

Lord Justice Leveson

SUBMISSION

Alan Lodge

**The Leveson Inquiry into the
culture, practices and ethics
of the press**

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The Leveson Inquiry into the culture, practices and ethics of the press

generalenquiries@levesoninquiry.org.uk

27th February 2012

Submission

Sir

I am a freelance photographer, based in Nottingham. I am a member of the National Union of Journalists. My local branch and I had helped to draft a set of guidelines with Nottinghamshire Police. When published 6 years ago were titled: "Guidelines for the Police and Media at Incidents" <A>. Other areas in the country, notably Staffordshire had also produced a local set. It is from these that the Metropolitan Police set were developed and then nationally adopted in what became know as the 'ACPO police - press guidelines'.

However, stories continue to be heard from photographers all over the country who are obstructed by police officers while going about their lawful business in a public place. Statistically, it might be expected to affect those of us who routinely cover public order or issues where there might be likely to involve much police contact.

Jeremy Dear, the then National Union of Journalist General Secretary quoted some of these tales of obstruction and drew attention to these agreed guidelines in a House of Commons Home Affairs Select Committee on these issues.

With particular reference to the Nottinghamshire Guidelines, we have discussed in branch, that there is a tension between #2 and #7 in the Notts guidelines.

Of course I accept that journalists are not above the law and cannot go around breaking it. However, it illustrates that police can simply say that a photographer is obstructing them [a very wide definition] and thus #7 no longer applies. This has to change. Further, with the number of other guidance out there including the from [ex] assistant Commissioner John Yates pointing out that there is no prohibition on photographing front-line uniform staff. the act of taking a photograph in itself is not usually sufficient to carry out a stop. That the taking of photographs should not normally be considered as an obstruction <C>.

Further, Chief Constable Andy Trotter [ACPO media lead], issued an all forces letter to remind officers that photography should not generally be obstructed and include

the pertinent point: "Once an image has been recorded, the police have no power to delete or confiscate it without a court order." [.pdf attachment]

None of the guidelines mention the "Special Procedures Material" defined under PACE 1984. This is a fundamental pillar of being trusted by those that we photograph, so that we are not seen as another form of policing, ie: handing material to the police. With respect to NUJ ethics code, I think that this is tantamount to protection of sources.

Journalistic material - that is, material acquired or created for the purposes of journalism. There is no need for the holder of such material to be a professional journalist. However, we continue to hear of policeman confiscating equipment and / or deleting imagery.

There continues to be an onslaught on photography in public places by those in positions of authority, who, you might think would have better training in these issues.

As a journalist, are my photographs afforded any special protection? Section 14 of the Police and Criminal Evidence Act (PACE) states that journalistic material is subject to the rules of Special Procedure Material.

This section also applies to material acquired or created in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office where it is held subject to an express or implied undertaking to hold it in confidence.

Generally, once your images are recorded, the police have no power to delete or confiscate them without a court order.

In terrorist cases, e.g. where police contact starts with a search under section 43 Terrorism Act 2000, a police officer of at least the rank of superintendent may issue a search warrant (without court order) if there exists a "great emergency" and "immediate action is necessary." This only applies to terrorist cases, not investigations of other criminal offences.

In many cases therefore, the production or seizure of images will require a court order. This should only be granted in circumstances where there are reasonable grounds for believing that the material is likely to be of substantial value to that investigation; and where there are reasonable grounds for believing that it is in the public interest for the material to be disclosed, having regard to the benefit likely to accrue to the investigation, and the circumstances under which you had the material in your possession.

No power of seizure conferred on a constable under any enactment (including an enactment contained in an Act passed after this Act) is to be taken to authorise the seizure of an item which the constable exercising the power has reasonable grounds for believing to be subject to legal privilege.

This is really vital for my safety as a jobbing photographer. If the public got the notion that we would simply hand over material to the police and didn't set a high legal standard for its production then we might become targets for those who fear

we have simply become an arm of the policing authorities ourselves. I cannot over emphasise this point. It keeps many of us awake at nights!

Police and Criminal Evidence Act 1984 [page 22 #7.9B]

<http://www.homeoffice.gov.uk/publications/police/operational-policing/pace-codes/pace-code-b-2011?view=Binary>

Special Procedures Material PACE 1984

<http://www.legislation.gov.uk/ukpga/1984/60/section/14>

I notice that much of which your lordship has heard from individuals and organisations that are not members of professional bodies. I would like to remind you that the National Union of Journalist have a 'Code of Conduct' <D> which to remain a member, we promise to abide by. It is of course a great shame that some of the protagonists in this tale could not and would not deal in the decency that they represent. I commend them for more use widely within the journalistic professions.

I thank your lordship for the opportunity to make this submission to you and for your attention.

Regards

Alan Lodge

Member: National Union of Journalists

alan.lodge@gmx.co.uk

References

<A>

Nottinghamshire Police: Guidelines for Police and Media at Incidents

1. The media has a legitimate role to play in informing the public and they will attend the scene of incidents. The presence of a photographer or reporter at an incident does not of itself constitute any unlawful obstruction or interference.
2. Journalists need to collect information about an incident as quickly as possible. Some of this information may seem irrelevant, unimportant or improper to an officer. However, as long as the journalist does not break the law, or interfere with an investigation, or cross a cordon, the police officer should not impede the reporter. Journalists who break the law will be dealt with in the same manner as any other offender.
3. A crime scene remains closed to the media whilst evidence is being gathered and detailed forensic examinations take place. The reasons for denial of access should be explained to the journalist and access granted as soon as possible with permission from the Senior Investigating Officer.
4. Journalists have the right to photograph and report events that occur on public property. The police may invite journalists on to private property where an event of public interest has occurred and they have the permission of the owner. They should enter peacefully and not cause any physical damage or attempt to alter any details for photographic purposes. The rights of an owner of private property should be respected and may lead to journalists being asked to leave. If the owner of the property does not give permission then any attempt to gain access would be trespass.
5. Any journalist should be able to show relevant media identification if asked. At the scene of an incident this identification should be visible at all times.
6. Police officers should not restrict journalists from taking pictures or asking questions of other parties, even though the officer may disagree with the journalist's purpose. It is not a police officer's role to be the arbiter of good taste and decency. It is an editor's role to decide what to use.
7. Police officers do not have the authority to prevent a person taking a photograph or to confiscate cameras or film, and such conduct could result in criminal, civil or disciplinary action.
8. In the event of a distressed or bereaved individual making a specific request for the media to leave them in peace the officer should pass this information on to the journalist. However, this is advice on which journalists and their editors must base their own decisions. If the situation becomes an identifiable Breach of the Peace then journalists, as any other citizen, have a duty to disperse if asked to do so.

9. Journalists should not park their vehicles in a way that will obstruct other traffic or hamper emergency vehicles or officers carrying out their lawful duty.

These guidelines have been sanctioned by Chief Constable Steve Green and the National Union of Journalists.

If you would like more information or advice on a specific issue please call Nottinghamshire Police Corporate Communications on 0115 967 2080

Guidelines for Metropolitan Police Service staff on dealing with media reporters, press photographers and television crews

I believe - and many of you believe - that a key factor in the way we work is how we treat one another and the members of the public with whom we come into contact

Ian Blair, Commissioner

We will build trust by listening and responding. Be accessible and approachable. Build relationships. Encourage others to challenge and get involved.'

Met statement Our values

Members of the media are not only members of the public; they can influence the way the Metropolitan Police Service is portrayed. It is important that we build good relationships with them, even when the circumstances are difficult. They have a duty to report many of those things that we have to deal with - crime, demonstrations, accidents, major events and incidents. This guide is designed to help you take the appropriate action when you have to deal with members of the media.

1. Members of the media have a duty to report from the scene of many of the incidents we have to deal with. We should actively help them carry out their responsibilities provided they do not interfere with ours.
2. Where it is necessary to put cordons in place, it is much better to provide the media with a good vantage point from which they can operate rather than to exclude them, otherwise they may try to get around the cordons and interfere with police operations. Providing an area for members of the media does not exclude them from operating from other areas to which the general public have access.
3. Members of the media have a duty to take photographs and film incidents and we have no legal power or moral responsibility to prevent or restrict what they record. It is a matter for their editors to control what is published or broadcast, not the police. Once images are recorded, we have no power to delete or confiscate them without a court order, even if we think they contain damaging or useful evidence.

4. If someone who is distressed or bereaved asks for police to intervene to prevent members of the media filming or photographing them, we may pass on their request but we have no power to prevent or restrict media activity. If they are trespassing on private property, the person who owns or controls the premises may eject them and may ask for your help in preventing a breach of the peace while they do so. The media have their own rules of conduct and complaints procedures if members of the public object.
5. To help you identify genuine members of the media, they carry identification, which they will produce to you on request. An example of the UK Press Card is shown [on the paper guidelines].
6. Members of the media do not need a permit to photograph or film in public places.
7. To enter private property while accompanying police, the media must obtain permission, which must be recorded, from the person who owns or is in control the premises. We cannot give or deny permission to members of the media to enter private premises whether the premises are directly involved in the police operation or not. This is a matter between the person who owns or is in control the premises and the members of the media.
8. Giving members of the media access to incident scenes is a matter for the Senior Investigating Officer. The gathering of evidence and forensic retrieval make access unlikely in the early stages and this should be explained to members of the media. Requests for access should be passed to the Senior Investigating Officer who should allow access in appropriate cases as soon as practicable.
9. Advice and assistance in dealing with members of the media is available 24 hours a day via the Press Bureau at New Scotland Yard.

<C>

Metropolitan Police - Photography advice

<http://www.met.police.uk/about/photography.htm>

John Yates, Assistant Commissioner Specialist Operations - 14 December 2009

<http://content.met.police.uk/News/Guidance-issued-to-MPS-officers-and-staff-re-stop-and-search-photo-policy/1260267894688/1257246745756>

Chief Constable Andrew Trotter : Guidance for Photographers: Chair of the ACPO Communications Advisory Group

[letter attached to this mail .pdf]

<D>

NUJ Code of Conduct

A journalist

- 1 At all times upholds and defends the principle of media freedom, the right of freedom of expression and the right of the public to be informed
- 2 Strives to ensure that information disseminated is honestly conveyed, accurate and fair
- 3 Does her/his utmost to correct harmful inaccuracies
- 4 Differentiates between fact and opinion
- 5 Obtains material by honest, straightforward and open means, with the exception of investigations that are both overwhelmingly in the public interest and which involve evidence that cannot be obtained by straightforward means
- 6 Does nothing to intrude into anybody's private life, grief or distress unless justified by overriding consideration of the public interest
- 7 Protects the identity of sources who supply information in confidence and material gathered in the course of her/his work
- 8 Resists threats or any other inducements to influence, distort or suppress information
- 9 Takes no unfair personal advantage of information gained in the course of her/his duties before the information is public knowledge
- 10 Produces no material likely to lead to hatred or discrimination on the grounds of a person's age, gender, race, colour, creed, legal status, disability, marital status, or sexual orientation
- 11 Does not by way of statement, voice or appearance endorse by advertisement any commercial product or service save for the promotion of her/his own work or of the medium by which she/he is employed
- 12 Avoids plagiarism.

The NUJ believes a journalist has the right to refuse an assignment or be identified as the author of editorial that would break the letter or spirit of the code. The NUJ will fully support any journalist disciplined for asserting her/ his right to act according to the code.

Links

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The Leveson Inquiry into the culture, practices and ethics of the press

generalenquiries@levesoninquiry.org.uk

<http://www.levesoninquiry.org.uk>

<http://www.levesoninquiry.org.uk/about/requests-for-information/>

<http://www.levesoninquiry.org.uk/wp-content/uploads/2011/12/Key-Questions-Module-2.pdf>

Requests for Information

Please send any representations to generalenquiries@levesoninquiry.org.uk

Module 1

The Inquiry would welcome submissions from the press, the public and other interested parties on the issues that emerged from the three module 1 seminars. To help this process, the Inquiry has set out some Key Questions (pdf, 12.7KB). The Inquiry will be considering issues related to module 1 until the end of January but due to the very large volume of evidence we are receiving, it would help to receive submissions by the end of December.

Module 2

The Inquiry will be considering issues related to the press and the police and would welcome submissions. To help this process, the Inquiry has set out some Key Questions (pdf, 12.2KB). The Inquiry will be considering issues related to module 2 until the end of March but due to the very large volume of evidence we are receiving, it would be helpful to receive submissions by the end of February.

Leveson Inquiry Key Questions Module 2

The Inquiry is now looking at the relationship between the press and the police.

We're interested in hearing from professionals and the public with information and examples in response to the specific questions below. Your answers may be considered as potential evidence to the Inquiry and may be published in a redacted form as part of the Inquiry's evidence.

Culture, practices and ethics:

1. The Inquiry needs to understand how the relationship between the press and the police currently operates. The Inquiry would be interested in the experiences of police officers, other police staff, and journalists as to how the relationship between the press and the police works in practice.
2. The Inquiry would be interested in the experiences of police officers, other police staff, and journalists as to how the current Police Service policies and guidance in place to regulate the relationship between the press and the police work in practice.
3. The Inquiry would like to build up an overall picture of the nature and level of the interaction that currently exists between the police and the press. The Inquiry would therefore be interested to receive submissions on the type and frequency of contact which currently exists between police officers, other police staff, and the media (differentiating between local and national media contact), with examples where possible.
4. The internet, 24 hour news and social media has brought new challenges for both the police and the press. The Inquiry would be interested in the experiences of police officers, other police staff, and journalists on how this may have altered the relationship, and whether the Police Service policies and guidance in place have kept pace with this changing environment, with examples where possible.
5. The Inquiry would be interested to receive views on the level of awareness and experience that exists within the Police Service of "media crime" (the unlawful interception of communications, bribery of officials by the media and harassment by paparazzi and journalists, for example), with examples where possible.
6. The Inquiry would be interested to receive views as to whether the Police Service governance arrangements, policies and guidance currently in place are sufficient to sustain a transparent and ethical relationship between the police and the press which at the same time upholds the confidentiality and rights of the victims of crime and the public more generally.
7. The Inquiry would be interested to receive submissions on what Police Service training, governance and oversight arrangements exist, and views on whether it is sufficient, to ensure that acceptable boundaries exist between the police and press, with examples where possible.
8. The Inquiry would be interested in the experiences of journalists about whether you have ever felt under any pressure not to report a story involving a police officer or member of

police staff (detailing where and from whom the pressure came), with examples where possible.

9. The Inquiry would be interested to receive submissions from police officers, other police staff, and journalists on the extent to which formal and informal interaction between the press and the police is recorded for the purposes of transparency (are such records audited, and if so by whom, for example).

Information control and disclosure:

10. The Inquiry would be interested to receive submissions on the extent to which systems are in place (and an assessment of whether they are adequate) to identify, prevent, manage and investigate police data leaks and breaches.

11. The Inquiry would be interested in the experiences of the victims of crime and the public more generally, who feel that they have been adversely affected (perhaps through a data leak or breach, or through the reporting of a case) by the current relationship between the press and the police, with examples where possible. The Inquiry would also be interested to receive submissions in relation to this issue on whether it is felt that the current investigation and complaint regime are adequate to properly address instances of this type.

12. The Inquiry would welcome submissions on how the police and the media working together is and can be of benefit to the public, with examples where possible.

Professional Standards:

13. The Inquiry would like to receive views as to whether it is felt that adequate governance and oversight arrangements are in place for police officers and other police staff to ensure the effective management and recording of gifts and hospitality, secondary business interests, associations and conflicts of interest.

14. The Inquiry would be interested to receive views as to what type of payments, gifts or hospitality (if any) you consider to be legitimate transactions between police officers, other police staff, and the media, and is and should the approach to payments, gifts or hospitality between the press and the police be different to the approach between the police and other parties.

15. The Inquiry would be interested to receive views as to whether there should be rules in place to govern how and when police officers and other police staff leaving the Police Service can take up posts with the media, commercial or other bodies, with examples of when such a move has been problematic or brought advantages where possible.

16. The Inquiry would be interested to receive views as to whether there should be rules in place to govern how and when members of the press, or the media more generally, can take up posts with the Police Service, with examples of when such a move has been problematic or brought advantages where possible.

Please note that the Inquiry will be considering issues related to module 2 until the end of March but due to the very large volume of evidence we are receiving, it would be helpful to receive submissions by the end of February.

Acknowledgement email

*From: Leveson Inquiry General Enquiries
[mailto:GeneralEnquiries@levesoninquiry.gsi.gov.uk]*

Sent: 21 March 2012 08:02

To: 'Alan Lodge'

Subject: RE: Alan Lodge Submission

Thank you for your email which has been received by the Leveson Inquiry Team.

Please be assured that all emails are read and considered by a member of the Inquiry Team.

We will get back to you as soon as possible. As you have submitted evidence or information to the Inquiry, we will consider your submission in more detail and come back to you if we think it would be helpful to have any additional information.

Kind regards,

The Leveson Inquiry Team

www.levesoninquiry.org.uk

-----Original Message-----

From: Alan Lodge

Sent: 20 March 2012 21:42

To: generalenquiries@levesoninquiry.org.uk

Subject: FW: Submission

20/03/2012

Sir

I made this submission to the inquiry on the 27th February.