

Leveson Inquiry

Third Witness Statement of Richard Thomas CBE

1. This Witness Statement addresses specific questions raised in the Inquiry's letter to me dated 20 October 2011, asking me to address the following topic:
 - (a) **Whether the power and/or influence of the press and/or your perception of it in any way affected the decisions made as to who should and who should not be prosecuted as a result of the Operation Motorman investigation. If so, to what extent it did so.**
 - (b) **Whether the subject of the power and/or influence of the press was ever discussed in conversations between you and/or your deputy and/or the Investigating Officer, Mr Owens, in the context of the actions which should be taken in the light of the evidence obtained in Operation Motorman. If so, the substance and context of any such conversation.**
2. My first Witness Statement sets out my position with regard to the power and influence of the press in relation to our efforts to secure legislative and other change after the publication of the two ICO reports.
3. But, as stated in my second Witness Statement to the Inquiry, I am not aware that any consideration was given to prosecuting journalists by the ICO or the CPS when the initial charges were laid. As stated previously, this would doubtless have reflected:
 - (a) the more serious matters of corruption on the part of a civilian police employee, by a civil servant working inside DVLA and by staff inside telephone companies;
 - (b) the focus on those at the heart of the organised trade in confidential personal information - i.e. private investigators and their agents - where an analogy might be drawn with targeting drug dealers; and
 - (c) the much greater challenges in bringing a successful prosecution under section 55(1)(b) – the “procuring” offence. The act of procurement is harder to prove than the act of obtaining or disclosing. It must then be proved that the person acted knowingly or recklessly in procuring the disclosure without consent. And a journalist is much more likely at least to attempt to rely upon the public interest defence.
4. I can confirm explicitly that the power and/or influence of the press and/or my perception of it did not in any way affect any decision made by me (or, to my knowledge, by anyone else) as to who should, and who should not, be prosecuted as a result of the Operation Motorman investigation. Nor do

I recall any conversations with Mr Owens, or anyone else about the possibility of prosecuting journalists.

5. Nor – to address directly the allegation made in the Independent newspaper on 14 September 2011 - do I have any recollection or awareness whatsoever of preventing any Investigating Officer, or anyone else, from interviewing any journalist or not allowing such interviews or further investigations. Nor are the allegations true that I “would deal with the press” or that I was “frightened” of the press. I would not have taken all the actions, before and after publication of the two ICO reports, as set out in my first Witness Statement, if I had had any such fear. What I did do at the outset, as recorded in that Witness Statement, was to alert the Chairman of the Press Complaints Commission in November 2003 to the general nature of the evidence which had been uncovered and which would form the basis of the CPS prosecutions against Whittamore and others.
6. I am aware that Mr Owens' extended sick leave and anxieties about his reliability as a witness were secondary factors which influenced the advice from Counsel to withdraw the ICO prosecution against Whittamore and others, but the principal reason was that the further prosecution could not be justified in the public interest given the sentencing outcome of the first trial.
7. I have discussed this topic with Francis Aldhouse, who retired as Deputy Information Commissioner in January 2006. He has seen this Witness Statement in draft and has confirmed that it is consistent with his own recollection. He has specifically confirmed to me that he has no recollection of any conversation with Mr Owens or anyone else about the possibility of prosecuting journalists. Nor does he have any recollection of preventing any Investigating Officer, or anyone else, from interviewing any journalist or not allowing such interviews or further investigations. He does recall general conversations, but cannot recall with whom, about the need to be aware of press freedom issues and of the public interest defence, but this is entirely different from influencing the investigatory or prosecution processes in this case.

I believe the facts in this Witness Statement are true,

Richard Thomas CBE
7th November 2011