see the politicisation of the day-to-day activity of policing. I think it is very important that we are clear that that would not happen through any reforms that we made.

Q138 Mrs Cryer: Home Secretary, at the moment crimes of honour of young ethnic minority women are running at 12/13 a year. About three years ago the Met decided to set up a small unit of four officers to look back at those young women who had been killed and whose deaths had been recorded as either accidental or suicide to see whether some of those could have been crimes of honour. I was told recently that that unit had been run down to only one. I am just wondering if even that one is still going on or whether we have stopped the work altogether?

Jacqui Smith: I do not know the answer to that question. The way in which resources are determined within the Met is the decision of the Commissioner and of the MPA, but if your argument is that so-called honour killings should be a priority for policing, I wholeheartedly agree with you.

Q139 Bob Russell: Home Secretary, to what extent does the problem of accountability stem from the lack of everyday contact between police officers and the public (the perceived decrease in beat officers, the closure of local police stations, et cetera) rather than the formal structures for accountability?

Jacqui Smith: I think it depends on both. I do not accept your suggestion that there has been a reduction in beat officers; there has not been.

Q140 Bob Russell: I said perceived!

Jacqui Smith: Let us help people's perceptions by making clear that there has not been a reduction in beat officers. There has been, with £1 billion-worth of Government investment, the development of a neighbourhood policing team in every neighbourhood in England and Wales whose names people know and where people can access them. The Police Community Support Officers are a crucial part of those teams at the school gate, through monthly meetings, through seeing them walking down their road, through having access to their contact details and through the sort of information that is now much more widely available. I wholeheartedly agree with you that that is a fundamental way in which we can ensure that policing is visible and responsive. Incidentally, through that we can make sure that the public has the confidence to report crimes and actually work alongside

the police in bringing down crimes and anti-social behaviour and that is why I have made it such a priority.

Q141 Bob Russell: I am grateful for the emphasis you have clearly given there on the neighbourhood policing which is clearly intended to bridge that gap, perceived or otherwise. So far as the Police Community Support Officers are concerned, I am grateful for what you said there. Is there any chance of that robust support of the police family being repeated by you and other Home Office Ministers time and time again because, sadly, the Daily Mail in particular dismisses that element of the police family? I personally think they are doing a grand job.

Jacqui Smith: I agree with you wholeheartedly and I do repeat it time after time. What is more important, as you will know and as many people around the room will know, is that when we ask our constituents, they are extremely supportive of the work that Police Community Support Officers do as well.

Q142 Chairman: We hear that you have patched up your differences with the Mayor of London just in time to announce the new Commissioner, is that right?

Jacqui Smith: That is rather along the lines of, "When did I stop beating my husband?" The Mayor of London and I have always had, I hope, as a priority, when it comes to the decision about the next Commissioner, choosing the person who will do the right thing for London and the right thing for their national responsibilities with respect to counter-terrorism and more widely as well.

Q143 Chairman: When can we expect a name? When does the white smoke come out of the chimney?

Jacqui Smith: I do not believe it will be too long, but obviously the important point to make here is that the process is that the Home Secretary makes a recommendation to the Queen and I would certainly not want to answer for the Queen. I do not think it would be appropriate for any of us to push her on this.

Q144 Chairman: I think you have the support of many on that. Our final area involves Home Office statistics and that concerns knife crime. As you came in you met two parents of the victims of knife crime. Last week we had DAC Hitchcock giving evidence to us and we opened our newspapers today to find out that he is about to leave you and go to another job. This is a very short period for an anti-knife tsar who is supposed to be fashioning a strategy for the Government. Why has he only stayed 18 months?

Jacqui Smith: He has made very clear in the comments he has made to the newspapers that he will certainly want to see out the specific work on the Tackling Knives Action Programme. Despite the very important contribution made by DAC Hitchcock, it has not been about one person, it has been about the combined work of the police forces, particularly in the ten areas which have been part of the programme, their partners in local government and in the community and the sort of very brave and creditable initiatives that you yourselves have had the opportunity to hear about this morning. I am always impressed by those that are led by the families of people who have suffered terrible losses but who nevertheless turn that tragedy into something positive in terms of trying to prevent that from happening again.

Q145 Chairman: He is retiring and therefore drawing a full pension but then taking up another job. There are a number of senior officers who are receiving salaries of over £200,000 a year because they are drawing their

pension having retired from one part of the police and then they are employed in another part of the police. Is that a practice that you support or have concerns about?

Jacqui Smith: It is the case that if you are retiring now with 30 years' service you have access to your police pension. The Government reformed the police pensions system from 2006. First of all, anybody joining the police service now will need to serve 35 years before they get access to their pension. Secondly, what we tend to see is people starting a police career at a later age now than previously, but I have in the past and I will continue to make the case for the appropriate use of public money when it comes to police pay and pensions, although I have not always had the support of this Committee for doing that!

Q146 Chairman: We are very pleased that you have had a settlement with the police this year. On the knife crime statistics, we questioned Mr Hitchcock as to why he was not informed about the use of the statistics on knife crime. I must give you credit, Home Secretary, because you did come before the House and give us a mea culpa for having used those statistics without the quality checks. Why was he not informed about the publication of these statistics?

Jacqui Smith: As I think he made clear at the meeting, at the point at which that particular fact sheet was published he was on holiday and that is why he did not see those statistics in that form. His deputy who is working with us permanently in the Home Office, the ACPO secondee to the Tackling Knife Crime Programme, did see them and they had also been the subject of discussions in the weekly meetings that we have in the Home Office and with other departments on evaluating the progress of the Tackling Knife Crime Programme. It is important to set those figures in context. The very fact that people believe there is a high level of knife crime is part of the reason why they themselves feel that they have to arm themselves and go out on the streets with a knife. When you are facing that sort of concern I think the public expect that where there is information suitably explained, suitably caveated, it is made available to the public. It is because we realise the importance of doing that that we set up a monitoring process specifically for the knife crime action programme that gained information from the police forces involved and that is not actually available in any other form of national statistics. It was that management information that formed the vast majority of what was published as the fact sheet that went alongside the announcement.

Q147 Tom Brake: What has happened to the person who decided to go against the advice or the instructions of the National Statistician about releasing those statistics?

Jacqui Smith: Let us be clear about this. As is spelt out in a letter that Gus O'Donnell has sent to the Public Administration Committee and copied to this Committee, the National Statistician's specific concerns about the one figure that I apologised to the House about were not received until after the fact sheet was published. I have taken responsibility for that by saying that I was too quick off the mark in publishing the figure that related to hospital admissions and I have made that statement in the Chamber of the House of Commons.

Q148 Tom Brake: What has been put in place to stop it happening again?

Jacqui Smith: As Sir Gus spelt out in his letter, first of all, there are a series of actions that have been taken across government in terms of advice to permanent secretaries not just with the UK Statistics Authority but also with the National Statistician. There are within each department a range of actions that have been taken to fulfil the requirements of the

Statistics and Regulation Act including within our Department, for example, from last year there being a new more independent source of statistical advice, our Chief Statistician, who has a direct link to the National Statistician so that we are much clearer about the way in which we need to ensure both professional advice and transparency about statistics. Let me give an example of the way in which that is impacting. Perhaps I could tell the Committee that, particularly given the concerns that there were about the quality of data collection within the most serious violence category of the crime statistics that we introduced in April 2008, following consultation with the Home Office Chief Statistician and the National Statistician, I have asked the Inspectorate of Constabulary to undertake an important quality assurance exercise to monitor the police recording and collection of data under that newly introduced category of most serious violence to ensure it is being done in accordance with the Home Office counting rules. We will also be following the advice confirmed by letter this morning from the National Statistician in relation to the presentation and format of the quarterly crime statistics, which are due for publication on Thursday and which, in line with the newly strengthened requirements with regard to government statistics, I have not seen yet and will not see until 24 hours before they are published. The National Statistician has advised me and my Chief Statistician that whilst that quality assurance exercise that I put in place is underway we should not publish the data broken down in the way in which it was the last time that quarterly crime statistics were published, not including that one subcategory of violent crime, but actually include all of the figures for violent crime and break them down instead into the categories of violence with injury and violence without injury. So that is the publication of statistics on all of the violent crime but with one of the subcategories, which is the subject of the quality assurance work that I have put in place, not separately identified within that total.

Q149 Tom Brake: Has the UK Statistics Authority signed off all that you have put in place and approved so that this will guarantee no future mishaps in relation to stats?

Jacqui Smith: The role of the UK Statistics Authority is to act rather more as a regulator. It would not be appropriate for us to go to them to ask them to sign off everything that we are doing. I think we are confident that we are fulfilling what has been put in place by this Government, which are much more strengthened and robust conditions around official statistics both through the legislation and through the new Code of Statistics and therefore I hope that in its regulatory function the UKSA will recognise that that is what we are doing.

Q150 Mr Clappison: I appreciate you made a very full and proper apology on the Floor of the House, Home Secretary. It was not a question of the Government going to the National Statistician as regulator, they came to you. We are told in the letter from the Chairman of the UK Statistics Authority, "The statisticians who produced them together with the National Statistician tried unsuccessfully to prevent their premature, irregular and selected release." Would you expect that where statisticians from the Statistics Authority to come to you again and say, "Please do not publish these statistics yet," your Department would take note of what the Statistics Authority says to it?

Jacqui Smith: Yes, of course they would. That is very important in terms of the transparency and the strength of national statistics, although I would reiterate that I think there is a responsibility on Government, where monitoring information is being collected, where something is of significance to the public, to bear in mind its responsibility to share that information with the public. I do note that there was quite considerable discussion over the Christmas break of a set of information

gathered by the Opposition party through Freedom of Information requests to every single police force in this country which was freely quoted from and published in various national newspapers and fair play to them because they were given access to it, but there was no comment made about whether it had been through the appropriate checking arrangements or not. There is a greater responsibility on the Government in the publication of national statistics to make sure that those are appropriate. I do not think we can get into a situation where the only people that are not able to comment on things of particular concern are Government Ministers because of concerns around the transparency and the validity of statistics.

Q151 Chairman: Are you saying that Mr Brokenshire's press release which quoted statistics from your Department under the FOI was wrong?

Jacqui Smith: It did not quote statistics from our Department.

Q152 Chairman: Where were these statistics from then?

Jacqui Smith: As I understand it, it was a Freedom of Information request to a variety of police forces. Freedom of Information requests quite often bring forward statistics before they have been through the checking process necessary in order for them to be national statistics. Those were statistics that have not been seen by Ministers within the Home Office and they will not be seen until 24 hours before the publication of the official statistics on Thursday.

Q153 Margaret Moran: This Committee is often railing about the lack of availability of current statistics on which to monitor whether we are creating legislation which is effective. Given that the knife crime statistics coming out on Thursday relate to the second quarter of 2008/09, surely it is as important to have timely information as well as accurate. What more can be done to speed up the process so that people can have confidence that the information they are getting is relevant to what is happening in their everyday lives?

Jacqui Smith: I wholeheartedly agree with you and that was the point I was making. I think that as Government we will be held to account for delivering on things that are of concern to the public and we will need to provide evidence that we are doing that. In the case of knife crime, there are even broader public policy reasons why it is important that people understand the true extent and the success, in my view, that the police and their partners have had in bringing it down. I think perhaps we need to distinguish between those things which are official national statistics and those things which, I think quite legitimately, are gathered as management information, where there has to be provisos put around the status of those statistics but where actually I think both policy development and public understanding is supported by that information being made available as quickly and as widely as possible both to those involved in delivering the policy and to the public.

Sir David Normington: I think this is a dilemma that we should put back to the UK Statistics Authority. Not only is it responsible for ensuring valid, accurate statistics, but I hope it also will want to encourage the availability of information to Parliament and the public. So there is a balance to strike here and I think there is more discussion to be had with the Authority.

Chairman: Home Secretary, you have given evidence for an hour and forty minutes. We are extremely grateful. You are very generous with your time. You never refuse our request to come here, which we are grateful for. We look forward to having you back again in the not too distant future. Thank you both very much indeed.

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TAKEN BEFORE

HOME AFFAIRS COMMITTEE

POLICING PROCESS OF HOME OFFICE LEAK INQUIRY

Tuesday 3 February 2009

MR BORIS JOHNSON

Evidence heard in Public Questions 154 - 217

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Oral Evidence

Taken before the Home Affairs Committee

on Tuesday 3 February 2009

Members present

Keith Vaz, in the Chair

Tom Brake

Ms Karen Buck

Mr James Clappison

Mrs Ann Cryer

David T C Davies

Mrs Janet Dean

Patrick Mercer

Gwyn Prosser

Martin Salter

Mr David Winnick

Witness: **Mr Boris Johnson**, Mayor of London, gave evidence.

Q154 Chairman: Could I welcome the Mayor of London. Mr Mayor, we did contact your office yesterday just to say that if you felt you had more pressing matters to deal with, in respect of the issue of snow, we were very happy to put the evidence session off until next week, but I note that you are able to come and we are extremely grateful. Thank you very much for doing so. This is an inquiry into the process of policing and Home Office leaks. We have already heard evidence from the Home Secretary and the Permanent Secretary at the Home Office, who gave very full evidence to this Committee two weeks ago. We will be taking evidence from Mr Bob Quick next week. I make it clear that we are not concerned with the substance of any of the allegations against anyone, we are concerned only with process, and so we will ask you questions of process in the same way as we asked the Home Secretary about process. May I start with a question that is not directly related to the inquiry but the appointment of the new Commissioner which was announced last week. There is presumably agreement between you and the Home Secretary on the appointment of the new Commissioner. Is that correct?

Mr Johnson: Mr Vaz, perhaps I can begin by saying how delighted I am to be here. Of course I was interested to get the invitation not to come last night, having been invited very firmly to come. I will tell you that wild horses would not have kept me away from your distinguished Committee this morning if my absence could possibly have been construed as any kind of comment on London Transport, which is running very, very well indeed this morning. I congratulate everybody on the heroic efforts they have made throughout the night to get the buses running and for much of yesterday. As to the substance of your question, of course, as Jacqui Smith and I said repeatedly on the day of Sir Paul's appointment, there was a glutinous accord between us on his candidature and we are convinced he is the right man for the job.

Chairman: We are very glad you are here. We do not know if you came by London Transport or some other means, but we are very pleased to know that the transport system is running again today.

Mr Winnick: It was paralysed yesterday.

Chairman: We are not the Transport Committee, so we will not ask further questions on Transport for London.

Mr Winnick: It stopped me coming in.

Q155 Chairman: Is the Chairman of the MPA routinely informed of high profile arrests by the Metropolitan Police?

Mr Johnson: I have only been Chairman of the MPA since October so I am afraid I cannot give you a very detailed answer to that question. But in so far as there has been one high profile arrest during my time as Chairman, then perhaps it would be possible to conclude that it is a routine thing.

Q156 Chairman: You have been told on only one occasion since you have become Chairman of the MPA that someone was about to be arrested.

Mr Johnson: That is right.

Q157 Chairman: And it was in this particular case ----

Mr Johnson: That is right.

Q158 Chairman: -- concerning Mr Green. I want to take you back to the day in question when you received the call. We have heard very detailed evidence from the Home Secretary and the Permanent Secretary as to the exact time that they were informed that an arrest was going to take place. The Permanent Secretary told us two weeks ago that he was first told that there may be an arrest, and, second, that there was an arrest. Did you receive one or two calls from the police and who telephoned you?

Mr Johnson: Can I preface what I say, Mr Vaz, by reminding you, as I think I have told you before, and by reminding the Committee that there is, alas, a procedure investigation going on, instigated by Labour members of the London Assembly, which means that I must be extremely careful in what I say without saying anything to prejudice the course of that inquiry. But I can certainly elucidate you, as far as I can, on some basic facts. It is true, to the best of my memory, that there were several telephone calls on the day in question.

Q159 Chairman: To you?

Mr Johnson: To me. Or from me to the then Acting Commissioner, Sir Paul Stephenson. I can tell you exactly: I was alerted at about ten in the morning by the Acting Commissioner that something was up and that I should be ready to deal with a controversy involving an MP.

Q160 Chairman: Did he at that stage tell you that it was Mr Green?

Mr Johnson: No.

Q161 Chairman: Did you ask him?

Mr Johnson: No. I mean, I did not ask him whether it was "Mr Green" - since I had no knowledge of whether it was Mr Green. I said, "Come on then, what's up then? Gosh." I did inquire, but he did not tell me anything.

Q162 Chairman: So the first call was at 10.00 am.

Mr Johnson: No, there was no telephone conversation. This took place in the margins of the meeting of the Metropolitan Police Authority which he and I were both attending.

Q163 Chairman: So your first intimation that something was happening was at 10.00 am on that morning.

Mr Johnson: Shortly before ten, I would say.

Q164 Chairman: How many more times were you in contact with him?

Mr Johnson: That day? I then had a conversation with him at about lunchtime.

Q165 Chairman: Is lunchtime the traditional lunchtime?

Mr Johnson: The conventional lunchtime - not the Spanish lunchtime - yes.

Q166 Chairman: About one o'clock.

Mr Johnson: Yes - round about then.

Q167 Chairman: He rang you or you were still in the meeting?

Mr Johnson: He made contact with my team - because we were out doing a press event - and he informed me then that it was Damian Green who had been arrested in connection with a leak inquiry.

Q168 Chairman: At 1.00 pm.

Mr Johnson: Then or thenabouts. If I could just reiterate, all this is being trawled over by the Standards Board so I do not want to say anything that might inadvertently conflict with anything I may already have said to them.

Q169 Chairman: Mr Mayor, you understand that the Standards Board inquiry is quite separate. It does not fetter Parliament from asking.

Mr Johnson: No, I understand that. I understand that.

Q170 Chairman: About one o'clock, Sir Paul telephoned your team. To tell them what? That Mr Green had been arrested?

Mr Johnson: I believe it was to say that Mr Green was about to be arrested in connection with a leak inquiry.

Q171 Chairman: Did you have any further contact that day?

Mr Johnson: I did. I then called Sir Paul back.

Q172 Chairman: At about what time?

Mr Johnson: I think shortly after that conversation and then later on that afternoon.

Q173 Chairman: What time in the afternoon?

Mr Johnson: It was in the afternoon. I mean, it was before three o'clock

Q174 Chairman: The first two calls were: Sir Paul first of all informing you at the margins of the MPA meeting and the second time was a one o'clock call from Sir Paul to your team.

Mr Johnson: That is right.

Q175 Chairman: You then telephoned him at 1.10 pm, or approximately 1.10 pm.

Mr Johnson: It was then or thenabouts.

Q176 Chairman: And then you rang him again at three o'clock.

Mr Johnson: Perhaps it would be helpful if I describe the scene. I rang him once from a station platform in West London, as we came back by Tube from the media event, and then later on from my office in City Hall.

Q177 Chairman: What was the purpose of your calls back to him? I can understand him informing you but why did you then ring him back?

Mr Johnson: Well, he was calling me in my capacity as Chairman of the MPA to alert me to a high profile arrest (as you have described it) and my purpose in calling him back, as I have said before, was to establish that I had the facts of the case straight in my head and that a Member of this House was being arrested in connection with a leak inquiry, and I wanted to make it clear to the Acting Commissioner that I felt that I would obviously be asked about this. It seemed to me, at first blush, if the facts were as he stated them - which I was sure they were - then there would be a hoo-ha or a kerfuffle, or more a commotion or a controversy. I do not think I was wrong in that view and I think it was right for me to state that to him as Chairman of the MPA.

Q178 Chairman: I do not know whether you saw the evidence from Sir David Normington but he expressed to Mr Quick, who telephoned him, his surprise. You went beyond surprise. You talked about kerfuffles and hoo-has.

Mr Johnson: I think I said this thing would "go off like a rocket" and that we would need to have a pretty good reason to think that the arrest of an MP in the House of Commons was not a disproportionate response to a leak inquiry.

Q179 Chairman: The "rocket" comment, was that before or after the arrest? Was he discussing it with you or just saying, "I'm going to do it"? "By the way, Chairman, just to let you know, this is what is going to happen."

Mr Johnson: I understand the point you are making. As I understood matters when I was talking to Sir Paul, the arrest procedures were already in train. As I remember, they were simply trying to find Mr Green. I could not say for certain whether the second conversation took place before or after the moment when Damian was arrested, when Mr Green was arrested, but I am fairly certain that by three o'clock he had been arrested because I met Sir Paul at a service in Southwark Cathedral for Damilola Taylor, where it was confirmed that Damian Green had been arrested.

Q180 Chairman: So he told you once and for all that it had been done at three o'clock. Throughout the day you had been informed, first of all, that something was happening, and then by one o'clock you knew it was Damian Green.

Mr Johnson: That is right.

Chairman: Thank you.

Q181 Mr Winnick: As you will know, Mr Mayor, the position of Parliament is that there will be huge interest and concern about how the police came into the parliamentary office in Westminster. That does not concern you, but I thought that once again it should be made clear that the concern goes well beyond the Conservative Party. The Chairman spoke about processes. Perhaps I could just ask you one or two questions regarding Mr Green. When you learned what was going to happen, that he was to be arrested, you contacted him?

Mr Johnson: No. Certainly not before his arrest. As is well known, there was a conversation between me and Damian Green on the Monday - which is several days later.

Q182 Mr Winnick: Did you speak with Mr Green about what was going to happen? That is what I am asking you.

Mr Johnson: What was going to happen?

Q183 Mr Winnick: Yes, that he was to be arrested.

Mr Johnson: No, certainly not.

Q184 Mr Winnick: Though you knew that he was to be arrested ---- Am I right? You told the Chairman about that.

Mr Johnson: That is right.

Q185 Mr Winnick: -- you did not phone or contact in any way ----

Mr Johnson: No. Of course not.

Q186 Mr Winnick: -- Mr Green?

Mr Johnson: No.

Mr Winnick: Thank you very much.

Q187 Chairman: When did you speak to Mr Green?

Mr Johnson: I think we initiated contact with Damian Green over the weekend and a conversation took place in my office in City Hall on the mobile phone on Monday afternoon.

Q188 Chairman: With Mr Green. He was present.

Mr Johnson: No, it was by mobile phone. There was no point in talking to him on a mobile phone if he had been in the office.

Q189 Chairman: I did not know it was by mobile phone. What time did that meeting take place?

Mr Johnson: In the afternoon. I would be guessing, but I would say about five o'clock.

Q190 Chairman: So the first contact you had with Damian Green was on the Monday.

Mr Johnson: That is correct.

Chairman: After his arrest on the Friday.

Q191 Mrs Dean: Did you speak to anyone else prior to Mr Green's arrest?

Mr Johnson: No. Well, I spoke to members of my immediate team on a completely confidential basis, but I certainly did not speak to anybody else.

Q192 Gwyn Prosser: Mr Johnson can you tell us something about that conversation with Damian Green. Also, were you talking to him as the Mayor of London or as the Chairman of the Police Authority or as a friend and political ally?

Mr Johnson: Mayor of London, Chairman of the Policy Authority or friend and political ally? I would invoke the doctrine of the Trinity and say that I was three in one and one in three and it was difficult to make any meaningful distinction between my roles. Since I had commented on the case, and you will perhaps be aware that I did say something about the arrest or that a statement was put out in my name about the arrest - and I thought that was right, since I had views about it - I thought it would be prudent and for the good of the Metropolitan Police Authority if I took the trouble briefly and economically to substantiate my instincts simply by a quick telephone call with Damian Green - and obviously I have known him for a long time - to ascertain very briefly, on the balance of probabilities, without going into any kind of forensic examination but simply to verify, that my initial instinct about the matter was correct.

Q193 Gwyn Prosser: If you are having difficulty in separating your various roles, perhaps I could make it easier for you. If you could possibly imagine being a Labour Mayor of London, would you still have invited Damian Green in for a conversation of that nature?

Mr Johnson: I am sorry, I think there has been some confusion. Damian Green was not invited in for a conversation.

Q194 Gwyn Prosser: Would you still have had the conversation with Damian Green?

Mr Johnson: Certainly, if I had expressed views, as I had, about the wisdom and proportionality of arresting an MP in the House of Commons in connection with a leak inquiry, then I like to think that I would have taken the trouble to contact any Member on either side of the House about the essential facts of the case, in order to verify that when I had spoken about that matter I was not a million miles from the truth.

Q195 Mr Clappison: You have been asked a lot of "what happened" and "when" type questions, but the fact of the matter is that the Acting Head of the Metropolitan Police informed you. It was his decision to inform you, as he had informed David Normington beforehand, who told this Committee that he was surprised and said to the police that he hoped they had good evidence. This has been described as a "high profile arrest". That description has been chosen to be applied to it and you were asked if you were routinely told of such high profile events. But this was, in fact, was it not, the arrest of a Member of Her Majesty's Opposition in the course of an investigation, initiated by the Government, which involved the deprivation of his liberty, the searching of his home and the searching of his offices here in Parliament. These all have parliamentary implications. It is not something which is routine, is it? You were a Member of Parliament before you became the Mayor of London. Would you describe this as something that was slightly unusual?

Mr Johnson: Yes, that is exactly right, Mr Clappison. That is why I thought it right to express my concerns to the Acting Commissioner and to register that I thought it would, indeed, cause the very commotion that you describe.

Q196 David Davies: If somebody from your office leaked matters that were not in any way pertinent to national security but might be seen to be a bit embarrassing, would you see that as an internal disciplinary matter or would you demand that the police got involved and launched a full-scale investigation with arrests?

Mr Johnson: I understand completely the substance of your question. I do not particularly want to get dragged back into the commentary about the police investigation and how it was conducted and that kind of thing, because I do not think that is a very useful avenue for me just now with the inquiry going on.

Q197 Chairman: If you could stick to the process rather than the substance, that would be fine.

Mr Johnson: Well, as I say, I was worried at the business of arresting an MP in the House of Commons in the course of a leak inquiry - which, as you rightly say, is basically something that you deal with by internal disciplinary processes. I thought it would cause a big political storm and I thought it was worth pointing that out.

Q198 Ms Buck: Did you have a conversation during that day with the Leader of the Opposition or anyone in his office, or the Shadow Home Secretary or anyone in his office?

Mr Johnson: I do not believe I did. I do not believe I did.

Q199 Ms Buck: Did you see the Leader of the Opposition during the course of the day?

Mr Johnson: No. No. I would have ----

Q200 Chairman: Was he not present at the Cathedral?

Mr Johnson: -- to check whether any of my office had contact with him.

Q201 Ms Buck: Was he not at the Cathedral? Was he not at the event for Damilola Taylor?

Mr Johnson: Yes, he was. But I do not believe we discussed it. I would have to go back and check.

Chairman: What is the answer? Did you discuss this with the Leader of the Opposition or not?

Q202 Mr Buck: Did you talk to the Leader of the Opposition at that event?

Mr Johnson: Whatever conversation may have taken place between me and the Leader of the Opposition about this matter, I am afraid the substance of it does not spring immediately to my mind.

Q203 Ms Buck: I think you can understand that there are issues of concern about Parliament and the sovereignty of Parliament but also legitimate areas of concern about the political briefing in this that would equally apply if it was a Labour Mayor.

Mr Johnson: I see. If you are asking me did I give the Leader of the Opposition any kind of tip off or advance warning, or did I favour the Leader of the Opposition with any sort of news that I might have or valuable information that I might have, I have to say that not only did I not have any valuable information but I certainly did not furnish him with it.

Q204 Chairman: And you did not discuss it with him.

Mr Johnson: Well, you know -----

Q205 David Davies: He had already been informed, had he not?

Mr Johnson: I think it might have cropped up at the Cathedral, but whatever conversation took place was exceedingly brief since Gordon Brown decided that it would be quite wrong for me to be sitting next to him and so I was moved somewhere else. My recollection of the matter is that the Prime Minister was appalled at the idea that I might be sitting next to him inside the Cathedral ----

Q206 Chairman: This is not the subject of the inquiry.

Mr Johnson: -- and I was moved some distance from the front row, so any conversation that might have taken place between me and the Leader of the Opposition was made very perfunctory, thanks to the sensitivities of our great leader.

Q207 Chairman: Anyway, you are telling this Committee quite clearly that you did not have a conversation with the Leader of the Opposition before the arrest; you may have had a conversation after the arrest, it was very perfunctory; and you have not really discussed it in substance with him. Is that what you are saying?

Mr Johnson: That is certainly right, yes.

Q208 Tom Brake: Returning, Mr Mayor, to the difficulties you may have in distinguishing between your roles, was it appropriate for you as Chairman of the MPA to issue a statement expressing concern over the arrest?

Mr Johnson: As I say, I think the MPA is there to serve as a critical friend and monitor of the MPS and that is what I was doing.

Q209 Tom Brake: Before you decided to issue a statement, did you take any advice from anyone as to whether this was an appropriate course of action for the Chairman to take?

Mr Johnson: I might have consulted my immediate team.

Q210 Tom Brake: Who presumably said, "Great idea. Go ahead."

Mr Johnson: If you are asking me was I advised to do this by anybody else, then no. I thought it was the right thing to do. I thought it was inevitable that I would be asked about this arrest. It was inevitable that I would be asked to give some comment on it and I saw no reason not to and every reason to say what I thought.

Q211 Tom Brake: With hindsight and after some time for reflection, would you do this again in the circumstances?

Mr Johnson: The Metropolitan Police Authority is not in my view there to be the spokesman, the potparol, of the MPS. It is not there to represent the MPS to the wider world and it is there in part to act as a critical friend. If there are

going to be issues where I was specifically alerted in advance to a controversial decision, then I see absolutely no harm, and, indeed, every right and duty, in making my views plain.

Q212 Martin Salter: Mr Mayor, I think we are both agreed that MPs should not be above the law. Would you not agree that if a member of the public admitted to regularly receiving information that was leaked to them which related to matters of national security in particular, you would expect the Metropolitan Police to investigate?

Mr Johnson: Of course.

Q213 Martin Salter: As Chairman of the Metropolitan Police Authority, would you expect the police to investigate claims from senior politicians that they regularly receive leaks on matters relating to counter-terrorism or to matters of national security? We do have on the record - and I have been worried in this inquiry that the police have arrested the wrong man - the admission on, I think, 28 November from the former Shadow Home Secretary in which he said quite clearly - and it was on the BBC so it must be true - "Our job when information comes up is to make a judgment: is it in the public interest that this should be made public or not? In about half the cases there are reasons, perhaps national security or military or terrorism reasons, not to put this information that we receive into the public domain." We have had it in black and white that the former Shadow Home Secretary was receiving matters relating to national security as a result of an operation being run within the Home Office. As Chairman of the Metropolitan Police Authority, are you concerned that the former Shadow Home Secretary has not been brought in for questioning, given your earlier answer?

Mr Johnson: With great respect to you, Mr Salter, and to this Committee, for which I have a lively respect and appreciation, I think it would be completely wrong of me to get dragged into any commentary on matters you have just raised, upon which, quite frankly, I am not qualified to pronounce.

Q214 Patrick Mercer: With reference to the inquiry into your conduct by the Metropolitan Police Authority and the Greater London Authority, what is the situation at the moment?

Mr Johnson: It is ongoing.

Q215 Patrick Mercer: Can you elaborate?

Mr Johnson: I think it will reach a critical moment at some stage in the near future, but I am not quite sure when.

Q216 Chairman: Mr Johnson, the Home Secretary has announced at the evidence session she gave to us that she is going to conduct a review once the whole process is completed and the police have made up their mind whether or not there are going to be any charges brought against any of the players in this matter. Do you welcome the fact that there will be a review of the processes?

Mr Johnson: I do very much welcome that. I think it is important - and I am saying this without prejudice to any particular investigation - that leaks and leak inquiries and information received by Members of Parliament in the course of their duties, particularly in opposing or even in supporting government policies, should not, in principle, be matters of criminal procedures.

Q217 Chairman: Are you planning any internal reviews following the conclusion of this matter? Or would you like to be part of the Home Secretary's review on this?

Mr Johnson: I will wait to study the terms of her review.

Chairman: I know at the beginning you said that you felt if you did not attend today this might be misconstrued by others. Can I assure you that if you had not been able to attend the Committee would have understood.

Mr Johnson: I am grateful.

Chairman: We are very grateful to you for coming today.

HOUSE OF COMMONS
MINUTES OF EVIDENCE
TAKEN BEFORE
HOME AFFAIRS COMMITTEE

POLICING PROCESS OF HOME OFFICE LEAK INQUIRIES

TUESDAY 10 FEBRUARY 2009

ASSISTANT COMMISSIONER ROBERT QUICK QPM

Evidence heard in Public

Questions 154 - 280

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Oral Evidence

Taken before the Home Affairs Committee

on Tuesday 10 February 2009

Members present

Keith Vaz, in the Chair
Tom Brake
Ms Karen Buck
Mr James Clappison
David T C Davies
Mrs Janet Dean
Patrick Mercer
Margaret Moran
Gwyn Prosser
Bob Russell
Martin Salter
Mr Gary Streeter
Mr David Winnick

Witness: **Assistant Commissioner Robert Quick QPM**, Specialist Operations, Metropolitan Police, gave evidence.

Q154 Chairman: We are very pleased to see here today Assistant Commissioner Quick. Thank you for coming today to give evidence to us. This is the third session of our very short inquiry into the policing of Home Office leaks. We have taken evidence from the Home Secretary and the permanent secretary at the Home Office. Last week we took evidence from the Mayor of London. As the Committee made clear to Commander Denham when he came to see us in private, the purpose of this inquiry is not to look into the substance of any allegations against Mr Green or anybody else but to consider the process and the facts. We have had a number of facts on the record as to what has happened so far in that process. I telephoned Damian Green yesterday and asked him whether there was any reason why he or his solicitors would object to any of the factual questions that we intend to put to you today and he

said that there was no objection on his part in terms of legal proceedings. Can I just check with you that at the moment nobody has been charged with any offence?

Mr Quick: That is correct. I am very grateful for your comments today and in your letter which recognise some of the limitations when an investigation is current, but I shall endeavour to provide all possible assistance without prejudicing the investigation.

Q155 Chairman: It is not the intention of this Committee to prejudice any ongoing investigation. So we are clear about the legal position – the Committee has taken legal advice from Speaker’s Counsel as well as the former Attorney General who gave advice to us in private at the end of last year – two people in connection with this matter are due to answer to bail. That is the current position?

Mr Quick: That is correct.

Q156 Chairman: Perhaps I may begin by asking you about the role of the police in leak inquiries and the evidence we received from Sir David Normington, permanent secretary at the Home Office. The police are called in at the behest of the Home Office in these and presumably other cases. When do you make the decision that it is a matter for a police investigation rather than an internal matter for the government department?

Mr Quick: Each case is assessed on its merits. I was first alerted to the potential for a criminal investigation in October when I had contact from the Cabinet Office and received a letter from that office outlining the history of a series of leaks emanating from the Home Office. There was some comment in the letter about the impact of those leaks. I met some Cabinet Office officials to discuss broadly the potential for a police investigation and at that point I agreed we would scope its potential and assign

a senior officer to work with them to look at the facts and information known to date and to give me a view as to whether or not a criminal inquiry might be appropriate.

Q157 Chairman: At that stage you do not consult anyone else; you do not inform the chairman of the Metropolitan Police Authority, tell the permanent secretary or report to the Home Secretary. This is a decision that you take on your own. Is it purely operational?

Mr Quick: This was purely operational and was really just a process to gather the facts. It was not the launch of an investigation at that time but to gain a more detailed understanding of the information available and make an assessment of it. Clearly, in my mind at that time would be the very routine course of action of consulting crown prosecutors at some point, which indeed took place later.

Q158 Chairman: Are they involved at a very early stage?

Mr Quick: It is custom and practice within my business group and across the Metropolitan Police in all areas of investigation to have very early engagement with crown prosecutors. Over the past 10 years or so we have seen a significant change in the relationship and working practices. It is very common to have early engagement.

Q159 Chairman: When you move to stage two again is that your decision? Is it an operational matter or do you have to consult anybody?

Mr Quick: Because of the obvious sensitivities of this particular investigation stage two involved wider consultation within the Metropolitan Police service and between the Met and Cabinet Office. There was a series of conversations but a scoping exercise took place involving a metropolitan police commander and then a senior investigating officer who was appointed and terms of reference for a police inquiry were negotiated and agreed. That took maybe three weeks.

Q160 Mr Brake: As to those terms of reference for the police inquiry, can you explain who was involved in drawing them up, with whom they were agreed and by whom they were signed off?

Mr Quick: In my absence the deputy assistant commissioner took over the negotiation and agreement of the terms of reference in consultation with the then deputy commissioner and the Cabinet Office. I recall briefing the commissioner at the time, Sir Ian Blair, on the potential for a police inquiry.

Q161 Mr Winnick: As far as concern any charge against Mr Green or Mr Galley, we note that early in this year the Director of Public Prosecutions, Keir Starmer, said that his service had not yet been presented with enough evidence by the police to make a judgment about whether a successful prosecution was possible. Has any later information been given to you by the CPS?

Mr Quick: I cannot remember the date on which Mr Starmer made those comments, but there has been regular contact with crown prosecutors throughout the inquiry and a number of submissions have been made; indeed, further submissions are anticipated.

Q162 Mr Winnick: What you are telling us is that since Mr Starmer said there was not sufficient evidence you have presented further evidence which the CPS is obviously considering in the usual way?

Mr Quick: Yes.

Q163 David Davies: Did any of the conversations with the Cabinet Office to which you refer involve ministers?

Mr Quick: No.

Q164 David Davies: So, there was no ministerial involvement from the Cabinet Office at any time?

Mr Quick: No.

Q165 Gwyn Prosser: You said that you have had consultations and discussions with the CPS. Is that the same as receiving formal advice from them in terms of the conduct of the investigation?

Mr Quick: If I understand your question, there are two processes at work. One arises during the course of an investigation. In this investigation at key points investigators met crown prosecutors and took advice which then helped them to formulate their plans to take forward the investigation and make any decisions that might be needed. The second process arises during the course of the investigation when we submit evidential files for consideration. They may not be complete files; they may be at key stages during the investigation for the CPS to review and upon which it can give further advice.

Q166 Gwyn Prosser: But would the CPS be keeping a watching brief at that stage or advising on the conduct of the investigation to come?

Mr Quick: We work in partnership with crown prosecutors on criminal investigations and operational decisions are ours, ie the police are responsible for operational decisions, but we take them in consideration of any advice we receive from crown prosecutors.

Q167 Gwyn Prosser: Are you able to tell us who in the CPS provided you with that advice?

Mr Quick: There were two crown prosecutors involved in giving advice. The name of the prosecutor escapes me for the moment.

Q168 Gwyn Prosser: Would you drop us a note?

Mr Quick: They were special case work lawyers within the CPS.

Q169 Chairman: In answer to David Davies you said that no ministers were involved in any of these decisions when you reached stage two of what you were doing. Can you confirm that that applies also to the chairman of the Metropolitan Police Authority?

Mr Quick: I can confirm that the chair of the Metropolitan Police Authority was not involved in any operational decision-making.

Q170 Mr Winnick: As I understand it, three warrants under the appropriate section of the Police and Criminal Evidence Act were issued and one place was searched with permission. Am I correct that that place was the Palace of Westminster?

Mr Quick: That is correct.

Q171 Mr Winnick: You say “with permission”. Can you explain to us – I do not need to remind you of just how sensitive it is to parliamentarians and parliamentary privilege – the process by which you sought permission? You made a phone call in the first place?

Mr Quick: It may help if I try to explain the chronology of events. As assistant commissioner I was aware of the inquiry, the terms of reference that had been agreed and that an investigation was under way. I was also aware of the plan to arrest a civil servant within the Home Office.

Q172 Chairman: Can you give us the date of that?

Mr Quick: This was in the days prior to 19 November and the arrest of Mr Christopher Galley. His name is obviously now in the public domain. I was aware of

that plan and the operation to bring about his arrest and questioning. The day following that arrest I received a telephone call. I was outside London at the time.

Q173 Chairman: Therefore, that was on 20 November?

Mr Quick: On 20 November I received a telephone call from a deputy assistant commissioner in the Metropolitan Police and had a discussion about the impact of that arrest.

Q174 Mr Winnick: What is the name of the deputy assistant commissioner?

Mr Quick: Deputy Assistant Commissioner McDowell. We discussed the arrest of Mr Galley. As a result of what he told me – I cannot go into the details – we both agreed that we ought to proceed with significant caution from that moment on. I believe on that very day an officer was deployed to the Palace of Westminster to start a conversation, initially through the intermediary of the chief superintendent at the palace in charge of policing, with the parliamentary authorities about a potential police investigation/operation. That was on 20 November.

Q175 Mr Winnick: What was the name of the officer to whom you have just referred?

Mr Quick: I believe it was Detective Sergeant Walker who attended the palace and spoke with the chief superintendent here.

Q176 Mr Winnick: It is always possible that we may want to see him as well. Carry on.

Mr Quick: Indeed. I believe that the chief superintendent began a conversation with the parliamentary authorities on that date. In the following days the Metropolitan Police took legal advice from its own lawyers in connection with an anticipated

operation. As a result of that advice three officers including the senior investigating officer attended the palace on 26 November.

Q177 Mr Winnick: Those police officers just arrived here and were allowed into the building?

Mr Quick: I would stand to be corrected on this point, but I believe they had an appointment to speak to the Serjeant at Arms.

Q178 Mr Winnick: This is a very important element of our inquiry. You say that an appointment had been made with the Serjeant at Arms?

Mr Quick: It is my belief that the Serjeant at Arms was expecting to meet officers of the Metropolitan Police to discuss an investigation.

Q179 Mr Winnick: Three officers came and saw the Serjeant at Arms?

Mr Quick: Led by the senior investigating officer and two other detectives, yes.

Q180 Mr Winnick: What happened as a result of that conversation? Did the Serjeant at Arms say she needed to consult anyone else, or did she simply say they should carry on their investigations in the building accordingly?

Mr Quick: Clearly, I was not present. With that caveat, having read my officers' statements and being briefed by them I am aware of a fairly protracted conversation between the senior investigating officer and the Serjeant at Arms about an operation that potentially involved the arrest of a Member of Parliament and the seeking of consent to search a parliamentary office. It is my belief that the Serjeant at Arms did take advice from the Clerk of the House on legal matters pertaining to that request for consent to search. It is also my belief that the officers spoke to the Serjeant at Arms about the provisions of section 8 of the Police and Criminal Evidence Act which

requires the police to seek consent in these circumstances before applying for a search warrant. I think those matters were dealt with in the letter that I wrote to the Home Secretary and which I understand was placed in the parliamentary library.

Chairman: We have a copy of that letter.

Q181 Mr Winnick: Have you seen the statement made by the Speaker on 3 December when the new Parliament met in which he dealt with what happened in relation to the search by the police?

Mr Quick: I do not think I have read the statement. I am aware of some media and newsprint reporting.

Q182 Mr Winnick: You have stated that three warrants were applied for and granted, but why when it came to the Palace of Westminster of all places was no warrant applied for?

Mr Quick: It is quite routine for the police not to seek a search warrant, because the law makes it quite clear that in circumstances where it is believed consent will be given they are required to seek consent as a first step. Clearly, if consent is then refused it opens up the opportunity to seek a search warrant.

Q183 Mr Winnick: In all these proceedings did you keep the most senior police officer in the Metropolitan Police, the acting commissioner, fully informed of what was happening? Was he aware of it?

Mr Quick: Certainly, the deputy commission, as he was at the time, was aware of it.

Q184 Chairman: Sir Paul Stephenson?

Mr Quick: Yes. He was aware of the investigation's terms of reference.

Q185 Mr Winnick: Are you telling us that he knew a search was to take place at the Palace of Westminster?

Mr Quick: He and I were both aware of the operation but intended to seek consent for a search of the parliamentary office.

Q186 Mr Winnick: He approved what took place?

Mr Quick: He was supportive of the operation at that time, yes.

Q187 Martin Salter: Can you tell us at what time Damian Green's offices were searched and which politicians were told in advance and when?

Mr Quick: I have a note that perhaps I may refer to. To clarify your question, you seek to know who was informed of our intention to search?

Q188 Martin Salter: Yes.

Mr Quick: The first person I contacted on 27 November in relation to this was a Mr Edward Llewelyn, the chief of staff for the Leader of the Opposition, Mr Cameron.

Q189 Chairman: At what time was that?

Mr Quick: That call was made at 1305hrs or five past one in the afternoon.

Q190 Chairman: That was the first call made?

Mr Quick: Yes.

Q191 Chairman: Was that before you telephoned the permanent secretary?

Mr Quick: That is correct. That was merely to seek a conversation with Mr Cameron. At seven minutes past one Mr Cameron telephoned my office. I spoke to him and

alerted him to the fact that there was a police operation under way and we intended to search some premises in connection with one of his Members of Parliament.

Q192 Chairman: Did you tell him the name of the Member of Parliament?

Mr Quick: Yes. I sought Mr Cameron's assistance to try to trace Mr Green. Because we had taken a number of decisions to soften the impact of our operational action and not undertake our usual early morning arrest operation, which would be normal practice, we were not able to trace Mr Green. We therefore sought Mr Cameron's assistance.

Q193 Chairman: Did you tell Mr Cameron at that stage that Mr Green was going to be searched and arrested or just searched?

Mr Quick: I informed Mr Cameron that imminently we would search a number of premises relating to Mr Green. I also informed him that we required to speak to Mr Green in relation to allegations and accordingly sought his assistance.

Q194 Chairman: What was his reaction?

Mr Quick: Clearly, he was concerned but he did agree to ask Mr Green to call my office.

Q195 Martin Salter: Therefore, at 1305hrs you spoke to Mr Ed Llewelyn and at 1307hrs you told Mr Cameron that there would be a search and you named the Member of Parliament concerned. When did the search take place?

Mr Quick: I think it took place just after two o'clock.

Q196 Chairman: Did you ring anyone between speaking to Mr Cameron and searching the premises?

Mr Quick: Yes.

Q197 Chairman: Whom did you ring?

Mr Quick: At 1336hrs or 1.36 I spoke to Chris Wright, the director of security at the Cabinet Office. I also informed him that the police operation was under way in relation to the searches.

Q198 Chairman: Who else?

Mr Quick: At 1339hrs I spoke to Sir David Normington and informed him of the searches. I believe he asked me the name of the MP concerned and I told him. At 1343 or 1.43 I briefed the commissioner, Sir Ian Blair. At 1346 before the searches started I called the office of the Serjeant at Arms to inquire whether everything was in order. Unfortunately, she was not available but a message was taken and I subsequently received a reply at my office to the effect that there were no concerns.

Q199 Chairman: At what time was that?

Mr Quick: I do not have the time of the reply. It did not come to me; it went to my staff officer directly, but that can be established. At 1346hrs I spoke to a crown prosecutor at CPS headquarters in Ludgate Hill. They had asked to be informed when the operation began. At 1351 I telephoned the chief constable of Kent constabulary, Michael Fuller, to alert him to the fact that metropolitan police officers were in Kent and had an intention to search a constituency office and an address.

Q200 Chairman: At 2pm the search took place?

Mr Quick: Yes. The searches were co-ordinated to occur pretty much simultaneously. I am aware that the parliamentary office search started a few minutes after two o'clock.

Q201 Chairman: So, we are still dealing with the search at the moment, not the arrest. All briefings were about searching; nobody was told that anybody would be arrested?

Mr Quick: At that time that is correct.

Chairman: Can we hold it at two o'clock? Do my colleagues have anything on the events at two o'clock?

Martin Salter: I should like to go back quickly to clarify one point. It would be helpful if Mr Quick could lodge with us his notes, if he is happy to do so, because these times are important. I am told that the Mayor of London was informed something would happen round about 10 o'clock. Are you telling the Committee that the mayor was not informed of the intention to search Mr Green's office prior to 1305hrs? Therefore, the first politician with whom you sought to make contact was the Leader of the Opposition.

Q202 Chairman: Perhaps I may clarify one matter. My colleague was not here last week, but the Mayor of London gave evidence to the Committee that at 10 o'clock in the morning in the margins of an MPA meeting Sir Paul Stephenson told him that the office of a Member of Parliament would be searched.

Mr Quick: Indeed.

Q203 Chairman: Were you aware of that?

Mr Quick: I was aware of that. I had discussed the operation with Sir Paul and was aware that in very general terms it was his intention to alert Boris Johnson in his capacity as chair of the police authority. In my experience as a chief constable that would be an entirely regular thing to do.

Q204 Chairman: The other evidence given was that at one o'clock the Mayor of London's team was told by Sir Paul Stephenson; in other words, it was before Mr Cameron was told. Is that your understanding?

Mr Quick: My understanding is that at 1.14pm the deputy commissioner telephoned the mayor.

Q205 Martin Salter: And told him who it was?

Mr Quick: My understanding is that at that time there was no reply and so he rang the mayor's personal assistant and left a message. At 1.19 the mayor, or chair of the police authority because it was presumably in that capacity that he was being engaged, returned the call and was advised by the deputy commissioner that the Metropolitan Police had asked Mr Cameron to help locate Mr Green.

Q206 Chairman: Is it right that we are still on searches at the moment?

Mr Quick: Yes.

Q207 Martin Salter: Therefore, until 1319pm the Mayor of London or chairman of the Metropolitan Police Authority would not have been made aware, certainly not by the police, that the object of the investigation was Damian Green?

Mr Quick: That is my understanding.

Q208 Mr Clappison: Now that we have reached the subject of who had prior knowledge of the decision to arrest Damian Green, perhaps I can ask a few questions about what happened before that. You told us about a conversation that you had with another officer on 20 November at about the time Mr Galley as we now know was arrested, as a result of which you decided to proceed with caution. Was that the point at which you decided to investigate Damian Green?

Mr Quick: Yes. The date of the arrest of Mr Damian Galley was 19 November. The following day I received a called from Deputy Assistant Commissioner McDowell. We had a discussion about Mr Galley's arrest and at that point we agreed that we would not pursue what would be the ordinary course of police action in those circumstances and in effect we would slow things down and seek advice, in particular legal advice.

Q209 Mr Clappison: That is not entirely surprising. You had interviewed Christopher Galley on the 19th and interviewed him again on the 21st?

Mr Quick: That is correct.

Q210 Mr Clappison: On the 20th you decided in effect to launch an investigation into Damian Green. You proceeded with caution and sought legal advice. Did you tell anybody outside the Police Service that you were investigating Damian Green MP, an opposition spokesman?

Mr Quick: Not to my knowledge; I certainly did not.

Q211 Mr Clappison: You sought the advice of the Crown Prosecution Service?

Mr Quick: Yes.

Q212 Mr Clappison: Did you seek the advice of the Cabinet Office, for example?

Mr Quick: No.

Q213 Mr Clappison: You had been liaising with them beforehand, had you not, on the Home Office side of things?

Mr Quick: The senior investigating officer had liaised regularly with Cabinet Office officials. At the outset of the investigation I had met them and discussed the potential for a police investigation.

Q214 Mr Clappison: Was anybody outside the Police Service told about the investigation of Damian Green?

Mr Quick: Only the Crown Prosecution Service.

Q215 Mr Clappison: What did you mean by “proceeding with caution”? What does it imply?

Mr Quick: It implies that there are issues relating to parliamentary privilege and our rights and powers as investigators in relation to the parliamentary estate, the sensitivity of the issues pertaining to this particular investigation and the opportunity to consult internally and try to think through the implications and take further legal advice.

Q216 Mr Clappison: Was there any liaison going on with the Cabinet Office at this time about any aspect of the investigation?

Mr Quick: I am not aware whether at that stage there was any consultation with the Cabinet Office.

Q217 Mr Clappison: Could you check that point? I am asking you for the detail. It would be very interesting to know what contacts you had with the Cabinet Office.

Mr Quick: Indeed.

Q218 Mr Clappison: I think the Cabinet Office has said that you had been in consultation with it beforehand.

Mr Quick: There was consultation beforehand between the senior investigating officer and the Cabinet Office. I certainly had no contact with them.

Mr Clappison: Was anybody else in government told what was happening with Mr Green, either civil servant or politician?

Q219 Chairman: Prior to two o'clock on the 27th?

Mr Quick: Not to my knowledge.

Q220 Ms Buck: To go back a little, in answer to an earlier question you said that when Christopher Galley was arrested the chair of the Metropolitan Police Authority had no operational involvement in that decision. Would he have been told that this operation was under way just as a matter of information?

Mr Quick: Yes, as a courtesy.

Q221 Ms Buck: Before the arrest took place?

Mr Quick: Yes.

Q222 Ms Buck: Would he have been told that the arrest had taken place?

Mr Quick: Yes.

Q223 Ms Buck: Therefore, involvement or not, that information would have been given to him?

Mr Quick: Indeed.

Q224 Ms Buck: You told us about the appointment with the Serjeant at Arms. What was the time of that appointment?

Mr Quick: It was on 26 November at 3.30 in the afternoon.

Q225 Ms Buck: To move forward to the next morning and the phone call to the chair of the Metropolitan Police Authority at 10 o'clock, you said that the information given was in general terms, which is fair enough, but what information was it? Was it just that a Member of Parliament was to be arrested, or was it more than that?

Mr Quick: As to the information provided to the chair of the police authority, I must enter the caveat that I was not present at that briefing. I was aware from Sir Paul Stephenson that he would be briefed as a courtesy but only in outline without any detail that could possibly compromise him or the operation.

Q226 Ms Buck: Can you confirm the exact time that Mr Green was arrested?

Mr Quick: I think Mr Green was arrested at 1.37.

Q227 Chairman: I thought you said he was searched first at two o'clock.

Mr Quick: The search started at two o'clock here at Portcullis House.

Q228 Chairman: To be clear about this, were the calls you made to brief Mr Cameron and Sir David Normington about an arrest and search or just about a search?

Mr Quick: They were just about a search because at the time of making those calls I was not aware that Mr Green had been arrested. He was arrested at 1.37, literally minutes before my call to Sir David Normington.

Q229 Chairman: You were not aware of that?

Mr Quick: I was not aware of it at that time.

Q230 Chairman: How could that happen if you were the officer in charge? How could somebody be arrested without your knowing about it?

Mr Quick: Because it happened outside London.

Q231 Patrick Mercer: It did not happen here in his office in the House?

Mr Quick: No; it was in Kent.

Chairman: You were then informed that he had been arrested.

Q232 Ms Buck: Therefore, the only people who had been told prior to the actual arrest were the Leader of the Opposition and the chair of the Metropolitan Police Authority and all of the other phone calls, according to the list that you have just taken us through very helpfully, took place after the arrest?

Mr Quick: Yes, and they were about the search. Subsequently, I learned of Mr Green's arrest and there were follow-up phone calls.

Q233 Chairman: Can you give us the times? We are very grateful to you for the time you have taken to prepare for today's evidence session. Take us beyond two o'clock.

Mr Quick: At 2.19 one of my deputies, DAC Cressida Dick, telephoned Edward Llewelyn, chief of staff to Mr Cameron.

Q234 Chairman: To tell him what?

Mr Quick: It was really just to seek a call with Mr Cameron. At 2.20 Mr Cameron rang the office and spoke to DAC Dick and was advised of the arrest.

Q235 Ms Buck: And that the search was in progress?

Mr Quick: Yes.

Q236 Chairman: Who else was told?

Mr Quick: A message was left for the deputy commissioner. I believe that he was in a meeting at that time, but Sir Paul Stephenson was told at 28 minutes past via a message. At 2.30 Sir David Normington's office was briefed by DAC Dick, and at 2.33 Christopher Wright of the Cabinet Office was left a message to the effect that an arrest had been made. At 2.36 CPS headquarters staff were informed, and at 2.39 Mr Wright from the Cabinet Office returned the call to DAC Dick.

Q237 Chairman: Just to complete the timeline, you were not present at Southwark Cathedral for the memorial service for Damilola Taylor?

Mr Quick: No.

Q238 Martin Salter: To get it clear, the arrest of Damian Green took place before your officers had sight of the evidence obtained from the search, because the search took place after the arrest?

Mr Quick: Yes.

Q239 Martin Salter: So, you were acting on other evidence?

Mr Quick: We were acting on reasonable grounds. Obviously, I cannot discuss that in any detail, but it was our intention that Mr Green might have been arrested earlier in the day but for the fact that he proved difficult to locate.

Q240 Martin Salter: So, you had sufficient reasonable grounds to effect an arrest irrespective of what the search might or might not have turned up?

Mr Quick: Yes.

Q241 Mr Streeter: You said that Mr Green was arrested outside London. Was he arrested by officers from Kent?

Mr Quick: No, officers of the Metropolitan Police.

Q242 Mr Streeter: Was it a surprise to you that he was arrested? You seemed to indicate that you were not aware he had been arrested. Was it the intention that he would be arrested that day?

Mr Quick: Yes.

Q243 Mr Streeter: Why did you not mention this in the various phone calls that you made to people? Why did you not allude to the fact that he would be arrested?

Mr Quick: Because the arrest took place 20 miles away from where I was in my office and the message that he had been arrested did not get to me until after I had made the first series of phone calls.

Q244 Mr Streeter: Why did you not tell the Leader of the Opposition, for example, that you intended not only to search the offices of one of his party members but to search the office and arrest him?

Mr Quick: I spoke to Mr Cameron and alerted him to our intention to conduct searches of premises relating to Mr Green and I sought his assistance in locating Mr Green because we required to speak to him urgently. Mr Cameron agreed to ask Mr Green to call my office, so it was my expectation that Mr Green would telephone my office and I would make an appointment for him to meet the senior investigating officer.

Q245 Chairman: I think Mr Streeter's point is that if you had said to Mr Cameron that you were looking for Damian Green to arrest him you might not have got the same degree of co-operation.

Mr Quick: I now understand your question.

Q246 Chairman: Had you told all those other people that you were looking for Damian Green but could not find him and had said, "Please, Mr Cameron, help me find him because the first thing I am going to do is arrest him", you might have had a different reaction?

Mr Quick: I may have received a different reaction. I really do not know what the reaction would have been, but I felt I was within my rights to ask for Mr Cameron's assistance in asking Mr Green to call my office.

Q247 Mr Streeter: That was not quite the point I sought to make. As you were taking a lot of time and trouble to proceed with caution and alert all these different people I am not sure why you did not give them the full story, namely that an MP was about to be arrested and searched.

Mr Quick: Because I think there was a risk until the police had located Mr Green that one could set in motion a train of events that might not be helpful to the police inquiry.

Q248 Mr Streeter: Do you know from your notes whether when your three officers went to see the Serjeant at Arms she saw them on her own or had advisers with her?

Mr Quick: To my knowledge, she met them in the presence of the chief superintendent of police here at the Palace of Westminster. It is my understanding that she left that meeting to take advice and returned.

Q249 Bob Russell: It was therefore a deliberate, conscious decision not to inform Mr Cameron's office that Mr Green was about to be arrested?

Mr Quick: Yes. It was a conscious decision to seek assistance to locate Mr Green; that was my intention.

Q250 Bob Russell: It was a deliberate, conscious decision not to say that Mr Green was about to be arrested?

Mr Quick: Yes.

Q251 Chairman: That applies to the other people to whom you spoke?

Mr Quick: Yes, absolutely.

Q252 Margaret Moran: In any contact prior to the arrest was that message being given out to anybody? For example, was Sir Paul Stephenson giving the same message? In other words, were you all co-ordinated in your intent to invite Mr Green to speak to you rather than tell people that he was about to be arrested? As far as you are aware nobody said that he was about to be arrested?

Mr Quick: I cannot speak for those conversations where I was not present, but the inclusion of people in terms of their knowledge of our intention to arrest Mr Green at that time was very limited for operational reasons.

Q253 Margaret Moran: Was it an operational decision by everybody involved as part of the Metropolitan Police, wherever they might be located, not to tell anybody that there would be an arrest?

Mr Quick: Yes, until that arrest took place.

Q254 Margaret Moran: You said that at one point you contacted the Serjeant at Arms and received the reply that she had no concerns about proceeding to the MP's office. Can you give us a bit more detail? Were you speaking to her directly? What was the context? The words "no concerns" sound rather a mile response to an inquiry of that sort.

Mr Quick: To elaborate slightly, after the meeting on 26 November my understanding is that an arrangement was made for officers to return next day. At that stage consent to search had not been given and it was understood that the officers would return next morning and seek consent to search during which time the Serjeant at Arms would take legal advice and consider that request for consent the next morning. Later that day I telephoned the office of the Serjeant at Arms before the search commenced just

to seek assurance that she was content with police action and that there were no problems or difficulties. Unfortunately, she was not available at 1.46 but I was briefed by one of my staff officers that we had received a call to my office from the Serjeant at Arms or her office – I cannot say absolutely that it was the Serjeant at Arms herself – to say that there were no issues to be raised with me.

Q255 Chairman: Do you regret that you telephoned the Leader of the Opposition to seek his assistance in finding one of the members of his own party when it was your intention to have him arrested when he was found?

Mr Quick: If I am brutally honest, in a sense that would not have changed our course of action. Our intention was to arrest Mr Green earlier in the day. It was right and proper to ring Mr Cameron because I think it would have been unforgivable had he learned of an arrest and not been aware of it. That was why my deputy telephoned him immediately. We knew that the arrest had been made. She telephoned Mr Cameron to brief him to that effect.

Q256 Ms Buck: I have now learned that the round of communication that took place at lunch time concerned the search and not the arrest and that communication about the arrest took place only after it had happened. Before the search began in any of the conversations you had with the Cabinet Office, or with people on behalf of the Cabinet Office, the Home Office, the chair of the MPA and Leader of the Opposition, did anybody ask you whether you had a warrant?

Mr Quick: Yes. When we met the Serjeant at Arms she was certainly aware that on 26 November that we had warrants for three addresses but there was a long discussion about the provisions of the Police and Criminal Evidence Act and an explanation as to why at that stage we had no warrant for a search here and that in law we were

required to seek the consent of the occupier or controller of the premises that we wished to search, namely a parliamentary office.

Q257 Ms Buck: But the only person who asked you about a warrant or with whom you had a discussion about a warrant, was the Serjeant at Arms?

Mr Quick: Yes, I believe that is true. Of course, our own solicitors in Scotland Yard were aware of it and advised us accordingly.

Q258 Mrs Dean: As I understand it, you would have phoned Mr Cameron's office irrespective of wanting him to find out where Mr Green was. You did not ring for that purpose; you rang to inform him of what was happening.

Mr Quick: Indeed. Ideally, had things gone entirely in accordance with our intention I would have telephoned Mr Cameron in the first instance to inform him of an arrest and a search operation. As it transpired we took the decision to instigate the searches before we were able to locate Mr Green.

Q259 Mrs Dean: Were you aware that Sir Paul Stephenson had informed the chairman of the police authority at round one o'clock that Damian Green had been or was about to be arrested? You told us that the potential arrest was not mentioned to people, so I wonder whether you are aware that Sir Paul Stephenson had informed the chairman.

Mr Quick: Earlier in the day I had had a conversation with Sir Paul. He informed me of his intention to alert the chair of the police authority to the police operation in the very broadest terms and I recognised that as entirely routine in many respects between a chief officer and the chair of the police authority. I am aware that later in the day, at 1.19, there was a conversation in which the deputy commissioner advised the chair of the police authority that we had had contact with Mr Cameron and sought assistance

in locating Mr Green. I believe that at 1.36 there was another conversation between the chair of the authority and the deputy commissioner and the mayor was briefed with a bit more information.

Q260 Chairman: As far as concern the Home Secretary and permanent secretary to the Home Office they were alerted afterwards?

Mr Quick: Yes.

Q261 Chairman: Looking at the report of Ian Johnston – of course, this Committee has not had the privilege of seeing it but you have – is there anything you regret in terms of the way in which things were conducted? It seems that a lot of very senior officers – yourself as assistant commissioner, the deputy commissioner, the deputy assistant commissioner and various others - were involved in making telephone calls all round London to try to locate Mr Green who was found 20 miles away. Was there a touch of overkill in all this?

Mr Quick: I regret the controversy that surrounds any police operation, not least this one, but I think that our attempts to soften the impact of our operational decisions made the operation more unwieldy than it might otherwise have been. For example, we decided that we would not undertake an early morning arrest, which operationally is often the most sensible time when you can be sure of locating somebody you wish to interview.

Q262 Bob Russell: Journalists would also be on hand at that time, would they not?

Mr Quick: In the early morning?

Q263 Bob Russell: They have a habit of being there, do they not?

Mr Quick: I do not understand the point of your question. We made a number of decisions to try to minimise the impact. Clearly, we had four addresses in various locations to search. I am aware that the senior investigating officer went to enormous lengths to ensure that the searches were as discreet as possible and could be conducted as quickly as possible with the minimum of inconvenience. That was an explicit investigative strategy by the SIO.

Q264 Chairman: You said around about the time - this is an opportunity for you to put your response on the record – that the Tory machinery and their press friends had mobilised against the investigation in a wholly corrupt way and you felt very disappointed by the country in which you were living. You subsequently withdrew that statement and offered an unreserved apology. There have been calls for you to step aside in view of the comments you made about the Conservative Party. Do you believe that you can credibly continue to investigate this matter bearing in mind the comments you made about the Conservative Party?

Mr Quick: I certainly regret making comments at a very difficult time for my family. I will not bore this Committee with the ordeal that my family has been through, but the very next morning I made an apology. The remarks were made during various attempts to intrude into my home by phone calls and various people appearing at my home address. I have apologised for them.

Q265 Chairman: But you do not believe in any way that this was done by the Conservative Party?

Mr Quick: I would make no comment on that. I have made my apology. I think it was very clear. It was retracted. I apologised and meant no offence or allegation. I think that was what I said.

Q266 Mr Clappison: I have an additional request. I believe Mr Quick has agreed to write to us setting out details of the contacts he had with the Cabinet Office in the progress of the investigation including the period after the investigation of Damian Green was launched. I am referring to what contacts there were between the police and the Cabinet Office.

Mr Quick: Yes.

Q267 Mr Clappison: We all feel sorry for people whose families become involved in media events. Notwithstanding that, standing apart and looking at it objectively do you believe that a member of the public would think you were being completely objective and exercising impartial judgment in this matter in view of the comments which have just been quoted?

Mr Quick: I was very objective in my decision-making throughout this investigation. There are many checks and balances on my decision-making which is open to public scrutiny, as indeed this process reveals. My involvement in the case has been very limited. My principal decision upon being alerted to the potential for an arrest of an MP was to consider it very carefully, and we did consider it carefully over a number of days and took various forms of advice.

Q268 Mr Clappison: The question is: in your judgment how do you think it now appears to members of the public? Do you think that having said what you said it will appear to them that you are impartial and objective?

Mr Quick: I do not know how it appears to members of the public and I have not asked them.

Q269 Martin Salter: You are reported as saying that the Tory machinery and their press friends were opposing the investigation into Mr Green in a wholly corrupt way,

that it was a very spiteful act, possibly to intimidate you in your investigation of Mr Green, and that you felt it put your family at risk. You subsequently withdrew your comments regarding corruption. That is the extent of the clarification of your remarks; that is the extent of your withdrawal?

Mr Quick: That which was reported in the media on the Sunday I retracted unequivocally the following morning in a statement, and I apologised for it.

Q270 Chairman: The point you make is that you still have concerns but you do not wish to make any comment?

Mr Quick: I do not have concerns. I think I have made it very clear that I have retracted those remarks reported in the media and apologised for them unequivocally.

Q271 Bob Russell: You are a very experienced police officer. Can you think of any other examples where use of the common law offence of conspiring to commit misconduct in public office has arisen hitherto?

Mr Quick: I am aware of many examples of that offence and of malfeasance, misfeasance and misconduct in public office. In my 30 years' experience I am aware of many occasions when regrettably police officers and officials connected with local authorities have been arrested for such offences. Anyone who has a public office and duty could potentially fall under suspicion.

Q272 Mr Winnick: The investigation at the request of the Home Office of legitimate concerns about a leak has turned into almost a major crime inquiry. On reflection do you not think that it could have been dealt with somewhat differently and perhaps the culprit, if there was one, could have been brought to justice much more effectively?

Mr Quick: The intention was to undertake this investigation and operation in the most discreet way.

Q273 Mr Winnick: But the very opposite happened?

Mr Quick: Yes. I would not like to speculate on what the outcome would have been had we done it differently.

Q274 Mr Winnick: You would not go through all of this again, would you? Am I right that with hindsight you would have dealt with it very differently?

Mr Quick: I think our options are limited given the way the law is currently structured.

Q275 Mr Brake: To go back to the original terms of reference of the inquiry, has anything been added to or removed from them?

Mr Quick: No, nothing.

Q276 Mr Brake: They are as presented originally?

Mr Quick: Yes.

Q277 Patrick Mercer: The comments that you made about the involvement of the Conservative Party in this case would seem to me to be highly intemperate. I fully understand the apology and withdrawal of those comments, but it strikes me as odd that you have no further explanation to add about the circumstances in which you made them. In my view and that of others it leaves you as a very senior officer in an extremely sensitive department looking less than objective.

Mr Quick: I do not know what further reassurance you would like. The remarks were made in a very distressing time for my family. I regret making them and I have withdrawn them and apologised.

Q278 David Davies: Can you confirm you have said they were without foundation?

Mr Quick: Yes.

Q279 David Davies: Why was surveillance equipment worn by police officers when they arrested Damian Green? That is not normal, is it?

Mr Quick: I would be very happy to answer those questions at the conclusion of the investigation, but I really cannot discuss operational issues at this moment.

Q280 Chairman: Mr Quick, thank you very much for coming to give evidence and providing us with so much information today. It would be very helpful if you provided us with a memorandum on a number of points we have raised. When the Home Secretary gave evidence to us four weeks ago she said she would be undertaking a review of this kind of procedure. Do you support that review? Do you think it is a good idea to have a review of what has happened?

Mr Quick: Indeed I do. Clearly, we sent officers in good time to the Palace of Westminster to discuss the operation and would have been very happy to abide by any requirements made of us in conducting that operation. If there is further clarification that will be most welcome.

Chairman: Thank you very much.

STATEMENT FRONT COVER

Case Ref: G4.2
Name: Len Duvall OBE
Position Held: London Assembly Member
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London
SE1A 2AA
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I, Len Duvall declare that this statement is true and accurate to the best of my knowledge and belief.

Signed..... Len Duvall Date...11th Feb 2009

Signed original held on file G4.2 – Jonathan Goolden Solicitors

Case Ref: G4.2

STATEMENT of:- Len Duvall OBE

1. I am Len Duvall. I have been the member of the London Assembly for Greenwich and Lewisham since 2000. I am the Leader of the Labour Group on the Assembly. From June 2004 to October 2008, I was the Chair of the Metropolitan Police Authority (MPA).
2. I have made three complaints to the Standards Committees of the Greater London Authority (GLA) and the MPA alleging that Boris Johnson as Mayor of London and / or Chairman of the MPA has failed to comply with the Codes of Conduct of the GLA and MPA.
3. These complaints are as set out in my letter of 5th December 2008 to Fiona Ledden, Interim Director of Corporate Services at the GLA.
4. In the course of being Chair of the MPA, I have received confidential briefings on sensitive operational matters from senior officers of the Metropolitan Police Service (MPS). The purpose of such briefings was to enable me to be informed and to maintain an appreciation of the impact of such matters on wider policing issues.
5. On occasions I have provided advice in response to such briefings. For example, I may have asked the MPS to consider whether other parties should be informed. On some occasions, I have expressed concerns or have asked to be satisfied as to the grounds for actions by the MPS, though recognising that the Commissioner has operational autonomy. I would therefore describe my role was to guide, counsel and warn. In the main the conversations / briefings remained private so as not to undermine any ongoing police operations.

6. I do have specific concerns about the management of information that passes between the Metropolitan Police Commissioner and the Chair of the MPA now that the Chair is also the Mayor of London.

7. This is because the Mayor is a highly politicised high profile role and I know from my experience as MPA Chair for four years the benefits of free and frank discussions between the Chair and the Commissioner. The general public, individuals and other interested parties will assume that the Chair has full, detailed knowledge of operational matters. If this information is used inappropriately and at the wrong time, this could lead to major consequences for policing operations.

Signature.....L. Duvall. Date...11th Feb 2009

**STATEMENT
FRONT COVER**

Case Ref:	G4.2
Name:	Catherine Crawford
Position Held:	Chief Executive of the Metropolitan Police Authority
Contact Address:	10 Dean Farrar Street London SW1H 0NY
Contact Tel:	020 7202 0202
Email:	enquiries@mpa.gov.uk

I Catherine Crawford declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....Catherine Crawford Date...13.2.09

Signed original held on file G4.2 – Jonathan Goolden Solicitors

Case Ref: G4.2

STATEMENT of: - Catherine Crawford

1. I am Catherine Crawford. I have held the position of Chief Executive of the Metropolitan Police Authority (MPA) since December 2000. From 1995 to December 2000 I was the Executive Director of the Association of Police Authorities.
2. From my experience in these two positions, I would consider it normal and acceptable practice for a chief officer of police to keep the chairman of the police authority informed of significant operational matters, including the progress of sensitive investigations. This would be done as a matter of courtesy and to ensure the chairman was aware of what matters were sensitive should he or she be asked about them by third parties such as the press.
3. I would regard it as highly unusual for the chief executive of the police authority not to be present at the communication of such information to a chairman, or not to be otherwise aware of the information.
4. I would expect such information to be given in confidence.
5. It would be normal for a chairman to discuss the information provided with the chief officer of police, to give views on the matters and ask questions which the chief officer of police might or might not be prepared to answer. The chairman might for instance give advice such as how a particular matter might be perceived by the community at large. Such advice would not be given with a view to stopping, or influencing, the action proposed.
6. On Wednesday 26th November 2008 I was in my office at the MPA in Dean Farrar Street in London. I received a telephone call from the Deputy Commissioner of Police of the Metropolis, Sir Paul Stephenson. Sir Paul told me that he wished to inform me of a sensitive operational matter and asked me to meet him at his office at the Metropolitan

Police Service (MPS) Headquarters at New Scotland Yard, London at 8am the next morning.

7. When I met Sir Paul Stephenson the next morning, Thursday 27th November 2008, he told me that Damian Green MP was about to be arrested. My first reaction was "Must it be today, with all the other things that are happening?" I said this because there was to be a meeting of the MPA at City Hall at 10am and the former Commissioner, Sir Ian Blair's, final day in the office was the following day.

8. The Deputy Commissioner confirmed that the investigation required that the arrest took place that day. Sir Paul and I then discussed who else needed to be informed of the planned arrest of Mr Green. We agreed that Boris Johnson, the Chairman of the MPA and Kit Malthouse, the Deputy Chairman, needed to be told.

9. I then went with Sir Paul Stephenson to City Hall to inform Mr Johnson and attend the MPA meeting, arriving at about 9:20am. Given Sir Ian Blair's imminent departure, Sir Paul Stephenson was effectively acting as Commissioner. Sir Paul and I went to Mr Johnson's outer office hoping to be able to speak to him in his inner office. I told his Private Secretary, Roisha Hughes, that Sir Paul needed to speak to Mr Johnson. There were a number of other people present also wanting to speak to Mr Johnson and it was not possible to see him in his inner office. I saw Sir Paul start to speak to Mr Johnson but I could not hear what he said.

10. The MPA meeting was due to start shortly and I left to go down to the chamber where the meeting was due to take place. When I reached the ground floor, I found that Mr Johnson and Sir Paul had gone into one of the two side rooms there. I entered the side room and heard Sir Paul tell Mr Johnson, that the MPS were intending to arrest a Conservative Member of Parliament. I then left them to take my place at the MPA

meeting. I found out later that day that Damian Green MP had been arrested.

11. I have been asked in what capacity Sir Paul Stephenson told Mr Johnson of the arrest of the MP, whom I now know to be Damian Green. In my view, he did so in Mr Johnson's capacity as Chairman of the MPA, rather than as Mayor of London.

12. I have been asked about the normal arrangements for issuing press releases in the MPA. Before Mr Johnson became Chairman of the MPA, draft press releases would either be initiated by the MPA Press Office and circulated to me and the Chairman for comment, or the Chairman might ask for a press release to be prepared. These would also be sent to me for comment.

13. After Mr Johnson became Chairman of the MPA, Mr Malthouse has usually asked for press releases on policing matters to be prepared by the MPA Press Office. The process followed has been the same as previously, except that Mr Malthouse has approved the releases, as Deputy Chairman, rather than Mr Johnson as Chairman. In addition the MPA Press Office has often liaised with the Mayor's Press Office in relation to specific press statements.

14. I have been asked what might be the implications of the publication in the press of Mr Johnson's advice to Sir Paul Stephenson regarding the arrest of Damian Green MP. Sometimes there may be a need to make a comment to the press on high profile matters. It has to be the case, though, that there is a risk that such a practice might in some circumstances inhibit full and free discussion of such matters between a chief officer of police and a chairman of a police authority.

Signature.....Catherine Crawford . Date...13.2.09

**STATEMENT
FRONT COVER**

Case Ref:	G4.2
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Position Held:	Director of Communications and Spokesperson for Mayor of London
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I Guto Harri declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....Guto Harri. Date... 10/2/09

Signed original held on file G4.2 – Jonathan Goolden Solicitors

Case Ref: G4.2

STATEMENT of:- Mr Guto Harri

1. I am Guto Harri. I was Chief Political Correspondent for BBC News 24 then Rome Correspondent and afterwards North American Business Correspondent for BBC News, before becoming the Political Correspondent for the BBC Six O'Clock News. Since 12th May 2008, I have held the post of the Director of Communications for the Mayor of London. I am also the personal spokesperson for Boris Johnson, the current Mayor.
2. I am responsible directly to the Mayor for all his personal press and communication matters, and as Director of Communications I manage a team of around forty people. I have line management responsibility for that team to the Chief Executive of the Greater London Authority, but I consider myself to be responsible directly to the Mayor in all other matters.
3. In addition to his role as Mayor of London, Mr. Johnson is also Chairman of the Metropolitan Police Authority. The Metropolitan Police Authority has its own arrangements for communication and press matters and I do not issue statements or deal with the media on their behalf.
4. Therefore, when I issue press statements and deal with media matters I am acting on behalf of the Mayor of London. If relevant, I may at times include a factual statement that Mr. Johnson is also Chairman of the Metropolitan Police Authority, or Chairman of TFL and I make further reference to this later in this statement.
5. I have been asked to describe the process undertaken for media releases and liaison for events.

6. Some events are planned well in advance, with staff within the Communications Directorate preparing material and liaising with various media contacts, and then presenting the proposed activity to me for my approval. I will often suggest approaches and quotes by the Mayor to be included within such material.
7. There are of course, many occasions when a response is requested by the media to an ongoing or recent event that cannot be anticipated or planned in advance.
8. I often make responses to such events myself, being able through my knowledge, previous experience, and close contact and relationship with Mr. Johnson to provide an appropriate response without referring to him.
9. Where I do not feel confident in providing a response or quote on Mr. Johnson's behalf, I seek to speak with him prior to the provision of the response.
10. I have a clear recollection of the chronology of events that took place on Thursday the 27th of November 2008.
11. Early in the morning of 27th November, I became aware that the Evening Standard newspaper intended to print an article later in the day relating to the removal of the Western Extension of the London Congestion Charge Zone. I had previously made arrangements for a publicity event around this issue to be held the following day, Friday 28th November 2008. I made arrangements for the publicity event to be brought forward by 24 hours in the light of the information that the Evening Standard article was to be printed later on Thursday.

12. At lunchtime on 27th November, I was with Mr. Johnson in the Portobello Road Market area in West London, attending to publicity relating to the removal of the Western Extension of the Congestion Charge Zone. I received a message from Mr. Johnson's office at City Hall asking him to contact the Acting Commissioner of the Metropolitan Police, Sir Paul Stevenson who wished to speak with him as soon as possible.
13. At about 1.20pm that day, Mr. Johnson and I were walking along a street towards the Ladbroke Grove Underground Station where we were to take a tube train back to City Hall. I was present when Mr. Johnson telephoned Sir Paul Stevenson in response to the message. I could not hear what was said by Sir Paul, but I heard Mr. Johnson responding by thanking Sir Paul for telling him something. Mr Johnson then told me that he had been informed that officers from the Metropolitan Police Service intended to arrest Damian Green MP later that day in relation to a 'leak' investigation.
14. Mr. Johnson's initial reaction to the information from Sir Paul Stephenson appeared to me to be one of surprise. This developed in the following minutes to expressions of disbelief as he reflected on the information given.
15. I recall Mr. Johnson also telephoned David Cameron MP, Leader of the Opposition, that lunchtime. The Mayor's phone records show that call took place at 13.59 – just as we got back to City hall from west London.
16. Shortly after 2.00pm, I was present in Mr. Johnson's office at City Hall when Mr. Johnson telephoned Sir Paul Stevenson again.
17. I have a clear recollection of what Mr Johnson said in that conversation though I could not hear what Sir Paul Stevenson was said.

18. Mr. Johnson told Sir Paul that he felt that people would have a strong reaction to the police arresting a serving Member of Parliament. He asked Sir Paul why it was necessary to arrest Mr. Green rather than invite him to answer questions. I specifically recall Mr. Johnson telling Sir Paul that, as a former journalist, he felt it was inevitable that he would be asked for his views on the matter as Chair of the Metropolitan Police Authority, and that he would need robust reasons to be persuaded why just questioning Mr. Green was not the answer.
19. I am clear that there were no references to any detail or police operational matters in this telephone conversation, nor did Mr. Johnson seem to be advising or directing Sir Paul in any way. Mr. Johnson simply gave his views to Sir Paul on the issue.
20. Later that afternoon I was with Mr. Johnson when he attended a Memorial Service for Damilola Taylor held at Southwark Cathedral. Several other dignitaries were in attendance, including Sir Paul Stevenson. At about 3 pm, just prior to the start of the Service, Sir Paul told Mr. Johnson that Mr. Green had now been arrested.
21. During the late evening of that same day, I became aware via text messages, that there was considerable media activity relating to the arrest of Mr. Green, and that there were clearly going to be press articles on the matter. I cannot put an exact time on this, but would estimate that it was between 9.30 and 10.30pm.
22. I made telephone contact with Mr Johnson. We discussed the high level of media interest in the events surrounding Mr. Green, and agreed that it was inevitable that Mr. Johnson would be asked for a statement, and indeed, the media expected him to make a comment.

23. I discussed and agreed the content of a press statement with Mr Johnson. I then sent the following statement at 10.44pm that evening using my Blackberry mobile to Will Walden, a senior BBC editor:-

“From: Guto Harri

To: ‘will.walden@bbc.co.uk’ <will.walden@bbc.co.uk>

Sent: Thu Nov 27 22:44:22 2008

Subject: Copy on mayor

The mayor of london has expressed grave concern over the arrest of conservative frontbencher, damian green. Boris Johnson, who chairs the metropolitan police authority expressed his concerns – in trenchant terms – ahead of his arrest. A spokesman said the mayor finds it hard to believe that on the day when terrorist have gone on the rampage in India that anti terror police in Britain have apparently targeted an elected representative of parliament for no greater crime than allegedly receiving leaked documents. The mayor told the new acting commissioner of the met that he would need to see convincing evidence that this action was necessary and proportionate. He suggested that this is not the common sense policing that people want when london faces a real potential terror threat and serious knife crime problem on the streets.

Guto Harri

Director of Communications

[mobile telephone number]

GREATER LONDON AUTHORITY”

24. I included the fact that Mr. Johnson was the Chair of the Metropolitan Police Authority in the statement simply as a relevant fact. The press statement was from Mr. Johnson as Mayor of London, but it was clearly relevant on this occasion to include his role with the Police Authority as it was a matter concerning policing.

25. I often include relevant facts in such statements. An example of this would be when Mr. Johnson congratulated the Prime Minister of Thailand on his appointment. I included in the press statement the fact that both the Thai Prime Minister and Mr. Johnson were attended Eton School and Oxford University because it was a relevant and interesting fact.
26. The words “trenchant advice” in the press statement I issued relating to Mr. Green were Mr. Johnson’s words.
27. Whilst it is of course very difficult to separate out the roles of Mayor of London and Chair of the Metropolitan Police Authority performed by Mr. Johnson, the press statement that I released on 27th November 2008 was on behalf of Mr. Johnson as the Mayor of London.
28. I am aware that elements of this statement appeared in The Times newspaper on Saturday 29th November 2008.
29. I have been asked about my knowledge of any contact that Mr Johnson had with Mr. Green on or after Thursday 27th November 2008.
30. Mr. Green telephoned me and I handed the phone to Mr. Johnson. Mr. Johnson was in his office at City Hall, and both myself and Roisha Hughes, his Private Secretary, were present. I am unable to recall the exact date and time but it was on the Monday or Tuesday following the arrest of Mr. Green. Therefore this would have been Monday the 1st or Tuesday the 2nd of December, I believe in the afternoon. I remember Mr Green had mentioned that he had waited till his mobile phone – seized by the police – was returned to him before calling.

31. It was a short conversation, lasting only a couple of minutes, and I could clearly hear what Mr. Johnson was saying (but could not hear what Mr Green was saying).

32. Mr. Johnson asked Mr. Green if he was OK. Mr. Johnson said quite light heartedly that he hoped Mr. Green's passport had not been taken from him so that he could still go skiing. Whilst I cannot recall the conversation verbatim, I distinctly recall Mr. Johnson saying that he hoped Mr. Green would understand why Mr. Johnson felt unable to get involved in any way with the difficulties Mr. Green was encountering. It was a convivial conversation and I am absolutely certain that at no time did Mr. Johnson discuss any detail of the police case with Mr. Green, in fact, I do not believe Mr Johnson had such knowledge in the case.

33. To my knowledge that is the only contact I am aware of between Mr. Johnson and Mr. Green.

SignatureGuto Harri. Date...10/2/09

Statement of Sir Paul Stephenson

1. I am Sir Paul Stephenson, Commissioner of the Metropolitan Police. I have been a Chief Officer for 14 years. Prior to joining the Metropolitan Police I was Chief Constable of Lancashire for 3 years. I joined the MPS in 2005 as Deputy Commissioner and officially became Acting Commissioner of the MPS on 28 November 2008.
2. During my time as both the Chief Constable of Lancashire and Deputy Commissioner of the MPS I have enjoyed a good working relationship with the respective chairs of my Police Authorities (Baroness Ruth Henig, Len Duvall and indeed Boris Johnson).
3. Amongst other things, these relationships would, where appropriate, involve giving private briefings on sensitive operational matters. Generally I would consider giving such briefings immediately prior to or following the commencement of such operations, with judgement on timing prioritising the integrity of the operation and the need to avoid any suspicion of improper influence by the chair in operational matters.
4. The purpose of such briefings is to 'sight' the Chair on such matters, to avoid surprises and the individual being 'door-stepped'. I have always made this clear on every occasion.
5. I had not previously briefed Boris Johnson in this way as the need had not arisen since he became the MPA chair.
6. On Wednesday 26 November I called Catherine Crawford and asked if she could attend my office at 8am on Thursday 27th November. During this meeting I briefed her on the forthcoming operation and we agreed that the MPA Chair Boris Johnson should be briefed.
7. We then proceeded separately to City Hall, where, just before 10am I was able to brief Boris Johnson and his Deputy Mayor for Policing, Kit Malthouse.
8. We were about to start the Full Authority meeting, chaired by Mr Johnson, and I was able to brief him and Mr Malthouse in a room behind the chamber immediately prior to the meeting starting. I provided only very limited details at this time, as Mr Green had not yet been located and arrested, telling them that we were about to affect the arrest of a public figure – I recall Mr Malthouse guessed I was likely referring to a Conservative MP. I gave no further details except to explain that I was briefing him as the arrest might take place during the meeting and I did not want him to be taken unaware by a question as MPA Members had Blackberries in the chamber and might become aware of the operation during the proceedings. We then went into the meeting.

9. The MP was not arrested during the Full Authority, and, as Mr Johnson left the meeting before the end, we did not discuss the matter further. I returned to New Scotland Yard.
10. At approximately 1pm I was made aware by AC Quick that David Cameron had been made aware of the identity of the MP we were seeking together with brief details of why we sought him. At 13.14 I put in a call to Boris Johnson. As before, this was on the 'no surprises' principle, to ensure that, in his capacity as MPA Chair, he was not doorstepped or taken unaware and embarrassed through lack of knowledge of police action.
11. At 13.19 Boris Johnson returned my call. I explained to him some brief details about the nature of the inquiry and that Damian Green was the MP we were due to arrest. I explained that I could give no further details but that Mr Johnson should be aware. He thanked me for the call.
12. A further telephone call with Kit Malthouse took place at 13.36, followed by a further call from Boris Johnson at 14.02.
13. During this call Mr Johnson asked what he should say if asked, as Chair of the Police Authority, why the MPS had chosen to arrest Mr Green rather than invite him to a meeting for questioning. I explained that I could not give specific details of the case as that could compromise him, but explained the police power of arrest and PACE guidelines. In addition I gave some details about the procedures that the police had gone through to get to this position – including taking advice from the CPS, documenting the decision making process and ensuring that the arrest was undertaken discretely and sensitively. I added that I recognised how sensitive this matter was and how it could adversely impact on police relationships with key stakeholders. I made it clear to Mr Johnson that I had deliberately not given him any specific details of the case, but had sought to give him an understanding of the procedures that police go through so that he was properly able to position himself appropriately in response to questions he might receive as MPA Chair.
14. The briefing I gave to him was of a level to ensure that the investigation would not be compromised and there could be no suggestion of any improper influence.
15. I have been asked my opinion whether by contacting Damian Green Mr Johnson conferred an advantage on Mr Green or a disadvantage on the MPS. As I gave no information to Mr Johnson that would have been advantageous to Mr Green or would have disadvantaged the MPS, I would respond that on the basis of *my* conversations with Mr Johnson there can have been no advantages or disadvantages conferred. As I was not party to the correspondence between Mr Johnson and Mr Green I cannot comment further than this.

16. As I stated to the Police Authority on 3 December, it is the job of the police to go where the evidence takes them and to act without fear or favour on any investigation. An exchange of views between a Chief Officer and Police Authority Chair is a healthy and helpful element of the relationship between the Chief Officer and his or her governance body. Mr Johnson expressed his views in response to my briefing, but, as one would expect, in police investigations the police remain the decision makers. His comments did not alter the decision making or the course of the investigation. The same can be said of his repeating these comments in public. Although unhelpful in making the police operating environment even more challenging, I do not consider there was anything in the content that was revealed which would in this case require a confidential restriction. They did not prevent the MPS from executing its investigation in the way that it considered to be appropriate.

I Sir Paul Stephenson am satisfied that the contents of this statement are a true and accurate record.

Paul Stephenson

**Sir Paul Stephenson
Commissioner**

Signed original held on file G4.2
Statement undated, received on 19th February 2009

Jonathan Goolden Solicitors

Greater London Authority
Our ref: G4.2

Interview of Boris Johnson

MD = Martin Dolton BJ = Boris Johnson
JG = Jonathan Goolden SH = Stephen Hocking
CM = Clare Murray

MD: Ok its 10.45am on Tuesday 3 February 2009, I am at City Hall London and I am Martin Dolton of Jonathan Goolden Solicitors. Could I ask other persons present to introduce themselves, firstly please Mr Johnson.

BJ: Yes, hello I'm Boris Johnson and I'm the Mayor of London.

MD: Thank you.

JG: Jonathan Goolden and I'm with Martin Dolton.

SH: Stephen Hocking, I'm a partner of Beachcroft Solicitors advising Mr Johnson.

CM: Clare Murray, I'm a trainee solicitor at Beachcroft Solicitors.

MD: Thank you very much. Firstly Mr Johnson could I ask you to agree that you consent to me recording this interview.

BJ: I completely agree.

MD: Thank you. Could I say to yourself and your legal representatives and its goes for me as well, if at any time you wish a break in this interview please just say so and I will immediately stop recording and leave you to consult privately if you so need to. Ok. The purpose of us meeting today is to discuss with you three complaints that have been made by Mr Len Duvall from the Metropolitan Police Authority in relation to your conduct as both Mayor of London and Chair of the Metropolitan Police Authority. Can I just make sure you are aware of those three complaints and you are comfortable with the content of them?

BJ: I am aware of the complaints and I have read them, I couldn't recite them but I am certainly familiar with the contents.

MD: Right, thank you. Is there anything you want to say as an initial, I intend to go through those complaints one by one to ask you for a response to them, but is there any general account or response you want to make

first before I do that?

BJ: I think we have been over quite a lot of this in public already and it would be, I think, most useful to answer directly to your questions.

MD: Ok thank you. The first complaint then is relating to an article that appeared in the Times newspaper on the 29th November 2008. In that article there is a quote quoting you as saying that you gave trenchant advice to the acting commissioner of the Metropolitan Police. The complaint is that by giving that quote to a national newspaper you have improperly disclosed information of a confidential nature. So I'm just summarising complaints to make sure we are both speaking about exactly the same thing. Could I take you back to around that date, which is obviously just before that press article, and simply ask you to relay to me, the best you can recollect the circumstances of the discussions you had with, who was then the acting commissioner, Sir Paul Stephenson.

BJ: Yes. In a nutshell, Sir Paul briefed me and Kit Malthouse around about 10'o'clock on I think the Thursday morning as we were about to go into the MPA that something was up and that an MP was going to be arrested. I think shortly after lunch, my memory is that he called us, or called me back. I was out. I was then out doing a, you know, explaining the launching of the cancellation of the western section of the Congestion Charge and I took his call on a, on a, on a mobile, it may have been Guto's mobile. I couldn't, sorry, I couldn't swear whose mobile I took the call on but he said that Damian Green had been arrested, I think or was going to be arrested in connection with a leak enquiry. I said 'thank you very much', and then reflected for a few moments about this and then tried to call him back and I eventually reached him I think at about 2'o'clock. I think I was standing on a, you know a platform, tube platform somewhere in West London and I just wanted to, I called him back really to ascertain the details or as much detail as it was necessary for me to have to, you know, explain what I thought was going on because I could imagine that I would be asked about this and indeed that was the purpose, I think, in Sir Paul deciding to call me. In that it's true that I, its perfectly true that I did say to him during the conversation that, you know, I thought we would need some pretty convincing explanations for why it was necessary to arrest an MP in pursuit of a leak enquiry.

MD: Thank you. Could I just clarify a couple of things there? You mentioned that it was a Thursday, can we accept that's Thursday 27th. If the press release was on the 29th, that would be the Thursday the 27th. The article in the Times was on Saturday 29th.

BJ: Yes. Yes.

MD: So this was the Thursday the 27th.

BJ: Yes.

MD: Thank you. And you have mentioned kindly that you had met Sir Paul at City Hall just prior to a meeting when very brief detail was given to you, no more than an MP is going to be arrested. You mentioned about the telephone call then later where you were actually told it was Damian Green. Can you remember who was with you when you were told that?

BJ: *[inaudible]*

MD: You mentioned it might have been Guto *[Harri]*'s phone.

BJ: I'm pretty sure Guto was there, yeah.

MD: Right.

BJ: I'm pretty sure Guto was there. I can't remember exactly who else was there, but Guto was anyway.

MD: Right. And then you tried to get back to him and you actually managed to speak to him, Sir Paul.

BJ: Yep.

MD: Did you say early afternoon?

BJ: I think, well I think it was around about 2'o'clock, I think I called him back almost immediately, his phone was engaged and then I finally got through to him.

MD: Right. And where were you when you made that call?

BJ: Well that was on, you know, I think it was on a, I think it was a Metropolitan Line train going back from...

MD: Right. It wasn't here then?

BJ: Oh sorry, later on?

MD: Yeah the 2'o'clockish one, in the afternoon, when you had a conversation with Sir Paul.

BJ: Yeah, I think there were two, there were two conversations.

MD: Right

BJ: The first was when I called him back almost immediately and...

MD: Yes

BJ: Called him from the...

MD: Yes

BJ: Tube system. Then there was another call...

MD: Yes.

BJ: Which took place here?

MD: Right.

BJ: And I think it was substantively to the same effect. It was more or less the same...

MD: Thank you.

BJ: Sort of thing.

MD: Who would have been present when you made the telephone call from here? Can you recall?

BJ: I think certainly Roisha [*Hughes*], I think Guto, perhaps Kit [*Malthouse*] as well, I'm afraid I couldn't, I mean I could easily establish that but then it was members of my senior team were there.

MD: Ok thank you. So in the early afternoon, just after 2'o'clockish from here and again could you just repeat your recollection of the main element of that conversation with the commissioner.

BJ: I mean the gist of it was that I was, you know, concerned as, as, you know - as Chairman of the MPA and someone with a little bit of experience of journalism and politics that the Police might be incurring adverse publicity by arresting an MP in pursuit of a leak enquiry and I simply rehearsed some of those concerns. In particular that, you know, as far as I was aware MP's didn't sign the Official Secrets Act and so on and so forth.

MD: Ok. Can you recall when you would have been told that the arrest actually had taken place of Mr Damian Green MP?

BJ: I believe that it took place round about, I'm sorry, I believe I was told that it had took place around about 3'o'clock or so when I went to a memorial service for Damiola Taylor at Southwark Cathedral...

MD: Southwark Cathedral?

BJ: and Sir Paul was there.

MD: Right. And Sir Paul told you...

BJ: And Sir Paul told me.

MD: Right thank you. Up to that point when you had been told of the arrest had taken place at Southwark Cathedral, in the conversations you had

had on the telephone with Sir Paul Stephenson, do you feel that Sir Paul passed to you any confidential information about the police investigation?

BJ: None whatever.

MD: None whatever?

BJ: None whatever.

MD: Thank you. Could I then take you to that same evening and could you relate to me, a press release was issued late that evening with your name on it, could you explain to me how that came about please?

BJ: Well this press release in common with many press releases was a joint effort between me and my communications director Guto Harri, and the wording was certainly jointly agreed.

MD: Right. And without going word for word through it we are talking about the press release that went to the Times on the 29th which I think in which the words 'trenchant advice' are used. It's that press release.

BJ: Yes. And I think the press, from my memory of it, the press release was intended to go to, you know, *urbi et orbi*, I don't, I'm not sure, it certainly wasn't just sent to the Times.

MD: No, no, no. Sorry it was a general press release.

BJ: Yes, yes.

MD: It just so happens that the Times...

BJ: Yes.

MD: ...printed it. So you agreed with Mr Harri that this is what it would contain, you actually agreed the wording?

BJ: Yes.

MD: You did. Ok. Why did you feel the need to do that? Why issue a press release. I mean obviously you had a conversation with Guto did you? On the telephone?

BJ: Well, yeah. If you remember, I mean this was, I was, this must have been about after 10'o'clock and I had been at a dinner with the head of the Communist Party in Beijing and we were trying to arrange the investment in the, we were looking at investments in the Olympic Park and I was made aware that the story was starting to break and there was all sorts of commotion and, you know, people were asking what my views were and I thought it would be wrong of me not to say what my views were and I could see no particular harm in doing that because, you know, it is, it is I think part of my function as Mayor to

represent the people to the Police and to be critical friend to the Police.

MD: Right, you have mentioned that as a Mayor, I mean what capacity do you feel you issued that press release in?

BJ: I mean, it's an important theological point but I don't think it's easy for me to say in which incarnation I was then speaking. I think probably indivisible.

MD: Right, OK, but Mr Harri at the end of the day is your spokesperson?

BJ: He is my spokesperson yes.

MD: As the Mayor.

BJ: Yes.

MD: And I understand the Metropolitan Police Authority have their own press system should you ever wish to just issue a press release purely...

BJ: Yes.

MD: On MPA.

BJ: That's, that's, that's, that's right.

MD: Ok.

BJ: That's right and I'm afraid, at that moment...

MD: Ok.

BJ: I was the, you know, I was speaking one person in two guises

MD: If I take you back to that moment, and that's very difficult because it was late in the evening but you issue a press release. At the time you issued that did you feel or have any doubts or any nervousness about the fact you were releasing some confidential information?

BJ: No, because I didn't think for a minute that the conversation was confidential and I certainly didn't think that my side of the conversation could conceivably be confidential.

MD: And on reflection, now sitting here? Do you feel the same?

BJ: I do yes.

MD: Thank you. Ok. Thank you. If we can move to the second complaint by Mr Duvall which is that you had contact with Mr Damian Green MP and lets make it plain we are talking here after his arrest and that by making that contact with Mr Green MP you improperly conferred an advantage

on him, Mr Green, or a disadvantage on the Metropolitan Police Service, that's the complaint. So could I ask you firstly just to let us know what your relationship with Mr Green is or has been?

BJ: Well, he is a friend and colleague of long standing and we were MP's together for as long as I was in Parliament, seven years or so.

MD: So you consider him a friend?

BJ: Well, you know, he's, we are certainly pally but you know, yeah I consider him, I consider him a friend in the sense of all Conservative MP's are friends.

MD: Ok thank you. Within the Code of Conduct issues there is like a ladder of relationships of friends and close friends etc. I mean for example would you regularly meet up with him for dinner.

BJ: No.

MD: No.

BJ: No, no we didn't, we never got around to that.

MD: Would he have come to your abode regularly?

BJ: It wasn't, no, I mean perhaps friend and colleague is the term of art, you know he was, you know we were certainly pally, we certainly are pally but you know we don't go on holidays together.

MD: Right, so the relationship really was more confined to the business of shall we say conservative politics and the issues around it?

BJ: Yeah.

MD: Yeah, thank you. But not a close personal friend?

BJ: No.

MD: Thank you. Ok so that is your relationship with Mr Green, now the complaint is about some contact you had with him or allegedly had with him but in fairness there is evidence you did have contact with him.

BJ: Yeah, yeah, yeah, yeah.

MD: Could I ask you, again from the best of your recollection, to relate what you recall of that contact, i.e. when it was and what it was...

BJ: Yes, ok.

MD: And what was said.

BJ: Ok. I think, my memory is that I felt that having said what I had said

about the arrest that it might be a good idea if I could just reassure myself as to the essential facts of the case as far as Damian understood them and just to make sure that I wasn't a million miles out in my initial instincts. So I thought after a couple of days, actually it might be quite useful to have a very brief chat with him and I think somehow or other, I think contact was made with Damian over the weekend possibly by Guto and Damian called on the Monday in the afternoon, I think it went to Guto's mobile. I was here, we were all here. Guto handed the mobile to me. I said 'hello Damian', you know, 'how are you, how's it all going?' I mean I'm fairly certain I prefaced my remarks by saying that there wasn't very much I could say but I just wanted to see what he had to say about the essential facts of the case and he gave, he made various remarks that are already in the public domain to the effect that he, certainly hadn't tried to bribe anybody and there was no breach of the Official Secrets Act and so on and so forth and I think I said something to him like well I hope he still had his passport and that, you know, he would be able to take a skiing holiday if he was, you know, lucky enough to be able to afford one or something like that and that was more or less it but my intention was really to just to reassure myself that my instincts were right.

MD: Thank you, can I just go back over a couple of things there...

BJ: Yes

MD: A couple of minor details just to clarify for all of us. Firstly you have mentioned that it was the Monday that would have been the 1st December I believe, if my calendar in my head works.

BJ: Yup.

MD: And you made the point that Mr Damian Green MP phoned somebody-else's mobile, Guto's mobile was it? To your recollection. He actually phoned in here, you didn't telephone him?

BJ: No, that's right.

MD: He made the call.

BJ: Well yes, but I think he made the call after I think we had initiated contact.

MD: Right.

BJ: I think it would be fair to say.

MD: Thank you, yeah. And you spoke to him on the mobile telephone, from here again was it?

BJ: It was in here, yes.

MD: Yeah, and sorry who else would have been present then?

BJ: I think it was Guto and Roisha

MD: Thank you. Ok. You mentioned about...

JG: I just want to check, there wasn't a second, an earlier telephone call about 6'o'clock on the Friday...

BJ: Between?

JG: Between you and Damian Green.

BJ: No, no.

JG: There was just one telephone call?

BJ: Just one.

JG: Ok.

MD: Thank you.

BJ: Why, is it alleged that there was?

JG: Well, he [*Damian Green*] thinks that the telephone call took place at 6'o'clock on the Friday. Now people's recollections differ, but I think it's helpful to just, he said there was one, there was simply one telephone call.

BJ: There was only one telephone call. Yeah. And I think the witnesses to that telephone call i.e. Roisha and Guto would testify that it was, listening to it, it was absolutely inconceivable that it could have been the second of two telephone calls, I mean it was just...

JG: I understand.

MD: You have explained that, why you made that call and what the purpose of it was and what you asked Mr Green to relay to you. Did you at any time in your view in that conversation with Mr Green did you actually give him any advice? About the investigation?

BJ: No.

MD: No. did you tell him anything about or what you thought might be happening in the police investigation?

BJ: No, and I couldn't because I didn't know, you know, I mean I had absolutely nothing of value to communicate to him and even if I had had such information I certainly would not have done.

MD: Right. Thank you. And again when you were asked in the meeting, the plenary meeting of the London Assembly on the 3rd December, of

which you have seen a transcript and so have we, I think its fair to say that your comments are as you have just said, you wished to basically check out with Mr Green, would that be fair?

BJ: Yeah.

MD: His part, his take?

BJ: I just wanted to do as much as I could quickly to satisfy myself that my instincts were right.

MD: Right.

JG: What you said on, to the meeting was 'to try and ascertain where the facts seemed to lie' and then also 'to inform yourself about what was going on and avoid unnecessary errors'

BJ: Yeah.

JG: Ok.

MD: I'm happy to move on from that if you are? Yes?

JG: Just, I may have missed this but why call him? And you have already said, you know, you have given reasons but given that you haven't got anything to tell him...

BJ: No, I didn't want to, I didn't want to, I didn't want to tell him anything.

JG: Yes.

BJ: I want to be absolutely clear about this, I had, I mean I was simply, I mean to be, I was really in, you know, interested in, thinking about it, the, I had spoken about the matter in my joint capacities as Mayor and Chairman on the MPA, I had offered an opinion you know. It seemed there was a great deal of controversy. I had taken one line in that controversy. It seemed quite a sensible thing for me to do before, you know, you know being, you know doorstepped by journalists and being drawn into conversation about it just to establish as far as, as quickly and economically as I could that I wasn't a million miles away from the reality.

JG: What, I mean you were happy about what he told you?

SH: What do you mean by happy?

JG: You were looking for assurance...

BJ: Oh I see! I mean yes, *[inaudible, overlapping]* I see what you are driving at. I mean, I couldn't say that I was in any position, you know, this wasn't a forensic examination this wasn't a, I wasn't conducting any kind of enquiry, I was simply as, trying to establish quickly in my

own mind, on the balance of probabilities listening to what Damian had to say about the matter, whether or not my initial instincts had been right.

JG: Ok.

MD: Ok just to summarise that, from everything you just said to us, and indeed what you have said elsewhere, would you think or on reflection to you think that by speaking to Mr Damian Green MP in that telephone conversation, do you think you are giving Mr Green any advantage by speaking to him?

BJ: None whatever.

MD: And do you think you have put the Metropolitan Police Authority at a disadvantage?

BJ: No, I don't believe for a second that I have made any difference to the investigation.

MD: Thank you. If I may I would like to now move onto the third and final complaint to discuss and this complaint revolves around the Plenary Meeting of the Assembly on the 3rd December 2008, in which it seems by the transcript and I think its generally agree that you made a comment that you were 'yet to be persuaded that its likely to yield a charge or successful prosecution' and the allegation or complaint there from Mr Duvall is that that comment may bring disrepute to your office as Mayor or Chair of the MPA or indeed the Authority, being the Greater London Authority or the MPA. Could I just ask you to confirm in what capacity you were at that meeting?

BJ: Well I was, it was the Plenary of the MPA so I was there as Chairman of the MPA.

MD: Chairman of the MPA. Thank you. Can you either recall what you said or would you agree that you did make that comment?

BJ: Yes I certainly did make that comment, though I would stress that it was, you know you need to look at that comment in a, in the totality of my comments to the meeting, most of which were concerned with, you know, were to the effect that we should park this matter, let the Police get on with their investigation and I think to be fair to me, such comment as I made about the investigation was extorted from me or coaxed out of me under, with considerable effort by the complainants.

MD: Right.

BJ: Or complainant.

MD: So you have gone into there, which was next area of why did you say that, so you are asking us to make sure we put that in context of the rest of the transcript...

BJ: Yes.

MD: And what was happening...

BJ: Yes, I mean I think if you study the whole transcript its pretty clear that I'm asking the MPA and interested parties to respect the Police investigation but I was obviously invited several times to you know, to make further comment.

MD: Right ok. Do you think by making that comment and other similar comments, but we specifically relate to that comment because that's the one the complainant has mentioned. Do you think that by making that comment you have in any way had any way had a disreputable effect on your office as Mayor or Chair of the MPA.

BJ: No, none whatever and I think it would have been extremely odd for the Chairman of the MPA not to have said something about an extremely controversial investigation when he, I, was specifically, you know spoken to in advance and when obviously I think that the job of the MPA is to serve as a, not just as a monitoring, and well to serve as a monitor and a critical friend of the Metropolitan Police Service and, you know, I also think that its, its slightly perverse of the complainants, complainant, to make a great effort, a titanic effort to elicit further comment from me about this matter when I specifically said that I didn't want to comment any further about the matter and then upon obtaining such small comment as I was willing to give, to decide that he should take me to the Standards Board.

MD: Thank you. I'm at a point now where I have covered the areas that I wish to but I think its very important now that we go round the room and ensure that everybody is comfortable with, you know, what has been covered so, Mr Johnson is there anything you think that should have been covered or anything that you wish to say that you have not yet had the opportunity to do so?

BJ: No, I mean I think this has been pretty well chewed over, both in public and in this session already. I'm content to let the matter rest for a while.

MD: Anything from you?

SH: No, I'm very happy with the way that the interview was conducted.

MD: Ok, Jonathan, anything I have forgotten?

JG: No.

MD: Right, ok. With that, if I can just tell you Mr Johnson as we tell everybody that what will happen now is a draft report will be issued in the next two weeks or so, signed by Jonathan, of which your legal representative will receive a copy and we will ask you for comments on that report and we will ask for a very quick turnaround of 5 - 6 days

because of the timeframes we are working to. May I point out as I do to everybody that that report when it is issued is a highly confidential report and only your good selves and the complainant will get a copy of that report for comment and it must not be put into the public arena in any way shape or form. With that, may I say thank you very much.

BJ: Thank you.

MD: It's now 11.15 and I will turn the recorder off.

BJ: Thank you, thank you. Record time...

END OF TAPE

**STATEMENT
FRONT COVER**

Case Ref:	G4.2
Name:	Mr Guto Harri
Position Held:	Director of Communications and Spokesperson for Mayor of London
Contact Address:	City Hall, London
Contact Tel:	020 7983 6553
Email:	guto.harri@london.gov.uk

I Guto Harri declare that this statement is true and accurate to the best of my knowledge and belief.

SignedGuto Harri Date ...12/2/09

Signed original held on file – Jonathan Goolden Solicitors

Case Ref: G4.2

STATEMENT of:- Mr Guto Harri

1. Following my statement dated 10th February 2009, I have been asked to provide further evidence in clarification.
2. In my original statement, I indicated that Damian Green MP telephoned me in the afternoon of Monday 1st or Tuesday 2nd December 2008 when I and Mr. Johnson were in his office at City Hall and that I handed my phoned to Mr. Johnson.
3. I should clarify that sometime after Mr. Green's arrest, Mr. Johnson and I were wondering how Damian Green was coping personally with the pressure of his arrest and intense media interest. I said I'd find out and on Sunday 30th November 2008, I sent him a text message saying "Guto harri here. Can you talk?". It was sent at 19.58.
4. Mr. Green phoned me on Monday 1st December 2008. I understand he did this when his mobile telephone was returned to him, having been seized by police officers when he was arrested on Thursday 29th November.

Signature.....Guto Harri Date...12/2/09

**STATEMENT
FRONT COVER**

Case Ref:	G4.2
Name:	Ms Roisha Hughes
Position Held:	Private Secretary to the Mayor of London
Contact Address:	City Hall, London
Contact Tel:	020 7983 4846
Email:	roisha.hughes@london.gov.uk

I Roisha Hughes declare that this statement is true and accurate to the best of my knowledge and belief.

Signed.....Roisha Hughes Date...10/2/09

Signed original held on file G4.2 – Jonathan Goolden Solicitors

Case Ref: G4.2

STATEMENT of:- Roisha Hughes

1. I am Roisha Hughes. I am the Private Secretary to the Mayor of London. I previously worked in the Civil Service at the Department for Culture, Media and Sport.
2. I run the Mayor's private office and act as overall gatekeeper for his activities as Mayor.
3. On Monday, 1st December 2008 between 5.45 and 6.15 pm, I checked my voicemail and found that I had received a message from Damian Green MP. In his message, Mr. Green said that he would like to speak to Mr. Johnson. Mr. Green left a mobile telephone number on which he could be contacted.
4. I went into Mr. Johnson's inner office to tell him about Mr. Green's message. At around the same time, Mr. Johnson's Director of Communications Guto Harri came into Mr. Johnson's office via the other door. Mr. Harri said that he had Mr. Green on the line on his mobile telephone. Mr. Harri passed his mobile to Mr. Johnson and Mr. Johnson spoke to Mr. Green.
5. Mr. Harri and I sat on the sofa in Mr. Johnson's office, listening to the conversation.
6. I only heard what Mr. Johnson said to Mr. Green. Mr. Johnson asked Mr. Green if he was OK. Mr. Johnson then asked him what had happened in relation to his arrest. Mr. Johnson asked him a number of questions about the alleged leaks from the Home Office. I cannot remember the precise words but the tone was light-hearted and Mr. Johnson used words to the effect of: were these state secrets and was the information already in the public domain. My personal impression was that through these questions Mr. Johnson

was trying to get behind the media hype that was circulating at the time. In a light hearted manner, Mr. Johnson asked Mr. Green if the Police still had Mr. Green's passport and whether he would still be able to go skiing.

7. Mr. Johnson did not pass on any information to Mr. Green that was not already in the public domain.

SignatureRoisha Hughes Date...10/2/09

Jonathan Goolden Solicitors G4.2

Notes of questions sent to Damian Green MP by e-mail on 26th January 2009 and his responses sent by e-mail on 27th January 2009

Q1 Mr. Johnson has described you as a friend and ex colleague. How would you describe your relationship to him?

A1 *He is a friend and former colleague.*

Q2 Mr. Johnson has said that he spoke to you regarding the police investigation into leaks from the Home Office.

(a) how did he contact you?

(b) at what times and dates?

(c) what was the content of the conversation(s)?

(d) was there anyone else present and if so whom?

A2 *We spoke once, on the telephone, on Friday November 28th at around 6pm [subsequent e-mail exchange on dates]. He expressed his sympathy with what had happened to me, and wanted to check that my family was all right. No one else was present in my office when the call took place.*

Q3 What (if any) information was Mr. Johnson seeking from you?

A3 *He was not seeking any information from me.*

Q4 What (if any) information did Mr Johnson give you?

A4 *He did not give me any information.*

Q5 What did you consider was the purpose of Mr Johnson's conversation(s) with you?

A5 *He was acting as a friend, expressing his sympathy.*

Q6 What effect did these conversations have on you and your position in regard to the police investigation?

A6 *None.*

Q7 Have you had any other communication regarding the police investigation of the Home Office leaks with:-

- (a) Mr Johnson?
- (b) anyone connected with him, or acting on his behalf?

if so:-

- (c) how were these contacts made?
- (d) at what times and dates?
- (e) with whom were the conversations?
- (f) what was the content of these conversations?

A7 No.

Extract of e-mail from Jonathan Goolden sent on 4th February 2009 to Damian Green MP

“You may have seen from the media that Boris Johnson was asked by the Home Affairs Select Committee yesterday about his telephone conversation with you. A webcast of his responses is available at:-

<http://www.parliamentlive.tv/Main/VideoPlayer.aspx?meetingId=3349>

Mr. Johnson comes in at about 01:37 on the equivalent of the tape counter on the webcast of the Committee’s session.

At about 01:48, he responds to a question about his contact with you and indicates that he spoke to you by mobile telephone at about 5pm on the Monday after your arrest (Monday 1st December). You said in your responses to me that you and Mr. Johnson spoke once by telephone on Friday 28th November at about 6pm.

I would be very grateful if you could comment on this. Was there more than one telephone conversation, or did it take place on the Monday rather than the Friday?”

E-mail from Damian Green MP to Jonathan Goolden, sent on 5th February 2009

Thank you for your email. I too noticed the discrepancy. There was certainly only one call, and it was sometime between 5 and 6 on the day concerned. I have it in my mind that it was on the Friday, the day after I was arrested, but I have no written record of this, and you will understand that my life was somewhat hectic that weekend so it is possible that it was indeed the following Monday. If Boris has a formal record of the conversation I would certainly defer to that record.



Agenda Item	6
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**Police Authority
18 September 2008**

<p>Communications Protocol</p> <p>Joint Report of the Chief Executive and Chief Constable</p>
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Purpose of Report

1. To ask the Authority to approve a communications protocol developed jointly by the Authority and West Midlands Police.

Background

2. Both the Authority and the Force recognise the importance of having clarity on the circumstances in which and the process by which they will keep each other informed of significant incidents.
3. West Midlands Police recognises the Authority's responsibilities to discharge their role of public accountability. West Midlands Police Authority recognises that operational matters are the sole responsibility of the Chief Constable including the responsibility to ensure the integrity of all police operations. To assist in the communication process, the Authority and Force have agreed a protocol for use when significant incidents arise.

Equalities Implications

4. There are no direct equalities implications for this report.

Financial Implications

5. There are no additional financial implications.

Legal Implications

6. Section 6 of the Police Act, 1996 requires the Police Authority to secure the maintenance of an efficient and effective police force for its area. Section 111 of the Local Government Act, 1972 enables the Authority to do anything which is calculated to facilitate or is conducive or incidental to this duty.

Recommendations

7. That the Communication Protocol attached at **Annex A** is approved.

Jacky Courtney
Chief Executive

Sir Paul Scott-Lee
Chief Constable

<p style="text-align: center;">CONTACT OFFICER</p> <p>Jacky Courtney Chief Executive West Midlands Police Authority 0121 626 5396 j.courtney@west-midlands.pnn.police.uk</p>	<p style="text-align: center;">BACKGROUND DOCUMENTS</p> <p style="text-align: center;">None</p>
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West Midlands Police Authority and West Midlands Police Communication Protocol

General Principles

In the event of a significant incident occurring in the West Midlands (or elsewhere involving the use of West Midlands Police Officers and Staff), both West Midlands Police Authority and West Midlands Police recognise that they have clear and complementary responsibilities. As such incidents almost inevitably involve some measure of public discussion, it is essential that both the Authority and the Police Service keep each other closely informed, working in tandem in a complementary manner.

West Midlands Police recognises the Authority's responsibilities to discharge their role of public accountability. West Midlands Police Authority recognises that operational matters are the sole responsibility of the Chief Constable including the responsibility to ensure the integrity of all police operations.

On occasions issues emerge involving West Midlands Police and/or West Midlands Police Authority which can give rise to contentious or significant press and public comment. Where these occur or are anticipated the West Midlands Police Authority and West Midlands Police will share relevant information at the earliest opportunity.

West Midlands Police interact on a daily basis with local authorities and other partners in a range of operational and partnership scenarios. As a general principle West Midlands Police will inform the West Midlands Police Authority if significant and unusual activity is planned or has occurred which involves a local authority and/or other partner falling outside of normal arrangements.

Communication Structure

The Chief Constable may brief the Chair of the Authority on an 'in confidence basis' of sensitive matters which in their mutual judgement cannot be shared with the full Authority.

West Midlands Police Chief Officers will inform the Chair or Chief Executive of the Police Authority of matters falling within the terms of this protocol. The Chair, Vice Chairs or Chief Executive will inform the Chief Constable of matters falling within the terms of this protocol.

West Midlands Police and West Midlands Police Authority will ensure that information is provided through their respective offices on the single points of contact within the Force and Authority to facilitate communication on a 24/7 basis under this protocol.

ADDENDUM TO THE COMMUNICATION PROTOCOL

The purpose of this addendum is to provide illustrative examples of those circumstances or events which would bring into effect the operation of the Communication Protocol between West Midlands Police and West Midlands Police Authority. The purpose in providing illustrative examples is to provide 'benchmarks' against which decisions can be taken to activate the arrangements set out in the Communication Protocol.

The following are illustrative of those events or circumstances which would ordinarily be sufficient for a member or chief officer of Force and/or Authority to contemplate the activation of the communication arrangements:

1. the implementation of special or temporary powers under the Terrorism Act
2. any significant impairment, or risk of significant impairment of operational capability at individual OCU or Force level
3. any significant or unusual civil contingency event or similar circumstances which might reasonably require public reassurance at individual OCU or Force level
4. the briefing by the Force of local authority or other agency Chief Executives resulting from any significant or unusual matter
5. the provision of unusual or significant mutual aid or assistance to another Force or agency
6. any unusual or significant matters which might have a reputational impact on the Authority and/or the Force
7. any unusual or significant matter of which a member of the Police Authority is aware that has an operational impact on the Force



**PROTOCOL BETWEEN THE CHIEF CONSTABLE AND THE POLICE AUTHORITY
ON CRITICAL INCIDENTS**

The nationally accepted definition of a critical incident is:-

"any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community."

For the purposes of this protocol the definition should include those incidents likely to generate significant national press interest or serious internal incidents involving staff if not covered by the above definition.

When the on call ACPO officer becomes aware of a critical incident, the Chief Constable or in his absence the Deputy Chief Constable will be informed and he will in turn discuss the matter with the Chief Executive to the Police Authority (or in his absence the Deputy Chief Executive). They will discuss whether and how other Members of the Authority are to be informed taking into account that a Member local to a particular incident will have a special interest and may have become aware by other means. The matter of whether other key figures such as local MPs need to be informed will also be considered.

The command and management of such incidents will follow the procedures laid down in national manuals and codes of practice. Procedures for ensuring that HMIC are aware of those incidents likely to be of interest to Ministers will be followed. Partner agencies and GONW will be involved as the incident and procedures require.

The Police Authority will not normally issue its own press release in such circumstances unless there is a particular need. In any case, the press strategy will be a matter of joint discussion.

Where a particular incident raises questions about the conduct of the force or individual members of staff the Deputy Chief Constable will consider whether a mandatory or voluntary referral to the IPCC is required. If there is a question over the involvement of a chief officer in any alleged failing it must be referred to the Chief Executive immediately it becomes known, who will determine the action to be taken. The Chief Executive may seek advice from HMIC or others.

With prolonged incidents, regular updates and where necessary confidential briefings, will be provided to the Police Authority at agreed intervals and opportunities offered to Members to visit control rooms, incident scenes, etc. The Chief Executive will consider whether dependent on the nature of the incident further oversight is required such as extraordinary meetings or sub groups.

Where a Gold Group is formed to oversee a particular critical incident then the Authority will be asked whether they wish to provide a Member for that Gold Group. The role of such a Member is in relation to the oversight and public consultation duties of the Authority and they should be mindful of the potential accountability issues should the Gold Group be subject of public scrutiny for its oversight of an incident. Police Authority Members local to an incident will be consulted when community impact assessments are being drawn up.

The Independent Advisory Group (IAG) has a particular role in relation to critical incidents as laid down in national guidance but this does not replace the statutory role of the Police Authority including oversight and public consultation. Briefings to the Police Authority on critical incidents will include details of IAG involvement.

Peter Fahy
Chief Constable

Mark Sellwood
Chief Executive

Dated: 8 April 2008

PART ONE

Item 16

To: SURREY POLICE AUTHORITY

Date: 7 November 2007

By: Chief Constable

**Title: Protocol for sharing Confidential Information between
Surrey Police
and Surrey Police Authority**

Purpose of Report/Issue:

To establish a protocol for the sharing of confidential information with
Authority
Members.

Summary:

This protocol is designed to ensure effective joint working between Surrey Police and Surrey Police Authority Members. It specifically relates to the disclosure of **confidential** operational information between Surrey Police and Surrey Police Authority Members. The protocol has been seen and discussed by the Control of Crime Panel and is put forward for approval by the Authority.

Recommendation(s)

Members are asked to:

- Approve the protocol for adoption by the Authority.
-

Equalities Implications

None

Background papers –

None

Contact details –

Name: David Pennant

Job Title: Detective Chief Superintendent

Telephone number: 01483 482450

Email address:3398@surrey.pnn.police.uk

**DRAFT PROTOCOL BETWEEN SURREY POLICE AND
THE SURREY POLICE AUTHORITY
on
PROVISION OF CONFIDENTIAL OPERATIONAL INFORMATION**

Introduction:

This protocol is designed to ensure effective joint working between Surrey Police and Surrey Police Authority members. It specifically relates to the disclosure of **confidential** operational information between Surrey Police and Surrey Police Authority members.

It does not relate to updates on ongoing incidents which are already in the public domain, and for which members will have key messages to enable them to answer questions from the public.

This protocol applies when a Surrey Police Authority member joins an operational Gold group meeting, and before ad-hoc briefings on confidential operational matters.

Principles:

The primary principles underlying this protocol are:-

1. The need to ensure public safety and confidence.
2. The need to investigate and prosecute potential offences as quickly as possible.
3. The need to be open and transparent with colleagues in the Surrey Police Authority to ensure that they are informed about significant investigations/events.
4. To allow the Surrey Police Authority member to act as a 'critical friend' in representing the community.
5. To enable the Surrey Police Authority to assist in managing the reputation of Surrey Police.

It must be recognised from the outset that the primary focus will be on dealing with an ongoing incident, and therefore operational requirements inevitably take precedence.

Surrey Police will, however, disclose certain confidential operational matters connected to an investigation/event to ensure Surrey Police Authority colleagues are sighted on developments.

An appropriate Surrey Police Authority member will be briefed as soon as possible, following the incident.

The content of the briefing will depend on the nature of the incident but is likely to include the following:

- Basic facts of the case i.e. what has happened, when, how and why.
- Any obvious ongoing activity following the incident.

This information should not be used by the Surrey Police Authority member for any onward briefings of stakeholders, other authority members or officers (beyond the Chair, Deputy and Clerk) without the agreement of the ACPO Gold Commander.

Surrey Police Authority members should also avoid making any attempt to answer operational questions or comment on operational matters, as per the Press and Public policy in the SPA members' handbook.

Confidentiality

Surrey Police and the Surrey Police Authority members agree that, except where agreed otherwise, the following terms and conditions are applicable to confidential information provided.

1. The Surrey Police Authority members agree that information provided will be treated as confidential.
2. The Surrey Police Authority members acknowledge that the provision of confidential information by Surrey Police shall not confer on them any rights whatsoever in the confidential information provided, and are asked to respect operational procedures at all times.

Purposes of Disclosure:

To ensure public safety and confidence by equipping the defined and limited group of individuals to prepare such contingency plans as might be required.

The conditions of this protocol should be adhered to at all times.

Dear Mr Goolden

Standards Investigation – G4.2

1. Thank you for providing me with a copy of your draft report of an investigation into Boris Johnson. You asked for my comments, which I have outlined below.
2. I note that, during the course of your investigation, a significant amount of new information has come to light; some introduced by those you have taken statements from, and some as part of the Home Affairs Select Committee (HASC) investigation into Home Office leaks. I will therefore include in my response references to the new information, some of which I believe to be extremely significant, and on none of which I have yet had chance to comment.

Complaint 1

3. You conclude that, in making public the details of his conversation with Sir Paul Stephenson, Mr Johnson has not breached the code of conduct on the grounds that nothing the then acting Commissioner said was confidential. I of course accept Sir Paul Stephenson's statement as fact. What I do not accept is that because the details of his conversation with Mr Johnson conversation were not confidential, this renders the briefing public property.
4. While I accept your reasoning that the content of Sir Paul Stephenson's briefing did not compromise the investigation, it was a confidential briefing. I cannot therefore accept that Mr Johnson's actions do not amount to a breach of the Code.
5. In my view, the briefing that Mr Johnson received on the morning on 27 November was confidential because it related to an on-going police investigation and should have been treated it as such. As stated in Catherine Crawford's evidence in paragraph 5.4 (e) or your draft report "she would expect such briefings to be given in confidence". The clear implication being it would not be expected that this briefing be shared with the world.
6. I do not accept your reasoning in paragraph 6.28 that because "[Mr Harri and Mr Johnson] are highly experienced former journalists, [you] must respect their knowledge of the press and their assessment" that it was necessary to issue a statement on behalf of Mr Johnson. As a former Chairman of the MPA, I am fully aware of the potential media interest in high profile investigations. In such cases the MPA press office would have "if asked" lines prepared for the media along the lines of: 'It would be inappropriate for me to comment until the police investigation has run its course'.

7. What you are asking me to accept is that because Mr Johnson and Mr Harri are former journalists and can spot a good story, they were entitled to get this story into the public domain. This is not reason enough for an MPA Chairman to involve himself publicly in an on-going investigation in such an unprecedented and reckless manner. There may well be a case for the Chair to intervene or to give advice. However, this needs to be exercised carefully having regard to the public interest and relevant considerations and disregarding (particularly personal) considerations. It should not be done in circumstances when it can provide a politician with maximum media exposure and maximum political capital.
8. The fact that Mr Johnson is a friend and colleague of the person under investigation makes it even more imperative that he should have gone out of his way to not comment publicly on the case or the police investigation. Mr Johnson appears to have done the opposite, circumventing due process to publicly undermine the MPS, help out his friend and reveal that he had received a confidential briefing to add credibility to his criticisms.
9. I do not accept that this was a mishap due to a proper press protocol not being in place. In my four years as Chairman there was a clearly understood protocol for issuing press releases and dealing with the media. I believe Mr Johnson acted very deliberately and misused his office to bypass this process, using a confidential police briefing for political gain.
10. This is evidenced by the fact there is nothing anywhere in your report to suggest that at any time did Mr Johnson or his spokesman feel they were acting on behalf of the MPA. On the contrary, Mr Harri (paragraph 5.5) “did not issue press statements for the MPA” but “might, if relevant, include a factual statement that Mr Johnson was also Chairman of the MPA”. It is absolutely clear to me that, in this case, Mr Harri was issuing a statement from the Mayor of London and included the fact he was Chairman of the MPA only as background information.
11. The statement issued to selected members of the press at 10:44pm on 27 November clearly states (paragraph 5.5 I), “The Mayor of London has expressed grave concern....” and “Boris Johnson, who chairs the metropolitan police authority”. It is signed off “Guto Harri, Director of Communications, and Greater London Authority”.
12. You accept (paragraph 6.6) that there would have been no “reason to brief the Mayor on the pending arrest of an MP”. There was, therefore, no reason why the Mayor should issue a statement from his political office, defending his friend, colleague and political ally, using information he received confidentially as Chairman of the MPA. There was no input from the Chief Executive of the MPA or the MPA press office; neither was any attempt made by Mr Johnson or Mr Harri, based on the evidence in your report, to contact the Chief Executive or the press office.
13. When asked if he had sought advice before issuing what was bound to be a highly controversial statement, Mr Johnson told the HASC that “he might have consulted [his] immediate team”. He went on to say that he would act the same way again.

14. While Mr Johnson did tell the HASC that he did not seek any formal or verbal advice in this instance, it is unclear from your investigation whether he or any senior members of his team have sought or been given any such advice since Mr Johnson took the Chairmanship of the MPA. If they have, it was clearly ignored in this instance.
15. It may well be the case that, as you propose, the MPA and Mayor's Office should review and strengthen their arrangements for the issuing of press statements. But I do not believe that this was a significant factor in determining Mr Johnson's actions on 27 November. The apparent lack of a written press protocol may have allowed Mr Johnson to use his office to jump to the defence of his friend and ally, but did not cause him to.

Complaint 2

16. You conclude that because Mr Johnson did not possess operational information on Mr Green's case he was (paragraph 8.12) "not in a position to confer an advantage on [him] or a disadvantage to MPS then he cannot have breached paragraph 6 of the Code of Conduct".
17. Firstly, I do not accept that no advantage was conferred to Mr Green. Secondly, I remain of the belief that Mr Johnson attempted to use his position to confer an advantage on Mr Green. As you are aware, paragraph 6 of the Code provides that a "member must not use or attempt to use their position improperly to confer on or secure for themselves or any other person, an advantage or disadvantage."
18. I believe Mr Johnson improperly conferred an advantage to Mr Green by contacting him to discuss his case, assuming his innocence, and then, in a public arena, undermining any case against him. I do not intend this to sound flippant but, unless Mr Johnson is going to contact all high profile criminal suspects after they have been arrested to "inform himself about what was going on" (paragraph 7.2 e) then he has at the very least attempted to confer an advantage to Mr Green, at worst, contacted a friend, criminal suspect and political ally and made a public show of support on his behalf thereby potentially compromising any future legal proceedings against him.
19. Additionally, while I accept Sir Paul Stephenson's statement that Mr Johnson's actions "did not prevent the MPS from executing its investigation", the fact that they were "unhelpful and made the policing environment more challenging" points to a real or perceived disadvantage to the MPS and a real or perceived advantage to Mr Green. Sir Paul Stephenson's comments also highlight the potential dangers caused by Mr Johnson's actions. The Mayor's status in the public eye means that great significance is attached to his comments.
20. It is clear from the evidence of Mr Johnson and Roisha Hughes that, during the telephone conversation between Mr Johnson and Mr Green on 1 December, Mr Johnson sought details of Mr Green's case. He "asked whether state secrets were involved and whether leaked information was already in the public domain" (paragraph 7.6 f) and "a number of questions

about the alleged leaks” (paragraph 7.6 e). Mr Green told Mr Johnson he “had not tried to bribe anybody and there was no breach of the Official Secrets Act” (paragraph 7.8 e). Clearly, by discussing such relevant details of the case with the suspect, Mr Johnson has put himself at risk of being interviewed by the MPS as part of their investigation.

21. There appears to be a significant discrepancy between the accounts of Mr Johnson and Ms Hughes and those of Mr Green and Mr Harri. Mr Harri states “Mr Johnson did not discuss any detail of the police case with Mr Green” (paragraph 7.5 e). Mr Green states “Mr Johnson did not seek any information from him and did not give him any information” (paragraph 7.7 c). In coming to a final decision, I would ask that you consider the implications of such serious discrepancies in the evidence submitted to your investigation.
22. In my view, and in light of this new information, it is irrelevant whether Sir Paul Stephenson furnished Mr Johnson with sensitive information. But it is clear that Mr Johnson contacted Mr Green to ascertain whether or not he had “tried to bribe anybody” and whether there was a “breach of the Official Secrets Act” – two of the very matters under police investigation. He then formed a view of Mr Green’s innocence, presumably based on this conversation, and told the London Assembly on 3 December three times that he felt there would be no charge, prosecution or trial. Frankly, if this is not improperly conferring advantage to someone, I am at a loss to understand what is. Mr Johnson is, I would emphasise, a man of considerable influence and what he says will attract widespread public attention.
23. I do not accept that, in contacting Mr Green, Mr Johnson was “discharging his functions as Chairman of the MPA”. It is farcical to suggest that one of the functions of the Chairman of the MPA is to conduct “his own inquiries” (paragraph 8.5) into ongoing police investigations.
24. I welcome your conclusion that it was “extraordinary and unwise” for Mr Johnson to contact a criminal suspect, especially as Mr Green is a friend and political ally. Another description would be reckless and improper. The evidence revealed during the course of your investigation has strengthened my belief that Mr Johnson’s offices have been brought into disrepute by his actions. Whether intentional or not, his actions were reckless to the consequences. Ignorance of his duties is no defence. The appearance of actions and the maintenance of public confidence are vital to the policing and governance of London.
25. I am therefore struggling to understand how you have concluded that, in acting in an “extraordinary and unwise” manner and placing “himself at risk of being called as a witness by either the CPS or defence in any criminal prosecution of Mr Green”, Mr Johnson has not failed to comply with the Code. It is hard to imagine a more serious way that a police authority chair could act to the detriment of his office.

Complaint 3

26. You conclude that “by commenting critically in public on the police investigation, Mr Johnson was furthering the functions of the MPA” and did not therefore bring “his office or authority into disrepute”. I strongly dispute this analysis, which could not be further from the truth. It is not a function of the MPA to publicly undermine on-going police investigations and it is certainly not the function of its Chairman to pronounce a criminal suspect’s innocence. This applies always even when the suspect is not a friend and political ally.
27. Far from “furthering the functions of the MPA in its critical friend role”, I believe Mr Johnson has damaged this function. In my view, he has actually made it less likely that senior officers will discuss high profile cases with him in the future and has compromised public confidence in the impartiality of the position of Chair.
28. There is a time when it is appropriate for the MPA and its Chair to be a “critical friend” of the MPS. In the most extenuating circumstances, it may be necessary for advice to be public. But, whatever the circumstances, this time is at the end of any police investigation and when the judicial process has run its course. Not during an ongoing case. In finalising your conclusion you should consider carefully the precedent it sets in its current form. You are effectively giving carte blanche to police authority chairs and members throughout the land to use their position to speak up on behalf of any friends, political allies or associates who find themselves under police investigation. This is clearly untenable and not, I’m sure, your intention.
29. In coming to a final view on this potential breach, I would ask that you consider the unprecedented nature of Mr Johnson’s actions. I would like to draw your attention to the comments of the Lord Chancellor and Secretary of State for Justice on 9 December in the following extracts from Hansard:

Clive Efford: How does my right hon. Friend feel he should have been judged if, when he was at the Home Office and effectively the police authority for London, he had rung someone who was part of an ongoing inquiry by the police to discuss their case? Would that have been a matter of misconduct, and would it have been a resigning issue?

Mr. Straw: It certainly would have been misconduct with a small “m” because it would have almost certainly compromised a police investigation. I suspect that there would have been demands for my resignation not just from the Opposition, but from those on the Labour Benches as well.

And:

David Taylor: My right hon. Friend was our first Home Secretary in 1997, and has extensive experience of police authorities throughout the land. There are 44 police authorities in England and Wales, including the British Transport police. Outside of London, can he think of a single instance when a chairman of a

police authority has contacted a close personal, political and professional friend after they have been bailed as a potential criminal suspect? Further to the question by my hon. Friend the Member for Eltham (Clive Efford), should we be looking to redefine misconduct in a public office to incorporate reprehensible behaviour of that kind?

Mr. Straw: I cannot think of a single occasion when a chairman of a police authority acted in the way that my hon. Friend described. As for the definition of that common law offence, the general view up until now has been that taken by the hon. and learned Member for Harborough when he considered this matter as a member of the Joint Committee on the Draft Corruption Bill—he decided that it did not need further statutory definition at that that stage.

30. You also conclude that “Mr Johnson’s actions did not damage the functions of his office or authority on this occasion” but might “in the future” (paragraph 10.21).
31. Taking into account Sir Paul Stephenson’s statement, that Mr Johnson’s public comment was “unhelpful because it made the policing environment even more challenging” (paragraph 5.6 q) and Catherine Crawford’s statement that commenting on high profile matters “might inhibit full and free discussion of such matters between a chief officer of police and police authority chairman”, I am a loss to understand how Mr Johnson’s actions have not damaged the functions of his authority.
32. If the Chief Executive of the authority of which he chairs and the Commissioner of the Police Service of which he oversees have criticised Mr Johnson’s actions, again, it is hard to see what else he would have to do to damage the function and reputation of his office.
33. Your conclusion that Mr Johnson’s actions “did not damage the functions or authority on this occasion” in effect amounts to a warning; in my opinion an unacceptable conclusion. It is not the purpose of this investigation to speculate on what actions Mr Johnson might take in the future, but to come to a view on the actions he has already taken. Either there has been a breach or there has not. This third ruling satisfies no one.
34. More generally, I am concerned that you appear to have taken literally and given more weight to the statements of some individuals than you have to the actions of Mr Johnson and the evidence uncovered. You have been very forgiving of Mr Johnson’s actions and consistently given him the benefit of doubt throughout your report.
35. I have one additional concern that you have not addressed in your investigation and I did not address in my complaint because, as with much of your report, it concerns information that has subsequently come to light. According to your timeline (paragraph 5.16), Mr Johnson was told of Mr Green’s arrest at 1:14pm by Sir Paul Stephenson and again spoke to him at 1:19pm. Yet it appears he only expressed his concern to the

Commissioner after speaking to the leader of the Conservatives, a third party who had no relevance to the police investigation.

36. Mr Johnson telephoned David Cameron at 1:59pm. Three minutes later he telephoned Sir Paul Stephenson again and “[expressed] his reaction to the arrest”. Presumably this is when he spoke “in trenchant terms” to the MPS Commissioner. The question that has not been asked is why Mr Johnson contacted the Leader of the Opposition. Until this question is answered the only conclusion I, or any member of the public, can draw is that this phone call and Mr Johnson’s subsequent actions were for nothing more than party political gain.
37. I would like to place on record my appreciation of how you have conducted your investigation and the amount of relevant and new information you have gleaned. I remain concerned, however, that you have failed to appreciate the seriousness of Mr Johnson’s actions; actions reflected in the compelling evidence that you have uncovered and the conclusions you have drawn. For such serious and obvious transgressions of the Code, to which your report clearly points, it would be a dereliction of duty to allow Mr Johnson to escape more serious rebuke than the drafting of a written press protocol.
38. I would like to emphasise that the conclusions of your report and any deliberations by the GLA and MPA sub-committees will set a precedent that could lead to major implications for high profile, sensitive police investigations. Given the clear public interest in the outcome of this case for policing in London and nationally, I would ask that you include my comments in their entirety in your final report to both Sub-Committees by way of an annex to that report or otherwise.
39. My preference would be for you to revisit your findings in light of the new information uncovered during your investigation and my representations in this letter. If you are proposing to amend your report before it is presented to the concurrent sub-committees, I would expect to be forwarded a copy of your re-draft so that I can make further representations as necessary.

Yours sincerely

A handwritten signature in black ink, appearing to read "Len Duvall". The signature is written in a cursive, slightly slanted style.

Len Duvall OBE
Assembly Member for Greenwich and Lewisham

From: Hocking Stephen [sjhocking@beachcroft.co.uk]
Sent: 19 February 2009 16:52
To: Jonathan Goolden
Cc: Cleary Kate
Subject: RE: B. Johnson (our ref G4.2)

Dear Jonathan

Thank you for this. Please find attached below my comments on your report. Could I ask you to acknowledge safe receipt, please?

The report is clearly and carefully argued, and we would like to thank you, and Mr Dolton, for the time and trouble you have put into it.

We are happy with your overall conclusions that there were no breaches of the MPA code of conduct. This is the essential point, and under those circumstances we do not wish to comment on the text of the report in detail.

We do wish to comment on your broader observation that Mr Johnson's actions in speaking to Mr Green were "extraordinary and unwise" and that there is a risk that discussion of operational matters might be inhibited if Mr Johnson were to make public his reaction to operational briefings as a matter of course. (These observations are summarised at the report's para 1.10(d), and repeated or developed at other points in the body of the report.) With respect we do take issue with those conclusions.

In one sense, this whole incident was "extraordinary". The arrest of a serving MP in connection with a leak enquiry and the search of his offices within the Palace of Westminster is, to put it mildly, a highly unusual event. There was intense public interest in the MPS's actions. The entire incident has to be taken as *sui generis*, and care taken before drawing any general statements from it. What might be extraordinary generally might not be in this context. So we do not agree it was extraordinary, in a pejorative sense, to contact Mr Green, in the circumstances of this case. Mr Johnson had views on this incident, and it was surely not unreasonable to take some basic steps to check that those views were not manifestly ill founded.

Likewise, in a sense, the incident could be seen as unwise, not least because it has enabled Mr Johnson's opponents to make mischief. Perhaps with the wisdom of hindsight a way could have been found for Mr Johnson to obtain the information he felt he needed without presenting Mr Duvall with this opportunity. But the facts show, as you have found, that Mr Johnson was very careful to keep his conversation strictly within proper boundaries, and the call was made in company so that Mr Johnson's version of events could be corroborated. Under the circumstances you might feel on reflection that the judgement that this was "unwise" seems too strong. Maybe "open to misinterpretation" would capture the point?

As to your second point, that there would be a risk that frank and full discussion of operational matters might be inhibited in future if Mr Johnson were to make public his reaction to briefings on critical incidents as a matter of course, that must be so. Mr Johnson has never said he will do this. Again this incident has to be seen in context. It is at best a moot point whether Mr Johnson was making public his reaction to an operational briefing. At the time Mr Johnson made public comments, Mr Green's arrest was in the public domain, as was a great deal of adverse (and continuing) comment on it. Mr Johnson was not commenting on an operational briefing, he was commenting on a fact in the public domain, the arrest of an MP. There seems to be no reason why Mr Johnson should not have said he was concerned about the arrest, nor that he had expressed that concern to the MPS. The operational briefing was the occasion for Mr Johnson's initial reaction to the MPS, but this reaction would have been the same even if Mr Johnson had not learnt of the arrest until it after came into the public domain. Provided he stays within his proper role, as he did here, there is no reason why Mr Johnson should not comment on policing matters, indeed, there is an expectation that he will do so.

Finally, if Mr Duvall genuinely believes that it is a breach of the code of conduct for Mr Johnson to comment on such matters, it is to be hoped that he will future refrain from asking for such comments at public meetings.

Other than these observations, and subject to the point that under the circumstances we do not need to critique the text of the report or its individual findings, we are happy with your findings.

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