



House of Commons
Home Affairs Committee

Policing Process of Home Office Leaks Inquiry

Fourth Report of Session 2008–09

*Report, together with formal minutes, oral and
written evidence*

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The Home Affairs Committee

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

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The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom. A list of Reports of the Committee since Session 2005–06 is at the back of this volume.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Eliot Wilson (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Harrison (Committee Specialist), Mr Darren Hackett (Senior Committee Assistant), Mr Ameet Chudasama (Committee Assistant), Sheryl Dinsdale (Committee Assistant) and Ms Jessica Bridges-Palmer (Select Committee Media Officer).

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1 Background

1. On 27 November 2008 news broke that a senior Member of Parliament and Opposition spokesman, Mr Damian Green, had been arrested by police and his home and offices searched in connection with an investigation into the leak and publication of a number of government documents. Press reports indicated that Mr Green was believed to have received government documents from a Home Office official, Mr Christopher Galley, who had been arrested eight days earlier and who had subsequently admitted to having leaked some documents. Mr Green was arrested under the common law offences of “conspiring to commit misconduct in public office and aiding or abetting, counselling or procuring misconduct in public office”.

2. This series of events, and particularly the fact that Mr Green’s office at the House of Commons was searched without the police producing a warrant, caused considerable disquiet and provoked a lot of media comment. The Speaker of the House of Commons, Rt Hon Michael Martin MP, made a Statement about the search of Mr Green’s office in Parliament on Wednesday 3 December, the first day on which the House sat after Mr Green’s arrest. During this Statement, the Speaker announced his decision to establish a committee of seven Members to consider the matter of the seizure of Mr Green’s papers and, to report its findings to the House “as soon as possible”.¹ The Government accordingly brought forward a motion to establish the Speaker’s Committee on the Search of Offices on the Parliamentary Estate. The motion was debated on 8 December and agreed on division. The Committee’s remit was to “review the internal processes of the House administration for granting permission for such action [as police searches of Members’ offices and seizure of their papers], and to make recommendations for the future”.² Its membership was to reflect the party composition of the House, and would therefore have a majority of members from the Labour Party. However, the leaders of the Conservative and Liberal Democrat Parties subsequently made it clear that their members would not serve on the committee. The result is that the Speaker’s Committee has not met, nor, apparently, is it likely to meet.

3. The narrow remit of the Speaker’s Committee (the internal processes of the House administration) meant that it would not anyway have examined in detail either the starting point of the police inquiries—a request from the Cabinet Office that the Metropolitan Police should investigate a series of leaks of government information from the Home Office—or the wider conduct of the investigation by the police. We considered that both issues warranted examination, and we were concerned that, given the impasse over the Speaker’s Committee and the fact that the House had not referred the matter to its Committee on Standards and Privileges,³ no Committee of the House was examining the issues raised by the case. We therefore decided to launch our own short inquiry into “the way in which the Home Office reacted to the suspected leaks of information and the

1 HC Deb, 3 December 2009, col 1–3. The House was prorogued on 27 November and met to hear the Queen’s Speech on 3 December.

2 House of Commons Votes and Proceedings, 8 December 2008

3 Under SO No 149 (1) (a)

procedures followed by the Metropolitan Police when they were asked to investigate further”.⁴

4. At the time of writing, both Mr Green and Mr Galley are still on police bail, waiting to see whether they will be charged and, if so, with what offence. Bail was extended until 20 April because the police were still trying to determine what, if any, of the material seized from Mr Green was subject to Parliamentary privilege. Our inquiries have therefore been constrained by our desire not to interfere with the police investigation or any subsequent court case.

5. We took oral evidence from the Home Secretary, Rt Hon Jacqui Smith MP, and the Permanent Secretary of the Home Office, Sir David Normington; from the Chairman of the Metropolitan Police Authority, Mr Boris Johnson; and from the Assistant Commissioner in charge of the Metropolitan Police’s investigation, Mr Robert Quick. We sought subsequent written evidence from all four witnesses, and we also wrote to a number of other people connected with the investigation to ask them specific questions. The letters we sent and the replies received are published with this Report. We would like to thank all those who gave full and direct answers to our questions.

2 Home Office

6. Our starting point was the reasons why the police were requested to investigate the suspected disclosure of government information. We wished to discover the number of disclosures, the type of information that had been leaked—in particular, whether any of it was relevant to national security or was otherwise classified—and the efforts that had been made to discover the source of the leaks before the police were called in. We also wished to disentangle the roles of the Home Office and the Cabinet Office in the investigation process.

Reaction of the Home Office

7. We asked Sir David Normington, Permanent Secretary of the Home Office, to explain the background to the police investigation. He said that he and Ministers had become increasingly concerned by a succession of unauthorised disclosures to the press of sensitive government information held in the Home Office over a period of about two years. The frequency of such disclosures caused him to suspect that a Home Office official might be “deliberately and maliciously leaking material for political purposes”.⁵ He emphasised that even now he does not know for sure what has been leaked, only what has appeared in the press, but his department had identified “just over 20 leaks of documents, e-mails or information over 2007-8”.⁶ These leaks were damaging trust within and confidence in the Home Office, and particularly harming the relationship between Ministers and officials.⁷ Moreover, there were concerns 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”.⁸

8. The Cabinet Secretary set out the procedures for dealing with leaks by officials and other breaches of the Civil Service Code in a Memorandum to our sister committee, the Public Administration Committee.⁹ Responsibility for pursuing investigations into leaks normally lies with the relevant Permanent Secretary, to whom the official investigators will report. However,

“Occasionally it may be appropriate to involve the police in an investigation. Departmental Permanent Secretaries are responsible for taking the decision to do so. Normally, before any decision is made to involve the police, Departments will discuss the matter with the Cabinet Office. By definition such cases will always involve a serious and damaging impact on the functioning of a Department and will involve suspicion of leaking sensitive information. Given this, it is not unusual for the Cabinet Office to take the lead in such investigations.”¹⁰

5 Q 14; see also Qq 5 and 21

6 Qq 5, 9 and 10

7 Q 5

8 Q 5

9 In connection with its current inquiry into Leaks and Whistleblowing in Whitehall. The Memorandum will be published with the Public Administration Committee’s Report shortly.

10 *Ibid.*, para 3

9. The Department's inquiries into the individual leaks (and Sir David confirmed that almost all of them had been subject to an internal inquiry) had failed to identify the perpetrator(s). In the summer of 2008, the Home Office conducted a review to try to discover whether there was a pattern to the disclosures; this, too, failed to give a clear lead. Therefore, Sir David met the Cabinet Secretary to discuss bringing in "more expert help". We asked whether any particular disclosure had triggered the decision to seek help from outside the department but Sir David emphasised that no single document had caused this: it was the cumulative nature of the leaking, and the fear that something more damaging to the national interest might be disclosed.¹¹

Cabinet Office

10. The leaks continued in September 2008. The Home Office continued to hold inquiries into them, in parallel with the discussions between Sir David and the Cabinet Office.¹² These discussions highlighted the fact that, in addition to the damage to confidence and a potential threat to national security from the 20 or so leaks about which the Home Office was concerned, the Cabinet Office was worried about other leaks "not of Home Office documents, but of a series of other material across Government, which did have a national security classification", copies of which had been held by the Home Office.¹³ As a result of all these considerations, the Cabinet Office advised that the matter should be referred to the police.¹⁴ Sir David agreed, and on 8 October 2008 the Director of Security and Intelligence at the Cabinet Office wrote to the Assistant Commissioner Specialist Operations at the Metropolitan Police, asking whether the police would consider agreeing to an investigation into a series of leaks "probably originating in the Home Office", which were causing considerable concern to the Cabinet Secretary.¹⁵

11. The letter to the police said:

"A number of recent leak investigations, including some conducted by your officers, have raised questions about the security of sensitive information in the Home Office. Whilst not all the leaks that concern us merit, taken individually, investigation by the police, we are concerned that there is an individual or individuals in the Home Office with access to sensitive material who is (are) prepared to leak that information. *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 future damage is significant* [our italics]. The risk of leaking is having an impact on the efficient and effective conduct of Government business, affecting the ability of Ministers and senior officials to have full and frank discussions on sensitive matters and undermining necessary trust. You will not be surprised to hear that we are also concerned that there must be risk to information about sensitive operations which, if leaked, could give rise to grave damage."

11 Qq 16 and 17

12 Q 22

13 Q 20

14 Qq 24–26

15 A copy of this letter was appended to the Cabinet Office's Memorandum submitted to the Public Administration Committee.

As a result of this letter and a subsequent meeting with Cabinet Office officials to discuss the potential for a police inquiry, Assistant Commissioner Quick agreed that a senior officer from the Metropolitan Police Special Operations unit should conduct a scoping exercise to determine whether a criminal investigation was appropriate.¹⁶

12. We asked Sir David for clarification about the sensitivity of the information known to have been leaked from the Home Office. Sir David told us that “at least one” of the 20 or so leaks had raised issues of national security, though most had not.¹⁷ On further inquiry, Sir David stated that, in his view, the one item relating to national security “falls in a different category from the rest. It was, for example, information known not just in the Home Office, but elsewhere in Government; and because it related to national security it was investigated in a different way from the other investigated leaks.”¹⁸ He added: “I hope it was also clear from my evidence that this particular leak was not the significant factor in seeking the Cabinet Office (and police’s) help.”¹⁹

13. **We do not condone the unauthorised disclosure of departmental information; this is an abuse by officials of their positions of trust, and we support the use of disciplinary action in such instances. We also understand the corrosive effect that persistent leaking of information has on the efficient working of departments, not least as it sows mistrust between Ministers and officials. The Home Secretary made plain to us her anger at the leaks.²⁰ In this case the Home Office appears to have followed best practice for investigating leaks, as set out in the Cabinet Office’s Memorandum to our sister Committee. Nevertheless, we are concerned that growing frustration in both the Home Office and the Cabinet Office may have led officials to give an exaggerated impression of the damage done by the leaks that could reasonably be presumed to have emanated from the Home Office.**

14. There is a clear mismatch between Sir David’s description of the sort of material that he suspected had been leaked from the Home Office and the Cabinet Office’s letter to the police stating “there has been considerable damage to national security already as a result of some of these leaks”. Sir David suggested that this phrase reflected the concerns not about the 20-plus items he had identified but about the other material that had been leaked from somewhere in Government.²¹ However, the Cabinet Office letter did not refer to other departments: only to the Home Office.

15. We recognise that the Metropolitan Police might still have decided to pursue an investigation on the basis of the damage done to confidence between Ministers and officials and the fear that the leaker(s) might have access to more sensitive information that had not yet been disclosed. We also do not know whether the oral briefing given to

16 Q 220

17 Qq 34–35

18 Letter of Sir David Normington to the Chairman, dated 2 March 2009

19 *Ibid.*

20 Qq 11–16

21 Q 20 See also the Home Secretary’s Statement to the House of 4 December 2008: “A full list of relevant leaks, including those involving highly classified material, was passed to the police force for their consideration.” (HC Deb, 4 December 2008, col 134)

the police was less hyperbolic than the letter. However, we think it was unhelpful to give the police the impression that the Home Office leaker(s) had already caused considerable damage to national security.

16. When Parliament revised the Official Secrets Act in 1989, it narrowed the scope of the section on unauthorised disclosure of government information, focusing on specific types of damaging information—relating to security and intelligence, defence, international relations and crime and special investigation powers.²² Unauthorised disclosure of these types of information remained subject to criminal proceedings. This was in line with what the then Home Secretary told the House in December 1988 when introducing second reading of the bill, namely that it would “remove the protection of the criminal law from the great bulk of sensitive and important information”, none of which would “any longer have the protection of the criminal law”.²³

17. The Cabinet Office’s guidance to departments says that it is appropriate to involve the police in leak investigations when they involve “a serious and damaging impact on the functioning of a Department and ... suspicion of leaking sensitive information”. However, it is easy to imagine circumstances in which a leak of sensitive information could lead to a damaging impact on the functioning of a Department without falling within the categories laid down in statute. The Cabinet Office’s guidance therefore seems to leave open the possibility of involving the police in an investigation without any suspicion—let alone evidence—that a criminal offence under the Act has taken place. We recommend that the Cabinet Office revise its guidance to preclude this possibility.

18. We note that the only person arrested for leaking information from the Home Office, Mr Galley, was in fact a junior official providing administrative support, who had security clearance up to the level of ‘secret’.²⁴ At this stage of the police investigation, it is impossible to say exactly what information Mr Galley did disclose: he has, by a statement through his solicitor, admitted to disclosing some information. He may not have been responsible for all the 20-plus leaks identified by Sir David—and, indeed, Sir David suggested to us “it would be wrong to conclude ... that all the leaks emanated from the Home Office—that is not proven.”²⁵ This, together with the fact that there has been no indication so far that Mr Galley is linked to the “other” national security-related leaks that have caused such concern to the Cabinet Office over the last few years, leaves the possibility (to put it no higher) that there are other officials within government leaking more sensitive information. We are unable to judge whether the controversy over the investigation into Mr Galley and Mr Green makes it less likely that those who have disclosed information damaging to national security will ever be discovered.

22 Sections 1–4

23 HC Deb, 21 December 1988, col 462

24 Qq 6–8 and 18–19

25 Letter of Sir David Normington to the Chairman dated 2 March 2009

3 The Police Investigation

Arrest of Mr Galley

19. Within about three weeks of receiving the request from the Cabinet Office, the Metropolitan Police had decided there was sufficient information to launch an investigation, a senior investigating officer had been appointed and terms of reference for the investigation had been agreed with Cabinet Office officials. Following normal practice, the investigating officers were also consulting special case work lawyers within the Crown Prosecution Service on the inquiry, though the police were ultimately responsible for all operational decisions.²⁶

20. By 19 November the police had gathered enough evidence to arrest Mr Christopher Galley for questioning. Assistant Commissioner Quick had played no active role in the investigation since setting up the scoping exercise, though he had briefed the then Commissioner of the Metropolitan Police, Sir Ian Blair, on the potential for a police inquiry and had been kept informed of progress. This changed when a deputy assistant commissioner phoned AC Quick on 20 November to discuss the arrest of Mr Galley and the fact that a senior Member of Parliament was believed to be implicated in the leaks.²⁷ The two police officers agreed that, because of the political sensitivities, they should proceed with great caution from that moment on: “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.”²⁸ AC Quick explained that the reasons for proceeding cautiously with the investigation into Mr Green were concerns about Parliamentary privilege and the police’s “rights and powers as investigators in relation to the Parliamentary estate”, as well as general political sensitivity and the need for consultation within the police force and for legal advice as to how best to proceed.²⁹

Investigation into Mr Green

21. AC Quick told us: “I believe on that very day [20 November] 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.”³⁰ This appears to have been the first contact with anyone outside the police and CPS about Mr Green.³¹

22. We asked about the police’s preparations for carrying out a search of Mr Green’s offices and home, and in particular why the police applied for warrants for his home and offices outside Westminster but not for his office inside Parliament.³² AC Quick referred to the

26 Qq 221–224 and 227–232

27 Qq 236–238

28 Q 272

29 Q 279

30 Qq 238 and 240

31 Qq 276–278 and 282–283

32 Qq 234 and 246

provisions of section 8 of the Police and Criminal Evidence Act 1984, as amended, which provides, in effect, that a Justice of the Peace may not issue a search warrant under section 8 unless:

- a) it is not practicable to communicate with any person entitled to grant entry to the premises.
- b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence.
- c) entry to the premises will not be granted unless a warrant is produced.

Assistant Commissioner Quick's letter of 3 December 2008 to the Home Secretary said: "As there was no basis for submitting to a JP that it was believed that consent would be refused, it was considered that it was not open to a constable to make an application."³³

23. Three police officers went by appointment to the House of Commons at 3 pm on 26 November. They met the Serjeant at Arms and the chief superintendent in charge of the policing of the Palace of Westminster.³⁴ According to the Speaker's Statement to the House on 3 December, the police did not explain to the Serjeant at Arms that she was not obliged to consent to the search, or that a warrant could have been insisted upon.³⁵ AC Quick told us that his officers held a "protracted conversation" with the Serjeant explaining the provisions of section 8 of the Police and Criminal Evidence Act (ie that a warrant was needed only if consent were refused), and that the police had applied for warrants to search three other premises.³⁶ At this stage the Member concerned had not been named. The police arranged to return on the following morning. They understood that in the meantime the Serjeant intended to seek advice.³⁷ On the morning of 27 November, the police returned to the Palace, and at this point they told the Serjeant that the Member in question was Mr Green. The Serjeant signed the consent form.³⁸

24. **The aspects of this affair bearing on Parliamentary privilege are not for us to explore. We note, however, that from the outset of the investigation into Mr Green the police were aware of the political sensitivity of the inquiry and were anxious to adopt a cautious approach, including trying to make preliminary contacts with Parliamentary authorities immediately Mr Green's potential involvement in the case became apparent. It is very regrettable that there should have been any misunderstanding over the issue of consent to search Parliamentary premises, but, in seeking consent before applying for a warrant, the police were following the procedure set down in statute.**

33 This letter has been placed in the House of Commons Library and, for convenience of reference, is printed with this Report. See also Q 246

34 Qq 240-243 and 312

35 HC Deb, 3 December 2008, col 2

36 Qq 244 and 320

37 Q 318

38 HC Deb, 3 December 2008, col 2

25. The Speaker has subsequently issued a Protocol stating: “In future a warrant will always be required for a search of a Member’s office or access to a Member’s parliamentary papers including his electronic records and any such warrant will be referred to me for my personal decision.” The Speaker’s Protocol goes on to detail the procedures to be followed when the police indicate any intention of seeking a warrant to search Parliamentary premises, and during the conduct of any search. We hope that this Protocol will help the police to determine the right process to follow in future.

26. The House has referred aspects of this case to the Speaker’s Committee on the Search of Offices on the Parliamentary Estate. However, the Committee has still not met, and there are no signs it will do so in the immediate future. The House has not had an opportunity to decide whether the matter should be referred to its Committee on Standards and Privileges. **In the special circumstances of this case, we urge the Government to table a motion that would allow the House to decide whether to refer this matter to the Committee on Standards and Privileges.**

27. The police’s decision to undertake the operation “in the most discreet way”³⁹ possible manifested itself in a number of other ways. They considered that, because of the political sensitivity, they ought to alert a number of key people to the operation (the Cabinet Office, Sir David Normington, the Chairman of the Metropolitan Police Authority and the Leader of the Opposition). Although they thought they already had enough evidence to arrest Mr Green, they took a deliberate decision that they would tell these people only about the search operation and not about the intended arrest—and, indeed, for the first few hours of the operation they did not reveal the name of the Member of Parliament involved. Moreover, they decided not to undertake an early morning arrest, despite the fact that this is the time when a suspect is most likely to be found easily.⁴⁰

28. Unfortunately, the cautious approach went wrong from the start as Mr Green was not at home when the police arrived to arrest him. After some fruitless inquiries, AC Quick sought the assistance of the Leader of the Opposition, Rt Hon David Cameron MP, to find Mr Green, though without—at that stage—revealing that the intention was to arrest Mr Green.⁴¹ The determination to keep a number of people informed about the operation also complicated it. AC Quick admitted: “I think that our attempts to soften the impact of our operational decisions made the operation more unwieldy than it might otherwise have been.”⁴²

29. We have attempted to discover all the contacts made between the key players (the police, CPS, Government officials and Ministers, Mr Cameron, the Chairman of the Metropolitan Police Authority) after Mr Galley’s arrest and in particular on 27 November 2008. Our findings are set out in the timeline below.

39 Q 336

40 Qq 302–304, 311, 313–317, 325, 327 and 336

41 Qq 255–257 and 308

42 Q 325

TIMELINE ACCORDING TO ALL EVIDENCE RECEIVED

Thursday 20 November 2008				
<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
Telephone	DAC McDowell, Metropolitan Police Specialist Operations Unit	AC Quick	Discussion on impact of Mr Galley's arrest. Agreement to proceed with caution in respect of Mr Green	Qq 236-238
'deployed to Palace of Westminster'	DC Walker, Metropolitan Police Specialist Operations Unit	Chief Superintendent of police at Palace of Westminster	DC Walker deployed to start a conversation with the Parliamentary authorities about a potential police operation	Qq 238-239
Wednesday 26 November 2008				
<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
3.30 pm by appointment at Palace of Westminster	Three Metropolitan Police Specialist Operations Unit officers including senior investigating officer	Serjeant at Arms	Police briefed Serjeant about a possible arrest of an MP and sought consent to search Parliamentary offices. It was agreed that the officers would return the following morning	Qq 240-244, 288, 312 & 318
Thursday 27 November 2008				
<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
Shortly before 10am in margins of MPA meeting	Sir Paul Stephenson	Mr Boris Johnson (Chairman of MPA)	Mr Johnson was informed a potentially controversial operation was underway; he inquired what it was about and was not told. He was unaware at this time that it involved Mr Damian Green MP. Mr Johnson was told the offices of an MP were to be searched.	Qq 159-163 (Mr Johnson) Qq 266-267 & 323 (AC Quick)
13.05 (telephone)	AC Quick	Mr David Cameron	Mr Cameron not available. AC Quick left message with Chief of Staff asking Mr Cameron to ring him	Qq 252-253 (AC Quick)

<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
13.07 (telephone)	Mr Cameron	AC Quick	AC Quick said that a search operation was underway and asked for Mr Cameron's help in locating Mr Green	Qq 255-257 (AC Quick)
Lunchtime – 1pm approx (telephone) 13.14 (telephone)	Sir Paul Stephenson	Mr Johnson's staff	Informed that Mr Green was about to be arrested in connection with a leaks inquiry. Mr Johnson not available: Sir Paul left message with Mayor's PA asking him to phone back	Qq 164-168 & 179 (Mr Johnson) Q 268 (AC Quick)
1.10pm approx from train platform (telephone) 13.19 (telephone)	Mr Johnson	Sir Paul Stephenson	To establish the facts about the arrest of Mr Green. Sir Paul said that the police had asked for Mr Cameron's help to locate Mr Green	Qq 170-172 & 175-177 (Mr Johnson) Qq 269-271 & 323 (AC Quick)
About 13.30 (telephone)	Metropolitan Police	Sir David Normington	Sir David in a meeting. Police asked him to phone back.	Qq 70-71 (Sir David)
13.36 (telephone)	Mr Johnson	Sir Paul Stephenson	Mr Johnson sought further details about the operation	Q 323 (AC Quick)
13.36 (telephone)	AC Quick	Director of Security and Intelligence, Cabinet Office	Cabinet Office informed search operation about to take place	Q 261 (AC Quick)
13.37	Mr Damian Green arrested in Kent but this news not passed on immediately to AC Quick and others (Q 290)			
13.39 (telephone) About 13.45 (telephone)	Sir David Normington	AC Quick	Home Office informed search operation about to take place Sir David Informed that the Met were going to search the offices and homes of a Conservative Front Bench Spokesman. He asked which MP and was told that it was Mr Green.	Q 262 (AC Quick) Qq 61-63 & 71-74 (Sir David)

14 Policing Process of Home Office Leaks Inquiry

<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
			(Sir David was told that at about this time AC Quick also informed Messrs Johnson & Cameron, Cabinet Office & the Speaker of the proposed search)	Qq 97 & 115-117
13.43 (telephone)	AC Quick	Sir Ian Blair	Sir Ian informed search operation about to take place	Q 262 (AC Quick)
13.46 (telephone)	AC Quick	Serjeant at Arms	Serjeant not there, but AC Quick left message to ask whether there were any problems regarding the forthcoming search	Q 262 (AC Quick)
13.46 (telephone)	AC Quick	CPS	CPS informed search operation about to take place	Q 263 (AC Quick)
13.50 In person	Sir David Normington	Home Secretary's Private Office	Informed Private Secretary that Mr Green's offices were to be searched.	Qq 84-87 (Sir David)
13.51 (telephone)	AC Quick	Chief Constable of Kent	Kent Police informed of Met operation taking place in their area	Q 263 (AC Quick)
"Lunchtime" (telephone)		Mr Cameron	'I had a brief conversation with David Cameron at about lunchtime after both of us had been informed by the police of the case.'	Mr Johnson's letter to Chairman of 4 February
13.59 (telephone)	Mr Johnson		Brief conversation	Mr Johnson's letters of 10 and 25 February
Exact Time not known (telephone)	Serjeant at Arms or her staff	Metropolitan Police	To report there were 'no concerns' over the proposed search of Mr Green's office in the House	Qq 262 and 318 (AC Quick)
About 14.00	Searches of Mr Green's offices and home started			
14.19 (telephone)	DAC Dick	Mr Cameron's office	Asked Mr Cameron to contact her	Qq 297-298 (AC Quick)

<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
14.20 (telephone)	Mr Cameron	DAC Dick	Mr Cameron informed of Mr Green's arrest and searches in progress	Qq 298-299 (AC Quick)
14.20 (telephone)	Home Secretary's Private Office	Home Secretary (in Brussels)	Informed that the offices of Mr Green were to be searched	Qq 88-90 (Sir David)
14.28 (telephone)	DAC Dick	Sir Paul Stephenson	Informed of Mr Green's arrest	Q 300(AC Quick)
'About 2.25 pm' (telephone)	Metropolitan Police	Sir David Normington	Informed that Mr Green had been arrested	Qq 90-92 (Sir David)
14.30 (telephone)	DAC Dick	Sir David Normington's office		Q 300 (AC Quick)
14.33 (telephone)	DAC Dick	Cabinet Office and Cabinet Secretary	Informed that Mr Green had been arrested	Q 300 and Cabinet Secretary's letter to Chairman of 26 March 2009
14.36 (telephone)	DAC Dick	CPS	Informed that Mr Green had been arrested	Q 300 (AC Quick)
14.39 (telephone)	Mr Chris Wright, Cabinet Office	DAC Dick	Returned DAC Dick's call to ask for some more detail	Q 300 (AC Quick)
About 14.30 (telephone)	Cabinet Secretary	Sir David Normington	To inform Sir David that Cabinet Office had also been told of the arrest. Agreed that the Home Secretary and Prime Minister should be informed as soon as possible.	Q 94 (Sir David)
Before 15.00 from City Hall (telephone)	Mr Johnson	Sir Paul Stephenson	To establish the facts of the arrest.	Qq 172-177 (Mr Johnson)
About 15.00 (telephone)	Home Secretary's Private Office	Home Secretary	Informed that Mr Green had been arrested	Q 95 (Sir David)
About 15.00 (telephone)	Cabinet Office	Prime Minister	Informed that Mr Green had been arrested	Q 96 (Sir David)
Just before 15.00, in person, in Southwark Cathedral	Mr Johnson	Mr Cameron	May have had a very brief conversation regarding the arrest, no substance.	Qq 201-205 (Mr Johnson)
Just before 15.00, in person, in Southwark C	Mr Johnson	Sir Paul Stephenson	Confirmed that Mr Green had been arrested	Q 179 (Mr Johnson)

<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
About 16.30		Mr Kit Malthouse, Deputy Mayor for Policing	Told that Mr Green's offices were being searched and Mr Green had been arrested	Mr Malthouse's letter to Chairman of 30 March 2009
Later that day	Mr Liam Byrne MP, Minister for the Cabinet Office, became aware of the operation involving Mr Green and Mr Green's arrest from the media coverage			Minister's letter to Chairman of 25 Feb 2009
Later that day	Cabinet Secretary discussed the police operation with Mr Byrne			Cabinet Secretary's letter to Chairman of 26 March 2009
Monday 1 December 2008				
<i>Time and method of contact</i>	<i>Who initiated contact</i>	<i>Who was contacted</i>	<i>Purpose of contact</i>	<i>Evidence reference</i>
About 6 pm by mobile phone	Mr Green	Mr Johnson	In response to text message from Mayor's office sent on evening of Sunday 30 November. Discussed facts of the arrest.	Qq 181-189 (Mr Johnson)

30. We understand the anxiety of the Metropolitan Police to ensure that those likely to be caught up in any political storm were kept informed about the operation so that it did not come as a complete surprise to them. Indeed, the political ramifications of the inquiry are highlighted by the fact that several of them reacted with shock and concern when told that the suspect was Mr Green—expressing the hope that the police had evidence to substantiate the charge or warning the police that this was explosive news.⁴³ However, in such circumstances all decisions made—who was informed, when, and of precisely what—may be, and have been in this case, subject to question and interpretation as interested parties probe to see whether anyone could have influenced or hindered the police operation. We recommend the adoption by the police of a protocol setting out the exceptional circumstances in which a politician would be informed of any police operation while it was underway.

Scale of the police operation

31. A police operation involving the search of four premises and the sifting of a considerable amount of material seized is bound to involve a number of officers. AC Quick told us that the main investigation team comprised 15 officers and staff, who from time to

43 Qq 65–66, 75–78, 113–114 (Sir David Normington) and 177–178 (Chairman of MPA)

time were assisted by specialist units. The strategy to be used by this team was considered by a senior command team, and there was a Gold Group, comprising officers at ACPO level as well as the investigation team, and chaired by AC Quick.⁴⁴ Although none of the officers and staff was working on this inquiry full time, **the involvement of so many officers and, in particular, the heavy involvement of so many high-ranking officers in disseminating information on 27 November caused us some concern. Presumably, the presence of DACs and others was deemed necessary because of the political sensitivity of the operation. This is another reason why it would be sensible not to keep politicians informed during police operations.**

32. Because of these concerns and allegations in the press that the police were heavy-handed in the operation,⁴⁵ we asked the police whether we could see a copy of the report on the operation made by Mr Ian Johnston, Chief Constable of the British Transport Police, at the instigation of Sir Paul Stephenson. **Mr Johnston referred us to the Commissioner of the Metropolitan Police, who declined to give us the report. We believe it would be useful to publish the Johnston report as soon as practicable so that lessons may be drawn from this case more widely.**

Role of the Chairman of the Metropolitan Police Authority

33. As can be seen from the timeline, the Chairman of the Metropolitan Police Authority, Mr Boris Johnson, was the first person outside the police, CPS and House authorities to be alerted to the fact that the police were conducting an operation involving a Member of Parliament. Mr Johnson had several conversations with the police and others during the course of 27 November, and shortly after Mr Green's arrest became known he issued a public statement declaring his concern about the police operation. We were aware that his conduct was being investigated by the relevant sub-committee of the Metropolitan Police Authority and Greater London Assembly, but we decided to question him about his role in this affair.

34. We asked whether it was accepted practice that the Chair of a police authority should be informed of any particularly high-profile operations undertaken by their local force. Both AC Quick and Sir David Normington confirmed that it was.⁴⁶ AC Quick said that Mr Johnson had also, as a matter of courtesy, been informed of the intention to arrest Mr Galley earlier in November.⁴⁷ However, Mr Johnson had no operational involvement in the investigation.⁴⁸

35. We asked Mr Johnson to whom he had spoken about this police operation and the arrest of Mr Green before it became public knowledge. His answers at first were rather vague, but were clarified in subsequent correspondence. As well as speaking to Sir Paul Stephenson, then Deputy Commissioner of the Metropolitan Police, on four occasions

44 Letter of AC Quick to the Chairman, 23 February 2009

45 See, for example, 'Met fears prosecutors may decide not to take Damian Green to court', *Sunday Telegraph*, 14 December 2008, p12

46 Qq 100 (Sir David Normington) and 267 (AC Quick)

47 Qq 284-287; and Home Secretary's Statement to the House: HC Deb, 4 December 2008, col 134

48 Q 233

before 3 pm on 27 November, Mr Johnson also had a conversation with Mr Cameron.⁴⁹ In his conversations with Sir Paul, he gave robust expression to his concerns about the investigation of Mr Green.⁵⁰ He repeated these concerns in a press statement shortly after.⁵¹

36. We note that the standards committees of the Greater London Authority and Metropolitan Police Authority found that Mr Johnson had not breached their code of conduct,⁵² but some of his actions were unwise,⁵³ and his motives could have been misinterpreted.

Home Secretary's review

37. The Home Secretary told us that she was minded to instigate a wide-ranging review into the conduct of the leak inquiry once any court cases resulting from it had finished.⁵⁴ AC Quick and Mr Johnson welcomed this,⁵⁵ and so do we. We consider that the review should cover both the approach to the inquiry within Government and the procedures adopted by the police, and should address all the issues dealt with in this Report.

49 See Timeline above

50 Qq 177–178

51 Qq 208–211

52 Decision Notice of Greater London Authority's Standards Committee meeting of 4 March 2009 and Decision Notice of Metropolitan Police Authority's Standards Committee meeting of 4 March 2009

53 *Report of an investigation into Boris Johnson*, by Jonathan Goolden, solicitor, for the Standards Committee of the Greater London Authority and the Standards Committee of the Metropolitan Police Authority, 24 February 2009

54 Qq 2–4, 109–110, 121–123

55 Qq 216–217 (Mr Johnson) and 344 (AC Quick)

Conclusions and recommendations

Involvement of Home Office and Cabinet Office

1. We do not condone the unauthorised disclosure of departmental information; this is an abuse by officials of their positions of trust, and we support the use of disciplinary action in such instances. We also understand the corrosive effect that persistent leaking of information has on the efficient working of departments, not least as it sows mistrust between Ministers and officials. The Home Secretary made plain to us her anger at the leaks. (Paragraph 13)
2. In this case the Home Office appears to have followed best practice for investigating leaks, as set out in the Cabinet Office's Memorandum to our sister Committee. Nevertheless, we are concerned that growing frustration in both the Home Office and the Cabinet Office may have led officials to give an exaggerated impression of the damage done by the leaks that could reasonably be presumed to have emanated from the Home Office. (Paragraph 13)
3. There is a clear mismatch between Sir David's description of the sort of material that he suspected had been leaked from the Home Office and the Cabinet Office's letter to the police stating "there has been considerable damage to national security already as a result of some of these leaks". Sir David suggested that this phrase reflected the concerns not about the 20-plus items he had identified but about the other material that had been leaked from somewhere in Government. However, the Cabinet Office letter did not refer to other departments: only to the Home Office. (Paragraph 14)
4. We recognise that the Metropolitan Police might still have decided to pursue an investigation on the basis of the damage done to confidence between Ministers and officials and the fear that the leaker(s) might have access to more sensitive information that had not yet been disclosed. We also do not know whether the oral briefing given to the police was less hyperbolic than the letter. However, we think it was unhelpful to give the police the impression that the Home Office leaker(s) had already caused considerable damage to national security. (Paragraph 15)
5. When Parliament revised the Official Secrets Act in 1989, it narrowed the scope of the section on unauthorised disclosure of government information, focusing on specific types of damaging information—relating to security and intelligence, defence, international relations and crime and special investigation powers. Unauthorised disclosure of these types of information remained subject to criminal proceedings. This was in line with what the then Home Secretary told the House in December 1988 when introducing second reading of the bill, namely that it would "remove the protection of the criminal law from the great bulk of sensitive and important information", none of which would "any longer have the protection of the criminal law". (Paragraph 16)
6. The Cabinet Office's guidance to departments says that it is appropriate to involve the police in leak investigations when they involve "a serious and damaging impact on the functioning of a Department and ... suspicion of leaking sensitive information". However, it is easy to imagine circumstances in which a leak of

sensitive information could lead to a damaging impact on the functioning of a Department without falling within the categories laid down in statute. The Cabinet Office's guidance therefore seems to leave open the possibility of involving the police in an investigation without any suspicion—let alone evidence—that a criminal offence under the Act has taken place. We recommend that the Cabinet Office revise its guidance to preclude this possibility. (Paragraph 17)

7. We note that the only person arrested for leaking information from the Home Office was a junior official providing administrative support, who had security clearance up to the level of 'secret'. At this stage of the police investigation, it is impossible to say exactly what information Mr Galley did disclose. He may not have been responsible for all the 20-plus leaks identified by Sir David—and, indeed, Sir David said it was not proven that all those leaks emanated from the Home Office. This, together with the fact that there has been no indication so far that Mr Galley is linked to the "other" national security-related leaks that have caused such concern to the Cabinet Office over the last few years, leaves the possibility (to put it no higher) that there are other officials within government leaking more sensitive information. We are unable to judge whether the controversy over the investigation into Mr Galley and Mr Green makes it less likely that those who have disclosed information damaging to national security will ever be discovered. (Paragraph 18)

Parliamentary aspects

8. The aspects of this affair bearing on Parliamentary privilege are not for us to explore. We note, however, that from the outset of the investigation into Mr Green the police were aware of the political sensitivity of the inquiry and were anxious to adopt a cautious approach, including trying to make preliminary contacts with Parliamentary authorities immediately Mr Green's potential involvement in the case became apparent. It is very regrettable that there should have been any misunderstanding over the issue of consent to search Parliamentary premises, but, in seeking consent before applying for a warrant, the police were following the procedure set down in statute. (Paragraph 24)
9. The Speaker has subsequently issued a Protocol stating: "In future a warrant will always be required for a search of a Member's office or access to a Member's parliamentary papers including his electronic records and any such warrant will be referred to me for my personal decision." The Speaker's Protocol goes on to detail the procedures to be followed when the police indicate any intention of seeking a warrant to search Parliamentary premises, and during the conduct of any search. We hope that this Protocol will help the police to determine the right process to follow in future. (Paragraph 25)
10. In the special circumstances of this case, we urge the Government to table a motion that would allow the House to decide whether to refer this matter to the Committee on Standards and Privileges. (Paragraph 26)

Police Investigation

11. However, in such circumstances all decisions made—who was informed, when, and of precisely what—may be, and have been in this case, subject to question and

interpretation as interested parties probe to see whether anyone could have influenced or hindered the police operation. We recommend the adoption by the police of a protocol setting out the exceptional circumstances in which a politician would be informed of any police operation while it was underway. (Paragraph 30)

12. the involvement of so many officers and, in particular, the heavy involvement of so many high-ranking officers in disseminating information on 27 November caused us some concern. Presumably, the presence of DACs and others was deemed necessary because of the political sensitivity of the operation. This is another reason why it would be sensible not to keep politicians informed during police operations. (Paragraph 31)
13. we asked the police whether we could see a copy of the report on the operation made by Mr Ian Johnston, Chief Constable of the British Transport Police, at the instigation of Sir Paul Stephenson. Mr Johnston referred us to the Commissioner of the Metropolitan Police, who declined to give us the report. We believe it would be useful to publish the Johnston report as soon as practicable so that lessons may be drawn from this case more widely. (Paragraph 32)
14. We note that the standards committees of the Greater London Authority and Metropolitan Police Authority found that Mr Johnson had not breached their code of conduct, but some of his actions were unwise, and his motives could have been misinterpreted. (Paragraph 36)

Proposed review by Home Secretary

15. The Home Secretary told us that she was minded to instigate a wide-ranging review into the conduct of the leak inquiry once any court cases resulting from it had finished, and so do we. We consider that the review should cover both the approach to the inquiry within Government and the procedures adopted by the police, and should address all the issues dealt with in this Report. (Paragraph 37)

Annex

Correspondence from the Assistant Commissioner Robert F. Quick, Metropolitan Police Service to the Home Secretary, 3 December 2008

Dear Home Secretary,

I am writing in response to a series of questions raised by your officials which relate to the search of Damian Green MP's parliamentary office on Thursday 27th November 2008. The questions raised are set out below followed by the response of the MPS.

Question 1: Was a warrant needed to search the Parliamentary office?

No.

Section 8 (1) of the Police and Criminal Evidence Act as amended permits a Justice of the Peace to issue a warrant authorising a constable to enter and search premises where satisfied on application by a constable that there are reasonable grounds for believing:

- a) That an indictable offence has been committed and;
- b) There is material on the premises mentioned in subsection (1a) which is likely to be of substantial value of the investigation of the offence and;
- c) The material is likely to be relevant evidence and;
- d) It does not consist of or include items subject to legal privilege, excluded material or special procedure material and;
- e) That any of the conditions specified in sub section 3 applies in relation to each set of premises specified.

Section 8 (1a)

The premises referred to in subsection (1b) above are:

- a) One or more sets of premises specified in the application or
- b) Any premises occupied or controlled by the person specified in the application

Section 8 (2)

Provides that a constable may seize and retain anything for which a search has been authorised under subsection (1) above.

Section 8 (3)

Identifies the conditions mentioned in subsection 1(e) above and are:

- a) That it is not practicable to communicate with any person entitled to grant entry to the premises.
- b) That it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence.
- c) That entry to the premises will not be granted unless a warrant is produced.
- d) That the purpose of the search is frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

The effect of the condition in subsection 3 (c) is that a Justice of the Peace may not issue a search warrant under section 8 if he/she believes entry to the premises will be granted without a warrant (ie by consent). As there was no basis for submitting to a JP that it was believed that consent would be refused, it was considered that it was not open to a constable to make an application.

Question 2: Should the officers have told the Serjeant at Arms she had the right to refuse permission without a warrant?

Code B52 of the codes of practice state - "Before seeking consent the officer in charge of the search shall state the purpose of the proposed search and its extent. This information must be as specific as possible, particularly regarding the articles or persons being sought and the parts of the premises to be searched. The person concerned must be clearly informed that they are not obliged to consent and anything seized may be produced in evidence. If at that time the person is not suspected of an offence the officer shall say this when stating the purpose of the search."

On Wednesday 26th November 2008 police officers, led by the Senior Investigating Officer, attended the Palace of Westminster to speak to the Serjeant at Arms. The officers briefed her to the effect that they were seeking permission to search the Parliamentary office of an MP. The Serjeant at Arms was informed that the police had applied for and been granted by a magistrate, three warrants in relation to three other premises related to the MP. The officers informed the Serjeant at Arms that the provisions of Section 8 of the Police and Criminal Evidence Act required that they first seek consent of the person who occupies or controls the premises where they believe evidence may be found.

The officers explained the nature of the investigation and the purpose of the search and were satisfied that the Serjeant at Arms understood that police had no power to search in the absence of a warrant and therefore could only do so with her written consent or that of the Speaker. Prior to giving written consent the Serjeant at Arms told the officers that she would seek legal advice. Further discussion between the officers and Serjeant at Arms is detailed in the officer's statements.

The Serjeant at Arms indicated that she would give her consent at the appropriate time and that she would take responsibility for informing the Speaker. It was further indicated the officer would seek consent the following day on Thursday 27th November 2008 and the MP concerned would be identified to her.

On the 27th November 2008 officers attended the Palace of Westminster where they again saw the Serjeant at Arms and written consent to search was provided in two forms; namely a signature on a standard police search form 101 and in a letter provided by the Serjeant at Arms. It is understood that the Serjeant at Arms had obtained legal advice in the interim. The legality or otherwise of police actions in criminal investigations are often subject to challenge and are settled through the judicial process.

Question 3 - Did AC Quick have to write to the Speaker, confirming the arrest?

Yes. It is understood that protocol requires the police to write to the Speaker and notify him after the arrest of a member of parliament: see Erskine May chapter 7.

Question 4 - When did he write?

Monday 1st December 2008.

Yours sincerely,

Robert F Quick QPM MBA
Assistant Commissioner
Specialist Operations

Formal Minutes

Tuesday 31 March 2009

Members present:

Rt Hon Keith Vaz, in the Chair

Tom Brake

Ms Karen Buck

Mr James Clappison

David T C Davies

Mrs Janet Dean

Patrick Mercer

Mr Gwyn Prosser

Mr Bob Russell

Martin Salter

Mr David Winnick

Draft Report (*Policing Process of Home Office Leaks Inquiry*), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 37 read and agreed to.

A paper was appended to the Report.

Resolved, That the Report be the Fourth Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Tuesday 21 April at 10.15 am

Witnesses

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Rt Hon Jacqui Smith MP , Secretary of State, Sir David Normington KCB , Permanent Secretary, Home Office	Ev 1
Tuesday 3 February 2009	
Mr Boris Johnson , Mayor of London	Ev 17
Tuesday 10 February 2009	
Assistant Commissioner Robert Quick QPM , Metropolitan Police Service	Ev 22

List of written evidence

1	Correspondence from the Chairman of the Committee to Keir Starmer QC, 28 January 2009	Ev 32
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3	Correspondence from the Chairman of the Committee to the Chairman of the Metropolitan Police Authority (MPA), 3 February 2009	Ev 32
4	Correspondence from the Chairman of the MPA to the Chairman of the Committee, 4 February 2009	Ev 32
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14 Correspondence from the Chairman of the Committee to the Permanent Secretary, Home Office, 17 February 2009	Ev 34
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17 Further correspondence from the Permanent Secretary, Home Office to the Chairman of the Committee, 2 March 2009	Ev 35
18 Correspondence from the Chairman of the Committee to Assistant Commissioner Robert F. Quick, Metropolitan Police Service, 17 February 2009	Ev 36
19 Correspondence from Assistant Commissioner Robert F. Quick, Metropolitan Police Service to the Chairman of the Committee, 23 February 2009	Ev 37
20 Correspondence from the Chairman of the Committee to the Deputy Mayor of London, 3 March 2009	Ev 37
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23 Correspondence from the Cabinet Secretary to the Chairman of the Committee, 26 March 2009	Ev 38
24 Correspondence from the Chairman of the Committee to Chief Constable Ian Johnston, Head of ACPO Crime Business Area, 10 March 2009	Ev 38
25 Correspondence from Chief Constable Ian Johnston, Head of ACPO Crime Business Area to the Chairman of the Committee, 10 March 2009	Ev 38
26 Correspondence from the Chairman of the Committee to Sir Paul Stephenson, Commissioner of the Metropolitan Police, 13 March 2009	Ev 39

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2008–09

First Report	Monitoring of the UK Border Agency	HC 77 (HC 381)
Second Report	Police and the Media	HC 75
Third Report	The Work of the Committee 2007–08	HC 76

Session 2007–08

First Report	The Government's Counter-Terrorism Proposals	HC 43
Second Report	Bulgarian and Romanian Accession to the EU: Twelve months on	HC 59
Third Report	Security Industry Authority	HC 144
Fourth Report	Work of the Committee in 2007	HC 226
Fifth Report	A Surveillance Society?	HC 58 (Cm 7449)
Sixth Report	Domestic Violence, Forced Marriage and "Honour"-Based Violence	HC 263 (Cm 7450)
Seventh Report	Policing in the 21 st Century	HC 364

Session 2006–07

First Report	Work of the Committee in 2005–06	HC 296
Second Report	Young Black People and the Criminal Justice System	HC 181 (Cm 7217)
Third Report	Justice and Home Affairs Issues at European Union Level	HC 76 (HC 1021)
Fourth Report	Police Funding	HC 553 (HC 1092)

Session 2005–06

First Report	Draft Corporate Manslaughter Bill (First Joint Report with Work and Pensions Committee)	HC 540 (Cm 6755)
Second Report	Draft Sentencing Guideline: Robbery	HC 947
Third Report	Draft Sentencing Guidelines— <i>Overarching Principles: Domestic Violence and Breach of a Protective Order</i>	HC 1231
Fourth Report	Terrorism Detention Powers	HC 910 (Cm 6906)
Fifth Report	Immigration Control	HC 947 (Cm 6910)
Sixth Report	Draft Sentencing Guideline: Sexual Offences Act 2003	HC 1582

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

 20 January 2009 Rt Hon Jacqui Smith MP and Sir David Normington KCB

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

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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

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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

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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.

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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?

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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.

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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—

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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.

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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

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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

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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

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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?

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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 10 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

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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

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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.

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?

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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.”

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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

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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

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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.

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.

Q218 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.

Q219 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.

Q220 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.

Q221 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.

Q222 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.

Q223 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

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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.

Q224 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.

Q225 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.

Q226 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.

Q227 David Davies: Did any of the conversations with the Cabinet Office to which you refer involve ministers?

Mr Quick: No.

Q228 David Davies: So, there was no ministerial involvement from the Cabinet Office at any time?

Mr Quick: No.

Q229 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.

Q230 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.

Q231 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.

Q232 Gwyn Prosser: Would you drop us a note?

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

Q233 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.

Q234 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.

Q235 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.

Q236 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.

Q237 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.

Q238 Mr Winnick: What is the name of the deputy assistant commissioner?

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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.

Q239 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.

Q240 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.

Q241 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.

Q242 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.

Q243 Mr Winnick: Three officers came and saw the Serjeant at Arms?

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

Q244 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.

Q245 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.

Q246 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.

Q247 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.

Q248 Chairman: Sir Paul Stephenson?

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

Q249 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.

Q250 Mr Winnick: He approved what took place?

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

Q251 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?

Q252 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.

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Q253 Chairman: At what time was that?

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

Q254 Chairman: That was the first call made?

Mr Quick: Yes.

Q255 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.

Q256 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.

Q257 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.

Q258 Chairman: What was his reaction?

Mr Quick: Clearly, he was concerned but he did agree to ask Mr Green to call my office.

Q259 Martin Salter: Therefore, at 1305 hrs you spoke to Mr Ed Llewelyn and at 1307 hrs 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.

Q260 Chairman: Did you ring anyone between speaking to Mr Cameron and searching the premises?

Mr Quick: Yes.

Q261 Chairman: Whom did you ring?

Mr Quick: At 1336 hrs 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.

Q262 Chairman: Who else?

Mr Quick: At 1339 hrs 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.

Q263 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 1346 hrs 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.

Q264 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.

Q265 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 1305 hrs? Therefore, the first politician with whom you sought to make contact was the Leader of the Opposition.

Q266 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.

Q267 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.

Q268 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.

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Q269 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.

Q270 Chairman: Is it right that we are still on searches at the moment?

Mr Quick: Yes.

Q271 Martin Salter: Therefore, until 1319 pm 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.

Q272 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 call 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.

Q273 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.

Q274 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.

Q275 Mr Clappison: You sought the advice of the Crown Prosecution Service?

Mr Quick: Yes.

Q276 Mr Clappison: Did you seek the advice of the Cabinet Office, for example?

Mr Quick: No.

Q277 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.

Q278 Mr Clappison: Was anybody outside the Police Service told about the investigation of Damian Green?

Mr Quick: Only the Crown Prosecution Service.

Q279 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.

Q280 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.

Q281 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.

Q282 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?

Q283 Chairman: Prior to two o'clock on the 27th?

Mr Quick: Not to my knowledge.

Q284 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.

Q285 Ms Buck: Before the arrest took place?

Mr Quick: Yes.

Q286 Ms Buck: Would he have been told that the arrest had taken place?

Mr Quick: Yes.

Q287 Ms Buck: Therefore, involvement or not, that information would have been given to him?

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Mr Quick: Indeed.

Q288 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.

Q289 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.

Q290 Ms Buck: Can you confirm the exact time that Mr Green was arrested?

Mr Quick: I think Mr Green was arrested at 1.37.

Q291 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.

Q292 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.

Q293 Chairman: You were not aware of that?

Mr Quick: I was not aware of it at that time.

Q294 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.

Q295 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.

Q296 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.

Q297 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.

Q298 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.

Q299 Ms Buck: And that the search was in progress?

Mr Quick: Yes.

Q300 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.

Q301 Chairman: Just to complete the timeline, you were not present at Southwark Cathedral for the memorial service for Damilola Taylor?

Mr Quick: No.

Q302 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.

Q303 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.

Q304 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.

Q305 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.

Q306 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?

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Mr Quick: Yes.

Q307 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.

Q308 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.

Q309 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.

Q310 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.

Q311 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.

Q312 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.

Q313 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.

Q314 Bob Russell: It was a deliberate, conscious decision not to say that Mr Green was about to be arrested?

Mr Quick: Yes.

Q315 Chairman: That applies to the other people to whom you spoke?

Mr Quick: Yes, absolutely.

Q316 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.

Q317 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.

Q318 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.

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Q319 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.

Q320 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.

Q321 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.

Q322 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.

Q323 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.

Q324 Chairman: As far as concern the Home Secretary and permanent secretary to the Home Office they were alerted afterwards?

Mr Quick: Yes.

Q325 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.

Q326 Bob Russell: Journalists would also be on hand at that time, would they not?

Mr Quick: In the early morning?

Q327 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.

Q328 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

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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.

Q329 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.

Q330 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.

Q331 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.

Q332 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.

Q333 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.

Q334 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.

Q335 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.

Q336 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.

Q337 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.

Q338 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.

Q339 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.

Q340 Mr Brake: They are as presented originally?

Mr Quick: Yes.

Q341 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.

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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.

Q342 David Davies: Can you confirm you have said they were without foundation?

Mr Quick: Yes.

Q343 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.

Q344 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.

Written evidence

Correspondence from the Chairman of the Committee to Keir Starmer QC, 28 January 2009

As you will be aware, the Home Affairs Committee invited the Metropolitan Police to give evidence yesterday as part of our inquiry into the policing processes of Home Office leaks. The Metropolitan Police informed us that they were reluctant to give evidence in public, and explained to us privately that this was in part because of the stage which the investigation surrounding the leaks had reached. Specifically, the then Acting Commissioner said that you had requested additional lines of inquiry to be undertaken.

I understand that your office was not able to supply a representative to accompany the Metropolitan Police when they came to brief the Committee yesterday. I would therefore be grateful if you could write to me explaining the position from the point of view of the Crown Prosecution Service.

Correspondence from Keir Starmer QC to the Chairman of the Committee, 9 February 2009

Thank you for your letter of 28 January 2009.

The current position is that the case is under review. Due to outstanding issues over parliamentary privilege, we do not yet have all the evidence that may be available.

I am not in a position to give any further information at this stage as no decision has been taken in relation to either suspect, but would like to reassure you that we will make a final decision at the earliest opportunity.

Correspondence from the Chairman of the Committee to the Chairman of the Metropolitan Police Authority (MPA), 3 February 2009

You spoke to me immediately after today's Committee meeting to say that you had made an error in your oral evidence concerning the time at which you had spoken to the Leader of the Opposition, David Cameron, about the arrest of Damian Green MP.

You had previously stated that you first had contact with David Cameron at 3.00 pm at Southwark Cathedral on the day of Mr Green's arrest. You have subsequently recalled that you contacted David Cameron at 12.00 noon from Ladbroke Grove Station.

I would be grateful if you could confirm whether your initial evidence or your subsequent recollection is accurate.

The Committee may wish to re-call you if the evidence is not clear.

I would like to thank you once again for coming to give evidence to the Committee.

Correspondence from the Chairman of the MPA to the Chairman of the Committee, 4 February 2009

As I told the committee yesterday, I needed to check with my office about the timings of conversations with the Leader of the Opposition. As I told you immediately afterwards it turned out that I had a brief conversation with David Cameron at about lunchtime after both of us had been informed by the police of the case.

Further correspondence from the Chairman of the Committee to the Chairman of the MPA, 10 February 2009

I am writing to you again to express my Committee's deep concerns about the evidence you have submitted to our inquiry into the Policing Process of Home Office Leaks.

In oral evidence to the Committee, then immediately after the formal session had ceased, and then in subsequent communications, you have given no fewer than four different accounts of the communications you had with Leader of the Opposition David Cameron regarding the arrest of Damian Green MP.

We appreciated you coming before the Committee on Tuesday 3 February 2009 but the disparities between the evidence you gave us and your subsequent communications have led my Committee to express concerns about your apparent level of preparation to give formal evidence to a select committee of the House of Commons. We are also concerned about the level of respect and courtesy you have shown the Committee in providing evidence and especially in your subsequent communications.

The Committee are unanimously resolved in their decision to request that you now provide a prompt written clarification of the actual times of the calls made to David Cameron on the day of Damian Green's arrest, with some indication of the basis on which you can now be confident of your evidence.

The Committee will again as a whole consider your response and we reserve the right to call you back as a witness to clarify your position further if we do not find it satisfactory.

**Further correspondence from the Chairman of the MPA to the Chairman of the Committee,
10 February 2009**

Thank you for your letter of 10 February. I now have my phone records from this day and I can confirm to you that I spoke to David Cameron at 13.59 on Thursday 27 November 2008. As you know, we had both been informed by the police of the case before this call.

Please be assured that I mean no disrespect to the Committee and I made a special effort to attend last week on a busy day and to get these phone records for you as soon as possible.

I hope this concludes the matter and that this information will satisfy your curiosity about my conversation with David Cameron.

**Further correspondence from the Chairman of the Committee to the Chairman of the MPA,
17 February 2009**

Thank you for your letter of 10 February confirming the exact time of your telephone conversation with David Cameron on 27 November.

I would be most grateful if you would inform me of the following information.

- Did you pass on information about the forthcoming police operation to any other person after your conversation with Sir Paul Stephenson in the margins of the MPA meeting at 10.00 am and before your telephone call with David Cameron?
- Did David Cameron call you at 13.59 or did you call him? What was the nature of this conversation?
- Assistant Commissioner Quick gave evidence that on 27 November Sir Paul Stephenson telephoned you office at 13.14 and you returned his call at 13.19, and again at 13.36 seeking further information? What was the nature and purpose of that call to the Metropolitan Police Commissioner?
- You stated in your evidence that you telephoned Damian Green MP on Monday 1 December in the afternoon, now that you have your phone records could you inform me of the time of this call and the reason for it?

The Committee is keen to conclude this inquiry as soon as possible and report our findings to the House. I would be grateful for a response to these queries by 12 noon on Monday 23 February 2009.

**Further correspondence from the Chairman of the Committee to the Chairman of the MPA,
25 February 2009**

I wrote to you and to a number of other witnesses on 17 February, asking for some more details of events on 27 November and 1 December 2008. I asked you to reply by noon on 23 February.

Your office informed me that you were away and requested a short extension to the deadline, which I was happy to grant.

All the other witnesses to whom I wrote have now replied to my letter. I would be most grateful if you could reply to my letter by noon tomorrow so that the Committee can decide on how best to proceed.

**Further correspondence from the Chairman of the MPA to the Chairman of the Committee,
25 February 2009**

Thank you for your letter of 17 February. In response to your questions:

1. I gave my Director of Communications and my Private Secretary an outline of the discussion with Sir Paul Stephenson in the strictest confidence, which they observed.
2. I called David Cameron and I would describe the conversation as brief. We had both been informed by this stage about the case.
3. My conversation with the then Acting Police Commissioner was also brief and its purpose was to clarify the essential facts of the matter.

4. I spoke to Damian Green around 6.00 pm. He called my Director of Communications so I do not have a record of the precise time. As I explained to the London Assembly on 3 December 2008, I spoke to Damian because I wanted to see that I had understood the circumstances correctly.
-

Correspondence from the Chairman of the Committee to the Home Secretary, 17 February 2009

I am writing to you in regards to the Home Affairs Select Committee Inquiry into the Policing Process of Home Office Leaks.

As part of the Inquiry, the Committee have received evidence from Assistant Commissioner Bob Quick, Mayor of London, Boris Johnson, the Permanent Secretary to the Home Office Sir David Normington and yourself.

I would be most grateful if you could confirm if you spoke to any other person:

1. Once you were informed that the offices of Damian Green MP were to be searched.
2. When Damian Green MP was arrested.

I would be grateful if you could respond to these enquiries by 12 noon Monday 23 February 2009.

Correspondence from the Home Secretary to the Chairman of the Committee, 24 February 2009

Thank you for your letter of 17 February 2009.

You ask whether I spoke to any other person once I was informed:

- (1) that the offices of Damian Green MP were to be searched; and
- (2) that Damian Green MP had been arrested.

I can confirm that I did not.

Correspondence from the Chairman of the Committee to the Minister for the Cabinet, 17 February 2009

I am writing to you in regards to the Home Affairs Select Committee Inquiry into the Policing Process of Home Office Leaks.

As part of the Inquiry, the Committee have received evidence from Assistant Commissioner Bob Quick, Mayor of London Boris Johnson, the Permanent Secretary to the Home Office Sir David Normington and the Home Secretary, Rt Hon Jacqui Smith MP.

The role of the Cabinet Office has featured in evidence given to the Committee during this inquiry. For completeness, I would be grateful if you could inform the Committee of the following information.

1. The date you were informed there was to be a Police investigation involving Damian Green MP.
2. The time and date you were informed of the searching of the offices of Damian Green MP.
3. The time and date you were informed of Damian Green MP's arrest.

I would be grateful if you could respond to these enquiries by 12 noon Monday 23 February 2009.

Correspondence from the Minister for the Cabinet Office to the Chairman of the Committee, 25 February 2009

Thank you for your letter of 17 February asking about when I was informed about a number of matters relating to the arrest of Damian Green MP.

The answer is very straightforward. I first became aware of the arrest of Damian Green MP from the media coverage.

Correspondence from the Chairman of the Committee to the Permanent Secretary, Home Office, 17 February 2009

I am writing to you in regards to the Home Affairs Select Committee Inquiry into the Policing Process of Home Office Leaks.

In your evidence to the Committee you spoke of the leaked documents which related to the national security of the United Kingdom.

I would be grateful if you would inform me:

1. Is it still your view that there was only one item of national security that was leaked?
2. What date was the item concerning national security leaked.

I would be grateful if you could respond to these enquiries by 12 noon Monday 23 February 2009.

**Correspondence from the Permanent Secretary, Home Office to the Chairman of the Committee,
20 February 2009**

Thank you for your letter of 17 February about your Committee's inquiry into the Policing Process of Home Office leaks.

You asked me two questions. On the first, I have no reason at the moment to change my evidence to the Committee. As I said to the Committee when I appeared before them, I do not, of course, know the full extent of what the police have found or may find as a result of their enquiries, which are continuing. On the second, I am very sorry but I do not feel able to give you the details you seek, while the investigation is underway.

**Correspondence from the Chairman of the Committee to the Permanent Secretary, Home Office,
25 February 2009**

Thank you for your letter of 20 February. However, my Committee would still like clarification of part of your oral evidence to us regarding the genesis of the investigation by the Metropolitan Police.

You told us that by the summer of 2008 you were concerned that the large number of leaks from the Home Office pointed to some kind of systematic leaking (Q 16), that your concerns in relation to national security were that the 20 leaks that you knew of appeared to have come from an official close to the Home Secretary's Private Office and that the Cabinet Office was concerned "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" (Q 5).

In response to Mr Winnick's questions about Mr Galley, you responded: "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." (Q 19)

However, when I asked "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?" (Q 29) you replied that, of those leaks of which you were aware from the newspapers, "Over the two years at least one of those leaks has (been an issue of national security)." (Q 34)

Was that single leak that related to issues of national security one of the 20 which the Home Office had investigated and which had led you to seek the Cabinet Secretary's advice in the late summer of 2008?

**Further correspondence from the Permanent Secretary, Home Office to the Chairman of the Committee,
2 March 2009**

Thank you for your letter of 26 February about your Committee's inquiry into Home Office leaks. I am very concerned that my oral evidence to the Committee should not be misinterpreted. It is, however, difficult to answer your questions as precisely as you would wish without straying into the police investigations, which, as you know, are continuing. I was particularly careful in my evidence, as I must be again in this letter, to make no assumptions or allegations about what Mr Galley did or did not do. That is a matter for the police and I am rightly not privy to what they have found or are still investigating. Within these constraints I will try to answer the questions you put to me.

First, can I correct the second paragraph of your letter, which elides several of my answers? We did not know when we sought Cabinet Office help—and we still do not know—whether there was one leaker or several. So the statement in your letter that "the 20 leaks you know of appeared to have come from an official close to the Home Secretary's Private Office" is not quite accurate. The precise and most accurate answer I gave you is in the answer to Mr Winnick (Q20):

"When we discussed with the Cabinet Office whether we needed further help...we did not know who it was who was leaking, so we did not refer to a specific individual who was very junior... 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 good deal of concern that national security might be at risk . . ."

This is important because otherwise your letter could be read to imply that there is a direct connection between the 20 or so leaks and Mr Galley. I am not in a position to say that. It is, of course, what the police are investigating.

Secondly, that also explains the exchange you and I had at the Committee about what Mr Galley had leaked (Q29 to Q35). You asked me (Q28) "are we saying that some of the leaks relating to the information that Mr Galley had in his possession . . . were national security issues?" Contrary to what is implied in your letter, my precise answer was "I do not know what Mr Galley has and has not leaked."

When later (at Q34 and Q35) you asked me whether or not the leaks, including the leak relating to national security, could be traced to Mr Galley, again my precise answer was that I did not know and "I have never made any suggestion that they are . . ." This is entirely consistent with what I said to Mr Winnick (Q19). I do not know what Mr Galley has leaked. I have never assumed that he was responsible for all 20 leaks, nor have I ever alleged that he leaked national security information.

Thirdly, on the question of the 20 leaks, I said in my evidence (Q5) 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 later confirmed that the known leaks had been passed over to the Cabinet Office and I also said that at least one of those leaks related to issues of national security.

This is all entirely accurate. But it would be wrong to conclude from this (a) that all the known leaks were investigated by the Home Office and (b) that all the leaks emanated from the Home Office—that is not proven. That is why I am so resistant to the idea that because there are 20 or so known leaks, it follows that that they can be traced to one person.

Finally I understand why, in your last letter and this more recent one, you have been focussing on the significance of the one item in the list of known leaks, which related to national security issues. Equally I hope you will understand that I have been reluctant to provide details of that item for fear that it would be too easily identifiable. However, I do not want to mislead the Committee in any way. I referred to this one item in my oral evidence because it was included in the 20 or so known leaks provided to the Cabinet Office. I am fairly clear, however, that it falls in a different category from the rest. It was, for example, information known not just in the Home Office, but elsewhere in Government; and because it related to national security it was investigated in a different way from the other investigated leaks. If the implication of your questions to me is that this leak does not follow the pattern of many of the other leaks, I think this would be true.

I hope it was also clear from my evidence that this particular leak was not the significant factor in seeking Cabinet Office (and the police's) help. As I explained in my evidence there were three main reasons for seeking external help (and they are best summarised in my account to Mr Winnick at Q20): systematic leaking which was undermining the operational effectiveness of the Home Office; the fear that the person or persons leaking information had access to national security information; and the wider Cabinet Office concerns about the leaks of national security information over a number of years, some of which had been in the possession of the Home Office as well as other parts of Government.

To sum up, can I return to the principle theme of this letter? It is very important to me that nothing is done or said by me or the Committee which interferes with the current police inquiries. That is why I am keen to avoid any inference being drawn from my evidence that I have made any comment about the number or kind of leaks involving Mr Galley. It is a matter of public record that Mr Galley has admitted leaking Home Office information. But I do not know how much, what kind or over what period. That is for the police investigation to determine.

**Correspondence from the Chairman of the Committee to Assistant Commissioner Robert F Quick QPM,
MBA, Metropolitan Police Service, 17 February 2009**

I am writing to you in regards to the Home Affairs Select Committee Inquiry into the Policing Process of Home Office Leaks.

In your evidence to the Committee on Tuesday 10 February you mentioned a number of Police Officers involved in the correspondence between various individuals regarding the case of Damian Green MP.

I would be grateful if you could inform me of the answers to the following questions.

1. How many Police Officers, of any rank, were involved from the time the Police decided to start an investigation into Damian Green MP?
2. How many Police Officers, of any rank, were involved in the searching of Damian Green MP's offices and the arrest of Damian Green MP?

I would be grateful if you could respond to these enquiries by 12 noon Monday 23 February 2009.

Correspondence from Assistant Commissioner Robert F Quick QPM, MBA, Metropolitan Police Service to the Chairman of the Committee, 23 February 2009

I am writing in response to your letter of 17 February 2009 where answers are sought on two specific questions.

1. *How many police officers, of any rank, were involved from the time the Police decided to start an investigation into Damian Green MP?*

The investigation into leaks had already been assigned ahead of any decision relating to Mr Green. As such an investigation team, comprised 15 officers and staff, was already engaged on the inquiry; although this particular investigation is not their full time remit. In common with other inquiries the investigation team is supported by specialist units who will assist with certain actions and by administrative support staff.

Members of the Counter Terrorism Command (SO15) senior command team at Detective Chief Superintendent and Commander level have considered the strategy. A Gold Group sat, chaired by me, to consider the case, this group comprised members of the Specialist Operations senior command team (ACPO level) and the investigation team.

The investigation has been subject to scrutiny at Metropolitan Police Management Board level where the Commissioner has chaired meetings. In addition a review team, led by Chief Constable Ian Johnston, has contributed to the inquiry. Other members of staff and officers have assisted in tasks such as legal advice and preparation for my evidence to the Home Affairs Committee.

2. *How many Police officers, of any rank, were involved in the searching of Damian Green MP's offices and the arrest of Damian Green MP?*

Six officers were present at the search of Damian Green MP's office. Deployment of these officers was to ensure that the search was thorough and conducted as expeditiously as possible. The officers included a supervisor and a liaison officer from the Palace of Westminster. The remaining officers were specialists in forensic recovery, high tech recovery and search.

Three officers (including a driver) were involved in the arrest of Damian Green MP. In light of the status of Mr Green one officer was a supervising officer.

The word "involved" in question one does leave the interpretation somewhat open, however I trust this response is sufficiently comprehensive.

Correspondence from the Chairman of the Committee to the Deputy Mayor of London, 3 March 2009

I am writing to you in regards to the Home Affairs Committee Policing Process of Home Office Leaks Inquiry.

The Committee's inquiry is focussing 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 and the procedures leading up to the arrest of Damian Green MP.

As part of the Inquiry, the Committee have received oral evidence from Assistant Commissioner Bob Quick, Mayor of London Boris Johnson, the Permanent Secretary to the Home Office Sir David Normington and the Home Secretary Rt Hon Jacqui Smith MP.

The Committee have received evidence from the Mayor of London in relation to his communication with individuals concerning this case, due to your proximity to the Mayor and your role on the Metropolitan Police Authority, I would be grateful if you could clarify the following.

1. When you were first notified that the offices of Damian Green MP were going to be searched?
2. When you were first notified that Damian Green MP had been arrested?
3. To whom did you communicate the information?

Correspondence from the Deputy Mayor of London to the Chairman of the Committee, 31 March 2009

I am in receipt of your letter of 3 March 2009, which was only received by us on 12 March. My apologies for the delay in response, which as I explained, was caused by my holiday.

In answer to your questions:

1. I was notified that the Offices of Damian Green MP were undergoing a police search at approximately 4.30pm on the afternoon of 27 November 2009.

2. I was told that Mr Green had already been arrested at the same time.
 3. I discussed this matter with the Mayor.
-

Correspondence from the Chairman of the Committee to the Cabinet Secretary, 4 March 2009

I am writing to you in regards to the Home Affairs Committee Policing Process of Home Office Leaks Inquiry.

The Committee's inquiry is focussing 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 and the procedures leading up to the arrest of Damian Green MP.

As part of the Inquiry, the Committee have received oral evidence from Assistant Commissioner Bob Quick, Mayor of London Boris Johnson, the Permanent Secretary to the Home Office Sir David Normington and the Home Secretary Rt Hon Jacqui Smith MP.

The Committee have received evidence from Assistant Commissioner, Bob Quick in regards to the cooperation between the Metropolitan Police and the Cabinet Office. Due to the involvement of the Cabinet Office at the start of the investigative stage, I would be grateful if you could clarify the following points.

1. When you were first notified that there was a Police investigation involving Damian Green MP.
 2. When you were first notified that the offices of Damian Green MP were to be searched.
 3. When you were first notified that Damian Green MP has been arrested.
 4. What communication you had regarding this case with Rt Hon Liam Byrne MP, Minister for the Cabinet Office.
 5. Did you or any of your private office civil servants discuss at any time the possibility that this investigation might lead to an arrest of an MP, and if so when?
-

Correspondence from the Secretary of the Cabinet to the Chairman of the Committee, 26 March 2009

Thank you for your letter of 4 March regarding the arrest of Damian Green.

As I stated in my Memorandum to the Public Administration Select Committee (PASC)¹ and also in my evidence session to that Committee, I was only notified that the Police investigation into Home Office leaks involved Damian Green MP, that he had been arrested and that his offices were being searched after the event. This would have been at a little after 2.30pm on 27 November 2008. The only conversation I have had with the Rt Hon Liam Byrne MP, the Minister for the Cabinet Office, was after the event when I explained how the arrest was connected to the investigation into leaks in the Home Office. Neither I nor my private office staff were involved in any discussions which suggested that the Home Office leaks' investigation might lead to the arrest of an MP.

**Correspondence from the Chairman of the Committee to Chief Constable Ian Johnston,
Head of ACPO Crime Business Area, 10 March 2009**

I understand from my Clerk that she has spoken to your Staff Officer about the report you made to the Commissioner of the Metropolitan Police on the way the Metropolitan Police pursued the investigation into the leaks of information from the Home Office that led to the arrest of Mr Damian Green MP.

I am now writing formally to request a copy of this report from you.

**Correspondence from Chief Constable Ian Johnston, Head of ACPO Crime Business Area to the Chairman
of the Committee, 10 March 2009**

Thank you for your letter of 10 March concerning the above and my report.

My review was undertaken following a request by the then, acting Commissioner Sir Paul Stephenson.

At the conclusion of my review I delivered to Sir Paul my final report for his consideration.

Can I therefore suggest you approach Sir Paul for release of a copy of the report? I have forwarded a copy of your letter to the Commissioner's office.

¹ Not printed.

**Correspondence from the Chairman of the Committee to Sir Paul Stephenson,
Commissioner of the Metropolitan Police, 13 March 2009**

On 10 March I wrote to Ian Johnston, Chief Constable of the British Transport Police, formally requesting a copy of the report which he made into the handling by the Metropolitan Police of the Home Office leaks investigation. Mr Johnston replied that, as the report was made to you, he did not consider himself entitled to give a copy to my Committee.

I am now writing to ask you for a copy of that report, as the Committee hopes shortly to publish its own report on, amongst other things, the procedures followed by the Metropolitan Police when they were asked to investigate the leaks.

If you have concerns about the report being published in full or part by members of the Committee, it would be perfectly acceptable to adopt the procedures used when Committee members examine classified documents, such as arranging for the report to be examined by Members only in the Committee's office, and any notes taken by Members kept in files in that office under secure conditions.

Given that the Committee wishes to complete its inquiry by Easter, I would be grateful if you could respond to this letter by return.
