

The Report of the Daniel Morgan Independent Panel

June 2021

Volume 3

Return to an Address of the Honourable
the House of Commons
dated 15th June 2021
for

The Report of the Daniel Morgan Independent Panel

Volume 3

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Chapter 9: Post-Abelard Two: Events after the acquittal of the Defendants in March 2011

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1 Introduction

1. After the acquittal of the five suspects in the Abelard Two Investigation, Jonathan Rees, James Cook, Garry Vian, Glenn Vian and former DS Sidney Fillery, there were a number of developments. These included the following:

- a. A review, commissioned by Commander Peter Spindler of the Metropolitan Police Directorate of Professional Standards on 11 January 2012, to determine whether any disciplinary offences had been committed by officers from the Abelard Two Investigation.
- b. A joint review by the Crown Prosecution Service and the Metropolitan Police of the Abelard Two Investigation and the prosecution that followed.

- c. An investigation by the Independent Police Complaints Commission (now the Independent Office for Police Conduct) into the passing of information by former DCS David Cook to journalist, Michael Sullivan. This investigation was known as Operation Longhorn.
- d. Another review commissioned on 19 November 2012 by Commander Peter Spindler into complaints made by Jonathan Rees, and the 11 March 2011 ruling by Mr Justice Maddison at the conclusion of the pre-trial hearing. Following this review, a full investigation was carried out by the Special Investigations Team of the Directorate of Professional Standards into elements of Jonathan Rees's complaints (see section 5.1 below) and overlapping concerns raised by the judge, codenamed Operation Megan.
- e. An investigation by the Independent Police Complaints Commission into an allegation made by Jonathan Rees that confidential information, belonging to him, was improperly disclosed to the BBC *Panorama* programme by former DCS David Cook and/or officers from the Abelard Two Investigation.
- f. A civil claim brought against the Metropolitan Police by Jonathan Rees, Garry Vian, Glenn Vian and former DS Sidney Fillery, seeking damages for malicious prosecution and misfeasance in public office. The case was presided over by Mr Justice Mitting between 17 January and 10 February 2017. Former DS Fillery was successful in his claim for damages.
- g. An investigation into the conduct of former DCS David Cook following comments made about him by Mr Justice Mitting, in the civil claim at the High Court in February 2017, that former DCS Cook had done an act which tended to pervert the course of justice by breaching the sterile corridor and prompting an Assisting Offender, Gary Eaton, to implicate Glenn Vian and Garry Vian in the murder of Daniel Morgan, and concealing the fact that he had done so from the Crown Prosecution Service and Prosecution Counsel. This investigation was known as Operation Megan Two.
- h. An appeal by Jonathan Rees, Garry Vian and Glenn Vian to the Court of Appeal against the findings by Mr Justice Mitting in the High Court.
- i. A systematic review of the content of the electronic devices recovered, during a search conducted by the Operation Megan Investigation, from the home of former DCS David Cook on 04 November 2014, and the subsequent investigation by the Metropolitan Police of possible breaches of the Data Protection Act 1998 which had not otherwise been dealt with. This investigation was known as Operation Edison.

2. In this chapter, the Panel examines the above events in turn, assessing the effectiveness of each review and investigation, and the conclusions that were reached. Due to the significant failings identified during the Abelard Two Investigation (see Chapter 8, The Abelard Two Investigation), the Panel also considers whether lessons have been learned by the Metropolitan Police.

1.1 Chronology of key events relating to Post-Abelard Two

- **11 March 2011** The Prosecution discontinued its case against the suspects in the Abelard Two Investigation.

- **14 March 2011** The BBC *Panorama* programme '*Tabloid Hacks Exposed*' was broadcast.
- **29 March 2011** The Crown Prosecution Service and the Metropolitan Police began a review of the Abelard Two Investigation.
- **31 March 2011** A formal apology was made by the Acting Commissioner of the Metropolitan Police, Tim Godwin, to the family of Daniel Morgan.
- **May-December 2011** After a general audit of email contact between journalists and police officers by the Metropolitan Police, emails were discovered between former DCS David Cook and journalist Michael Sullivan. Some of the emails included unauthorised disclosure of documents to Michael Sullivan. The Serious Organised Crime Agency made a referral to the Independent Police Complaints Commission.
- **10 January 2012** Former DCS David Cook was arrested on suspicion of committing misconduct in public office and offences contrary to Section 55 of the Data Protection Act 1998. Following an initial 'no comment' interview, he was released on bail pending further enquiries to be carried out by the Independent Police Complaints Commission.
- **11 January 2012** Commander Peter Spindler commissioned a review of the Abelard Two Investigation into possible disciplinary offences committed by officers involved in the case. D/Supt Mark Mitchell carried out this review.
- **30 January 2012** Jonathan Rees made a formal complaint to the Independent Police Complaints Commission. He made four allegations.
- **13 February 2012** D/Supt Mark Mitchell completed a report after his review.
- **May 2012** The Crown Prosecution Service and the Metropolitan Police completed a report on their review of the Abelard Two Investigation.
- **November 2012** After a referral by the Independent Police Complaints Commission regarding Jonathan Rees's complaint, Commander Peter Spindler commissioned a review of the complaint. D/Supt Fiona McCormack carried out this review.
- **19 April 2013** D/Supt Fiona McCormack completed a report after her review.
- **10 May 2013** The Home Secretary, Theresa May MP, announced the setting up of the Daniel Morgan Independent Panel.
- **July 2013** Former DCS David Cook retired from the Serious Organised Crime Agency.
- **January 2014** Operation Megan began. This was an investigation into complaints made by Jonathan Rees, and comments made by Mr Justice Maddison after the acquittal of the Defendants on 11 March 2011.
- **21 January 2014** Jonathan Rees was interviewed by Operation Megan investigators. He raised additional complaints.
- **September 2014** The Independent Police Complaints Commission sent an advice file on its investigation, Operation Longhorn, into former DCS David Cook's unauthorised disclosure of documents to Michael Sullivan, to the Crown Prosecution Service.

- **04 November 2014** After a warrant was obtained by Operation Megan, former DCS David Cook's home was searched. As Operation Megan had limited Terms of Reference, a separate investigation was launched, by the Metropolitan Police, into materials seized from former DCS Cook's home. This investigation was known as Operation Edison.
- **08 January 2015** Operation Megan investigators referred the allegation that confidential information belonging to Jonathan Rees was unlawfully disclosed to the BBC *Panorama* programme (as contained in Jonathan Rees's complaint), to the Independent Police Complaints Commission.
- **29 September 2015** The Crown Prosecution Service produced a charging advice on Operation Longhorn and it was decided not to prosecute former DCS David Cook.
- **14 December 2016** The Independent Police Complaints Commission completed its investigation into Jonathan Rees's complaint that confidential information belonging to him was unlawfully disclosed to the BBC *Panorama* programme. No file was referred to the Crown Prosecution Service.
- **03 January 2017** A final report from the Independent Police Complaints Commission with regard to the 14 December 2016 report was completed. This report clarified why the investigation was not referred to the Crown Prosecution Service.
- **17 January 2017** Jonathan Rees, former DS Sidney Fillery, Garry Vian and Glenn Vian brought a civil claim in the High Court against the Metropolitan Police seeking damages for malicious prosecution and for misfeasance in public office.
- **February 2017** A report on Operation Megan's findings was completed but no file was referred to the Crown Prosecution Service as no criminal offences were identified as being committed.
- **17 February 2017** Mr Justice Mitting held that the Metropolitan Police was liable for misfeasance in public office in relation to the prosecution of former DS Sidney Fillery, but the claims of the other three Claimants failed. None of the four Claimants was successful in their claims for malicious prosecution.
- **21 March 2017** The Metropolitan Police opened a new investigation into the conduct of former DCS David Cook following comments made about him by Mr Justice Mitting in February 2017. This investigation was known as Operation Megan Two.
- **06 December 2017** The Operation Megan Two Report was completed and referred to the Crown Prosecution Service.
- **July 2018** A Court of Appeal judgment was delivered: Jonathan Rees, Garry Vian and Glenn Vian were successful with their appeal against Mr Justice Mitting's judgment of February 2017 for misfeasance and malicious prosecution.
- **November 2018** After reviewing Operation Megan Two's file, the Crown Prosecution Service decided not to prosecute former DCS David Cook. Jonathan Rees appealed against this finding.
- **31 July 2019** After their successful appeal against the 2017 judgment by Mr Justice Mitting, damages were awarded to Jonathan Rees, Garry Vian and Glenn Vian.

- **September 2019** The Operation Edison file was referred by the Metropolitan Police to the Crown Prosecution Service for investigatory advice.
- **01–02 April 2020** After reviewing the Operation Edison file, the Crown Prosecution Service provided investigatory advice to the Metropolitan Police who subsequently decided not to proceed further with the investigation into former DCS David Cook.

2 The Disciplinary Review: January-February 2012

3. On 11 January 2012, Commander Peter Spindler requested a review of the Abelard Two Investigation. D/Supt Mark Mitchell of the Directorate of Professional Standards, who conducted the review, stated in his report that his review was *'in terms of possible disciplinary offences committed by officers involved in the case'*.¹

4. D/Supt Mark Mitchell was directed to conduct the review using three documents:

- i. the judgment of Mr Justice Maddison, dated 11 March 2011;
- ii. a case summary produced by Jonathan Rees QC; and
- iii. a short closing report for the Abelard Two Investigation, which had been prepared by DS Gary Dalby.²

5. The Terms of Reference for the review were as follows:

- *'The review will be completed based only on the documents detailed.'*
- *The aim of the review is to identify any prima-facie evidence of criminal or misconduct offences committed by officers.*
- *If such offences are identified to detail the evidence on which they are based.*
- *If such offences are identified detail the necessary steps/investigation that would be required to progress the matter.*
- *Consider the proportionality of conducting further enquiries/instigating disciplinary proceedings if offences are identified.*
- *Provide recommendations setting out the most appropriate way forward.'*³

6. D/Supt Mark Mitchell took legal advice as to the situation resulting from the fact that former DCS David Cook had been a Metropolitan Police officer and had then moved to the Serious Organised Crime Agency.⁴ The report dated 13 February 2012 by D/Supt Mitchell was completed while former DCS Cook was still employed by the Serious Organised Crime Agency, which he left in July 2013. He was correctly advised that the Metropolitan Police could not take disciplinary action against former DCS Cook because he had retired from the Metropolitan Police, but that there should be consideration of communicating any findings to former DCS Cook's current employer, the Serious Organised Crime Agency.

1 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p4, 13 February 2012.

2 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p4, 13 February 2012.

3 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p4, 13 February 2012.

4 Discipline Review by D/Supt Mark Mitchell, MPS109704001, pp16-17, 13 February 2012.

7. In his report, D/Supt Mark Mitchell concluded:

- i. He had concerns about the way that Gary Eaton was managed and the breaches of the sterile corridor.⁵ (The purpose of the 'sterile corridor' is to ensure complete separation between the debriefing of a witness and the investigation team so as to protect the integrity of the evidence which the witness subsequently gives).
- ii. He did not believe that there was clear evidence of a criminal conspiracy to implicate '*the brothers*' [Glenn Vian and Garry Vian] within the documents which were available to him.⁶
- iii. Within Mr Justice Maddison's ruling, there was prima facie evidence of possible criminal and misconduct offences. These related to former DCS Cook's contact with Gary Eaton and Mr Justice Maddison's conclusion that '*on the balance of probabilities*' former DCS Cook did prompt Gary Eaton.⁷
- iv. Significant investigation would be needed to prove or disprove the initial findings of Mr Justice Maddison to a criminal or misconduct threshold.⁸

8. D/Supt Mark Mitchell noted that '*[t]he documents do raise several matters that as an organisation should be noted in relation to the management of Resident Witnesses. These issues have been raised previously from similar cases.*'⁹

9. D/Supt Mark Mitchell described the actions of former DCS David Cook as being '*poor practice*',¹⁰ which fell short of criminal conduct.

10. D/Supt Mark Mitchell also examined the conduct of DI Douglas Clarke who, acting on instructions from former DCS David Cook, had arranged for Gary Eaton to be spoken to about the fact that he (Gary Eaton) had stated that his father was dead, when in fact he was still alive. It had been alleged that this had compromised the integrity of the debrief of Gary Eaton (see Chapter 8, The Abelard Two Investigation). DI Clarke gave evidence on this matter to Mr Justice Maddison.

11. D/Supt Mark Mitchell concluded that DI Douglas Clarke had been '*a poor witness who gave inconsistent evidence*'. He cited no evidence to show that DI Clarke may have committed a criminal offence, although he said: '*It may be that there is prima facie evidence of offences against him regarding the tipping off [...]*', but '*it is difficult to decide if HH [Mr Justice Maddison] believed Clarke to be responsible for the "tipping off"*'.¹¹

12. D/Supt Mark Mitchell considered the weight of the evidence available, and whether there was a public interest in conducting further investigation. He stated that any criminal investigation would seek to prove or disprove that '*DCS Cook and DI Clarke were guilty of attempting to pervert the course of justice*'. His overall conclusion was that a full investigation

5 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p9, 13 February 2012.

6 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p9, 13 February 2012.

7 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p10, 13 February 2012.

8 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p10, 13 February 2012.

9 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p10, 13 February 2012.

10 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p7, 13 February 2012.

11 Discipline Review by D/Supt Mark Mitchell, MPS109704001, p12, 13 February 2012.

into the misconduct identified by Mr Justice Maddison would *'take in excess of 18 months to complete. I do not believe this to be an appropriate use of MPS [Metropolitan Police] resources.'*¹²

13. D/Supt Mark Mitchell had become aware of the fact that on 10 March 2011 an email had been sent from former DCS David Cook to Michael Sullivan, Chief Crime Reporter at *The Sun* newspaper. The email had included confidential information sent between the solicitor for Daniel Morgan's family and AC John Yates, into which former DCS Cook had been copied. On 26 May 2011, during a meeting with Commander Simon Foy, former DCS Cook had been given an informal verbal warning in relation to his future conduct (see paragraphs 125-127 below).

14. D/Supt Mark Mitchell concluded his report as follows:

'No public complaint has been made to my knowledge. The comments made by the judge highlight concerns regarding, what appear to be issues with the maintenance of sterile corridors and fall short of criminal conduct. The issue that may need to be considered is whether this is poor practice or misconduct. Without evidence to the contrary I believe this to be poor practice on the part of the SIO [Senior Investigating Officer].

*'I respectfully recommend that no further action is taken in terms of potential offences at this time and that the MPS [Metropolitan Police] awaits the result of the independent investigation and consultation with SOCA [the Serious Organised Crime Agency] before embarking on any inquiry of its own. I believe that the communications between Mr Cook and Mike Sullivan should be brought to the attention of Operation Elveden.'*¹³

15. Given the complexity of the issues dealt with in Mr Justice Maddison's judgment, the three documents, mentioned at paragraph 4 above, comprised an inadequate basis upon which to form a conclusion as to whether any further disciplinary investigation was required, or *'whether there was any prima facie evidence of misconduct committed by officers'*. D/Supt Mark Mitchell's report acknowledged the gravity of the allegations made by Mr Justice Maddison; however, because he had not seen the evidence, as he said, D/Supt Mitchell's conclusion was not justified.

3 The joint review by the Crown Prosecution Service and the Metropolitan Police

16. On 11 March 2011, following the acquittal of the Defendants (Jonathan Rees, Glenn Vian and Garry Vian), DCS Hamish Campbell of the Homicide and Serious Crime Command in the Metropolitan Police, read a prepared press statement, in which he said:

¹² Discipline Review by D/Supt Mark Mitchell, MPS109704001, p13, 13 February 2012.

¹³ Discipline Review by D/Supt Mark Mitchell, MPS109704001, pp15-16, 13 February 2012. Operation Elveden was a Metropolitan Police investigation into payments by journalists to police and other public officials.

'This current investigation has identified, ever more clearly, how the initial inquiry failed the family and the wider public. It is quite apparent that police corruption was a debilitating factor in that investigation. This was wholly unacceptable.

*'Significant changes have occurred since that time, nevertheless there are important issues which we need to examine now in order to understand what led to today's decision.'*¹⁴

17. DCS Hamish Campbell's statement also referred to the disclosure issue which had ultimately precipitated the end of the Court proceedings: *'Within this formidable and complex murder enquiry it is deeply regrettable that it has not proved possible to guarantee to the court that all relevant material has been presented to ensure a fair trial.'*¹⁵

18. DCS Hamish Campbell also prepared a briefing note¹⁶ for the Metropolitan Police Authority, following the acquittal of the Defendants, which stated that the Metropolitan Police would write to the family of Daniel Morgan to apologise for what had happened, and that a formal apology would be made at the full meeting of the Metropolitan Police Authority on 31 March 2011.¹⁷ The Acting Commissioner of the Metropolitan Police, Tim Godwin, made this formal apology at the meeting on 31 March 2011.¹⁸

19. In the briefing note, DCS Hamish Campbell also said that the Crown Prosecution Service and the Metropolitan Police would immediately begin a review, *'about the matters which caused such significant challenges. These matters include the disclosure of evidence in historic investigations taken place over time that are linked to numerous other enquiries, and the use of witnesses under the provisions of Serious and Organised Crime and Police Act 2005.'*¹⁹

20. On 31 March 2011, the Chair of the Metropolitan Police Authority, Kit Malthouse, wrote to the Home Secretary, Theresa May MP, explaining that the Acting Commissioner had apologised and stating that the Metropolitan Police Authority *'voted unanimously to support the Morgan family's request for a full inquiry into Mr Morgan's death, the investigations that followed and the collapse of the trial on 11 March 2011'*.²⁰

21. Kit Malthouse also advised the Home Secretary that,

*'[t]he MPS [Metropolitan Police Service] and the CPS [Crown Prosecution Service] have embarked on a review of events leading to the collapse of the case. However, there are some aspects of this case which we believe would benefit from an independent evaluation, in particular the impact of the disclosure rules and whether the provisions of the Serious and Organised Crime and Policing [sic] Act 2005 around the use of known offenders as witnesses remain viable in light of this experience.'*²¹

22. The Home Secretary responded to the Chairman of the Metropolitan Police Authority on 19 May 2011. In her letter, the Home Secretary acknowledged that the Metropolitan Police was undertaking a review of the collapse of the trial with the Crown Prosecution Service, and that if this had implications for the use of Assisting Offenders under the Serious Organised Crime and

14 Metropolitan Police Authority Briefing Note, MPS109561001, p6, 29 March 2011.

15 Metropolitan Police Authority Briefing Note, MPS109561001, p6, 29 March 2011.

16 Metropolitan Police Authority Briefing Note, MPS109561001, p5, 29 March 2011.

17 Metropolitan Police Authority Briefing Note, MPS109561001, p5, 29 March 2011.

18 Letter from Chair of Metropolitan Police Authority to the Home Secretary, MPS109616001, p5, 31 March 2011.

19 Metropolitan Police Authority Briefing Note, MPS109561001, p5, 29 March 2011.

20 Letter from Chair of Metropolitan Police Authority to the Home Secretary, MPS109616001, p5, 31 March 2011.

21 Letter from Chair of Metropolitan Police Authority to the Home Secretary, MPS109616001, p5, 31 March 2011.

Policing Act 2005, this would be considered by the Government. However, the Home Secretary also stated that despite the vote of the Metropolitan Police Authority to support the family of Daniel Morgan in their request for a full inquiry into the murder, the Government felt that it was unnecessary in light of the Metropolitan Police/Crown Prosecution Service review established.

23. A review had been set up and Terms of Reference for it were drawn up by the Chief Crown Prosecutor for London, Alison Saunders, and the Metropolitan Police Assistant Commissioner, Cressida Dick.²²

24. The Terms of Reference were as follows:

- *'Examine the methodology, decisions and tactics used by the prosecution team (police and prosecutors) to deal with the witnesses who were given agreements pursuant to the SOCPA [Serious Organised Crime and Police Act 2005] legislation.*
- *'Examine the methodology, decisions and tactics adopted by the prosecution team (police and prosecutors) in order to discharge their disclosure obligations, (to include any omissions).*
- *'Consider any other significant key areas which may emerge during the course of review.*
- *'To make recommendations in relation to any lessons learnt or good practice which emerge from the review.'*²³

25. In the introduction to the report of the review, which was led by Commander Simon Foy and Jenny Hopkins, a Deputy Chief Crown Prosecutor in the Crown Prosecution Service London Region, it is recorded that *'the purpose of commissioning this Review was not to investigate allegations of corruption, nor was it intended to serve the purpose of an investigation for police disciplinary purposes'*.²⁴

26. There were two principal reasons why the prosecution of those charged with the murder of Daniel Morgan did not proceed: the failure to deal properly with disclosure and the problems arising during attempts to use Assisting Offenders under the Serious Organised Crime and Police Act 2005 as witnesses. The Terms of Reference were sufficient to enable these issues to be dealt with.

27. The review involved the interviewing of key members of the Abelard Two team, including Metropolitan Police officers²⁵ and lawyers in the Crown Prosecution Service.²⁶ The review's 'methodology' was recorded as follows:

22 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p3, para 1.10, May 2012.

23 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p3, para 1.11, May 2012.

24 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, pp2-3, para 1.7, May 2012.

25 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p4, para 2.4, May 2012.

26 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p4, para 2.3, May 2012.

*'A range of opinions and concerns were expressed during the Review and those matters, together with the significant number of decisions and Judge's Rulings made during the course of the prosecution have been noted.'*²⁷

28. This was not a methodology but was a statement of fact as to what was noted, and it fails to explain the manner in which the review was undertaken.

29. An email sent before the review began, dated 05 April 2011, from Commander Simon Foy to Jenny Hopkins, suggested a more detailed methodology than that contained in the report. The document indicated that the review would:

- i. meet and interview key individuals, including police officers; Crown Prosecution Service lawyers and caseworkers; leading, junior and disclosure Counsel;
- ii. verify their position by looking at relevant documentation/decision logs/notes/Court Orders and judgments;
- iii. compare what happened in this case with the requirements of any legislation/formal guidance/Policy that existed;
- iv. reach conclusions, having taken steps 1-3 above, as to whether any deficiencies may have contributed to the unsuccessful outcome;
- v. make recommendations to ensure that similar cases where these issues occurred would have a better chance of success;
- vi. produce a report of the findings of the review; and
- vii. disseminate any lessons learned.²⁸

30. The methodology suggested by Commander Simon Foy was not adopted. Had it been, and had it been implemented fully, it would have resulted in a more effective Review, with the probability that more lessons would have been learned.

31. Commander Simon Foy and Jenny Hopkins interviewed four lawyers: Stuart Sampson, Crown Prosecution Service; Nicholas Hilliard QC, Lead Counsel; Jonathan Rees QC, Junior Counsel;²⁹ and Heather Stangoe, Disclosure Counsel. They also interviewed seven police officers: former AC John Yates; former DCS David Cook, Senior Investigating Officer; T/DCI Noel Beswick, Deputy Senior Investigating Officer; DI Douglas Clarke, Liaison Officer; DS Gary Dalby, Case Officer; DI Anthony Moore, Debrief Manager; and DI Bernard Greaney from the Directorate of Professional Standards. Those interviewed were described as *'key members of the Abelard II prosecution team'*.³⁰

²⁷ Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p4, para 2.1, May 2012.

²⁸ Email 05.04.2011 Simon Foy to Jenny Hopkins Crown Prosecution Service re initial stages of Metropolitan Police/Crown Prosecution Service joint review with copies of suggested terms of reference, MPS109621001, p2, undated.

²⁹ Jonathan Rees QC was appointed Queen's Counsel in 2010.

³⁰ Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p4, paras 2.2, 2.3 and 2.4, May 2012.

32. In the same email dated 05 April 2011, Commander Simon Foy suggested that one of the Defence lawyers should also be consulted as part of the process, although he noted that this would be difficult.³¹ Defence lawyers were not consulted.

33. There was considerable merit in Commander Simon Foy's suggestion that one of the Defence lawyers be interviewed. It would have enabled discussion of whether there was anything that they could contribute, to help prevent future costly disclosure failures.

3.1 Interviews of the Prosecution team members

34. The interviews took place between June and August 2011. The papers which are available are in note form only. There is no documentation in the material available to the Panel which informs the comments made in the notes. The papers available to the Panel do not contain notes for the interviews of Jonathan Rees QC, former AC John Yates or DI Douglas Clarke.

35. Former DCS David Cook told the Panel that his meeting with Commander Simon Foy and Jenny Hopkins of the Crown Prosecution Service lasted only 20 minutes. He suggested that he *'brought out the concerns with Barry Phillips and other aspects, and that cut the conversation short.'*³² The Panel has examined the typed notes of the meeting between Commander Foy, Jenny Hopkins and former DCS Cook. The notes record that former DCS Cook alluded to the fact that James Ward had made an allegation of corruption against D/Supt Barry Phillips and that later in the interview he had said that D/Supt Phillips had been *'setting up a business with his wife i.e. conflict of interest was setting up typing business to type up the debriefs'* and as a consequence had not been available to run the debrief of Gary Eaton, who was unable to contact D/Supt Phillips. He also said that DS (later DI) Anthony Moore had had to start *'doing Barry Phillips job which meant he was not doing the debriefs as manager.'* It is accepted that former DCS Cook raised matters relating to D/Supt Phillips at the beginning of the interview. However, the interview did not terminate at that point but continued with the discussion of other issues including the debrief of Gary Eaton.³³ There is no evidence of corruption from D/Supt Phillips.

36. Many issues were raised by those who were interviewed. The experiences of Prosecution Team members who spoke to the Review included the following:

- i. That the disclosure strategy had been to *'keep it simple. Reduce amounts'*.³⁴ The strategy was also described as being *'[m]ake sure that when we get to court we have everything in a schedule All marked up with what the defence are going to get'*.³⁵
- ii. That the only training available for the staff involved in the debriefing process was with a private company. It covered the circumstances in which a person offering to be an assisting offender should be accepted as such, and what needed to be done before a decision to commence a debrief was made. There was no written guidance to inform the debriefing process.³⁶

31 Email from Commander Simon Foy to Jenny Hopkins, MPS109587001, p33, 05 April 2011.

32 Panel Interview of former DCS David Cook, Transcript 1, pp22-23, 25 August 2020.

33 Former DCS David Cook interview summary notes, Abelard Two Investigation Review Report, MPS109620001, pp33-38, 11 July 2011.

34 Stuart Sampson interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p7, 14 June 2011.

35 Heather Stangoe interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p49, 26 July 2011.

36 DI Anthony Moore interview summary notes, Abelard Two Investigation Review Report, MPS109620001, pp39 and 41, 14 July 2011.

- iii. That the Crown Prosecution Service had not anticipated the quantity of material which had been generated by the debrief team during the debrief process;³⁷ and that the '*volume of material*' made it an '[a]lmost impossible disclosure exercise'.³⁸
 - iv. That the investigation had only received summaries of the assisting offender interviews rather than full transcripts.³⁹
 - v. That there had been a failure by police to update the Crown Prosecution Service on the status of witnesses: for example, whether a witness had a previous conviction.⁴⁰
 - vi. That the notes prepared by the Witness Protection Unit had not been revealed to the Abelard Two Investigation;⁴¹ nor had the notes been included in the disclosure schedules.⁴²
 - vii. That Gary Eaton had not been called to give evidence about the debrief, but he should have been.⁴³
 - viii. That there were questions about whether DCS David Cook should have continued as Senior Investigating Officer after his retirement from the Metropolitan Police in 2007.⁴⁴
 - ix. That part of the problem was that '*no one wanted it*' [the investigation].⁴⁵
 - x. That when the crates of material from the money laundering investigation into James Ward and others had been re-examined in March 2010, a file had been found relating to James Ward, containing information supplied, under a different pseudonym, to the Serious Organised Crime Agency; and that, in November 2010, a further file was found containing information supplied by James Ward under a further pseudonym.⁴⁶
37. The following recommendations were made by those interviewed:
- i. That witnesses must be told that they must go through a separate closed debrief session to prove their reliability before being accepted as witnesses under the Serious Organised Crime and Police Act 2005. They must provide to the debrief team all information, no matter how sensitive, of their knowledge of and involvement in criminal activity. This was necessary so that the information could be checked to establish whether they should be regarded as reliable sources despite the fact they were dangerous and involved in criminal activity (Nicholas Hilliard QC).⁴⁷
 - ii. That witnesses being debriefed under the Serious Organised Crime and Police Act 2005 should only be interviewed if they were in custody, as the risk of unauthorised contact was too strong (T/DCI Noel Beswick, Deputy Senior Investigating Officer).⁴⁸

37 Stuart Sampson interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p7, 14 June 2011.

38 '*Nicholas Hillyard* [sic] QC' interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p14, 22 June 2011.

39 T/DCI Noel Beswick interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p28, 07 July 2011.

40 Stuart Sampson interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p7, 14 June 2011.

41 Former DCS David Cook interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p34, 11 July 2011.

42 T/DCI Noel Beswick interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p28, 07 July 2011.

43 Former DCS David Cook interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p35, 11 July 2011.

T/DCI Noel Beswick, Abelard Two Investigation Review Report, MPS109620001, p28, 07 July 2011.

44 Stuart Sampson interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p5, 14 June 2011.

45 Former DCS David Cook interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p37, 11 July 2011.

46 Stuart Sampson interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p8, 14 June 2011.

47 Abelard Two Investigation Review Report, MPS109620001, p15, 22 June 2011.

48 T/DCI Noel Beswick interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p32, 07 July 2011.

- iii. That an investigation should receive transcripts of debrief interviews (T/DCI Noel Beswick, Deputy Senior Investigating Officer).⁴⁹
- iv. That the Senior Investigating Officer needed clear accountability and should be employed by the Metropolitan Police (former DCS David Cook).⁵⁰
- v. That there was a need for a proper archiving system in the Metropolitan Police to enable recovery of all relevant material (Nicholas Hilliard QC).⁵¹

3.2 The review report: May 2012

38. The review report recorded that *'the main reason for the withdrawal of the prosecution was the Crown's inability to satisfy their disclosure obligations. However, at that time there were also issues with the reliability of key prosecution witnesses. The disclosure difficulties were the dominant factor and were more impactful.'*⁵²

3.2.1 Failings in the disclosure process: the primary cause of the inability of the Prosecution to proceed to trial

39. The Prosecution offered no evidence against the Defendants in March 2011, because *'the prospects of conviction are [...] significantly affected to the point that it can no longer be said that the evidential test in the code for Crown Prosecutors is satisfied'* (see Chapter 8, The Abelard Two Investigation).⁵³

40. The review report stated that *'[a]n appreciation of the scale and complexity of the disclosure issues in this case is essential to understanding why the prosecution offered no evidence'*.⁵⁴ The Report noted that a vast amount of material had been gathered over 23 years (estimated at 750,000 pages), by different agencies and retained at various locations,⁵⁵ and quoted Mr Justice Maddison, who said that *'on any fair view it seems to me that disclosure has been and continues to be a formidable, daunting exercise [...]. The extraordinary nature of the case has required the prosecution to undertake an exercise in disclosure of exceptional if not unprecedented proportions'*.⁵⁶

41. Heather Stangoe told the review that she had joined the Abelard Two disclosure team in July 2006, just after Gary Eaton had contacted the investigation.⁵⁷ She said that the disclosure team were then in the process of registering all of the documents. Some historical context of the extent and progress of the disclosure process had been provided by an Abelard Two background case summary update document, dated December/January 2007.⁵⁸ The case summary recorded that a team of four officers had examined 1,650 documents by December/January 2007, an estimated 4 per cent of the overall case file.⁵⁹ An estimated time for

49 T/DCI Noel Beswick interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p28, 07 July 2011.

50 Former DCS David Cook interview summary notes, Abelard Two Investigation Review Report, MPS109620001, p37, 11 July 2011.

51 *'Nicholas Hilliard [sic] QC interview summary notes'*, Abelard Two Investigation Review Report, MPS109620001, p14, 22 June 2011.

52 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p5, para 3.8, May 2012.

53 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p129, May 2012.

54 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p7, para 4.7, May 2012.

55 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p6, para 4.6, May 2012.

56 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p10, para 4.13, May 2012.

57 Abelard Two Investigation Review Report, MPS109620001, p46, 14 June-03 August 2011.

58 Background Case Summary, MPS109599001, 04 January 2007.

59 Background Case Summary, MPS109599001, p1, 04 January 2007.

completion of the disclosure process was given as between 9 and 12 months.⁶⁰ However, minutes of an oversight meeting held 23 January 2007 were less optimistic and recorded that *'[a]t current rate disclosure will take one year to 18 months to complete'*.⁶¹

42. In January 2007, as the disclosure preparations were ongoing, members of the family of Daniel Morgan had a meeting with DCS David Cook and A/DCI Noel Beswick. Family members were provided with an update on the progression of the investigation. The family noted that they became aware of differences of opinion between DCS Cook and Stuart Sampson as to whether the disclosure preparations should be finished before any charges were laid. The family noted the following:

*'Expect charges in July 2007. [DCS David] Cook has a difference of opinion with Stewart [sic] Sampson on timing of charges and whether disclosure should be finished first. [DCS Cook's] view is if they do all the disclosure then they will be doing it for years and he wants to keep the current team together.'*⁶²

43. Heather Stangoe told the review that there had appeared to be pressure to charge before DCS David Cook's retirement from the Metropolitan Police (in December 2007), although in the end this was not achieved.⁶³ She was asked whether the initial disclosure exercise was finished by the time the suspects were charged, and she responded, *'[a]ll the material that was left was the material to do with the SOCPA [Serious Organised Crime and Police Act 2005] witnesses'*.⁶⁴

44. The case summary stated that *'[t]he CPS [Crown Prosecution Service] have indicated a desire to have all of the disclosure completed prior to a decision on charging being made, however a case conference has been arranged with a view to discussing earlier action being taken, the reasons for which will be provided in the operational update'*.⁶⁵

45. The Panel has had access to the Advice of Jonathan Rees, barrister, dated 15 April 2008, as to the consideration of the evidence given in respect of each of the Defendants (see Chapter 8, Abelard Two, sections 7.8 and 7.9),⁶⁶ and to the report which was sent on 23 April 2008 by Stuart Sampson, to which was attached Jonathan Rees, barrister's advice.⁶⁷

46. The decision to charge had consequences in terms of the Prosecution's responsibility to disclose any material which might assist the Defence or undermine the Prosecution, and it is clear from the case summary that the Prosecution was sighted of that responsibility. There is no record, in the papers available to the Panel, of any consideration of the disclosure situation in the context of the decision to charge which was made in April 2008. At this stage, the disclosure exercise to review the material relating to James Ward and Gary Eaton had not been completed.

47. The consequence of the decision to charge at this time was that the defendants were remanded in custody. This meant that custody time limits henceforth applied, and this put further pressure on the Prosecution team. Former DS Sidney Fillery was released on bail on 06 August 2008. He was formally acquitted of perverting the course of justice on 15 February 2010. Jonathan Rees, James Cook, Glenn Vian and Garry Vian were released from custody on 03 March 2010, and they were ultimately acquitted on 11 March 2011.

60 Background Case Summary, MPS109599001, p1, 04 January 2007.

61 Minutes of Operation Abelard Oversight Meeting, MPS109609001, p2, 23 January 2007

62 Alastair Morgan Meeting Notes, PNL000110001, p63, 26 January 2007.

63 Heather Stangoe, 26 July 2011, Abelard Two Investigation Review Report, MPS109620001, p47, 14 June-03 August 2011.

64 Heather Stangoe, 26 July 2011, Abelard Two Investigation Review Report, MPS109620001, p47, 14 June-03 August 2011.

65 Background Case Summary, MPS109599001, p1. 04 January 2007.

66 Counsel Advice by Jonathan Rees, MPS109700001, 15 April 2008.

67 Case file including Manual of Guidance forms 1,3,4,5 and 7, MPS072615001, 23 April 2008.

48. Although the focus of the review, as set out in its Terms of Reference, was on disclosure and the debriefing processes under the Serious Organised Crime and Police Act 2005, the Metropolitan Police/Crown Prosecution Service review was also required to '*consider any other significant key areas which may emerge during the course of review*' and it did not take the opportunity to analyse the process by which a decision to charge the Defendants was made at this time. The consequences of the charging decision were enormously significant for the five Defendants and for their families, as the Defendants were remanded in custody for varying periods. Their detention inevitably involved very significant costs to the public, as did the successful civil action which four of the Defendants brought against the Metropolitan Police for damages (see sections 7 and 9 below). A decision to charge in cases such as this can be very complicated, and it is essential that the Crown Prosecution Service and Metropolitan Police can and do justify such decisions. The review should have considered whether there was anything to be learned from this decision.

49. Fifteen disclosure issues raised by the Defence during the pre-trial hearings were summarised in the review report.⁶⁸ They ranged across a variety of failures to disclose and included the following:

- i. Failure to disclose fully the 2006 Metropolitan Police Authority Report;
- ii. Inappropriate redactions of some transcripts of debriefed Serious Organised Crime and Police Act 2005 witnesses;
- iii. Late disclosure relating to a witness;
- iv. Failure to inform the Defence that the police were aware of psychiatric issues relating to Gary Eaton between 26 July and 06 September 2006;
- v. Late disclosure of general practitioners' records relating to Gary Eaton; and
- vi. Non-disclosure of a statement relating to former PC Derek Haslam and failure to respond to a request by the Defence regarding matters within that statement.

50. All these complaints had been upheld by Mr Justice Maddison.

51. Mr Justice Maddison rejected other matters raised by the Defence, holding that:

- i. particular prison records should not be disclosed;
- ii. there was no lack of due diligence in the supply of details of witnesses present at the Golden Lion public house on the night of the murder; or in the method of disclosure of telephone records; and,
- iii. there was no necessity to disclose photographs taken 20 years after the murder.

68 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, pp8-10, para 4.11, May 2012.

52. The review report noted the discovery in November 2009 of the 18 crates of evidence which had first been delivered to the Directorate of Professional Standards' Financial Investigations Unit, and made available to the Abelard Two Investigation, in 2007. The review report noted that '*a decision was made by the [Senior Investigating Officer, DCS David Cook] that the material was not relevant*',⁶⁹ and the material had been returned to the Directorate of Professional Standards for storage (see Chapter 8, Abelard Two Investigation).

53. The review report also noted that neither the judge nor Defence Counsel were made aware of the finding of the 18 crates before the custody time-limits hearing on 18 December 2009.⁷⁰

54. In fact, the sequence of events based on the Panel's review of the material was as follows:

- i. On 20 November 2009, T/DCI Noel Beswick emailed the Directorate of Professional Standards raising questions about the material, and he also emailed Nicholas Hilliard QC to tell him about the crates.
- ii. Later that day, Nicholas Hillard QC spoke to T/DCI Beswick and directed that the material should be examined.
- iii. By 27 November 2009, T/DCI Beswick said he had established that nothing which might undermine the Prosecution or assist the Defence had been identified. However, this transpired not to be the case. There were, among these papers, '*a docket and two information reports*' which should have been disclosed.
- iv. The Defence were notified on 17 December 2009, the day before a custody time-limits hearing, of the existence of further material which had been found in other Directorate of Professional Standards premises. They were not informed about the 18 crates.
- v. On 22 February 2010, Glenn Vian's solicitor, while inspecting documents, found T/DCI Noel Beswick's email of 20 November 2009 to the Directorate of Professional Standards and so the Defence became aware of the existence of the 18 crates.
- vi. DS Gary Dalby later stated that on the morning of 26 February 2010, outside court, he had been asked by Nicholas Hilliard QC whether he was aware of any material from within the 18 crates that undermined the prosecution case, to which he had replied, '*No*'.
- vii. On 26 February 2010, at a hearing Mr Justice Maddison noted that '*[i]f she had not discovered it then, then this hearing, like the last hearing, would have gone off in ignorance of all of this*'.
- viii. A week later, on 03 March 2010, as a consequence of the way in which the disclosure of the contents of the crates had been dealt with, Mr Justice Maddison ruled that the Defendants should be released on bail. Mr Justice Maddison noted that it indicated '*a lack of due diligence and expedition on the prosecution's part*'.

69 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, pp11-12, para 4.19, May 2012.

70 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, p12, para 4.24, May 2012.

55. Had the material been examined between 16 November 2009 and 18 December 2009, it would have been established that there was relevant material to be disclosed before the important custody time-limits hearing. There was a lack of process to identify, consider and disclose large amounts of material in a reasonable time.

56. The review report also acknowledged that there were further problems in January 2011, when additional papers relating to James Ward were discovered. The papers demonstrated that he had previously, under a different name, provided information to the police. Those papers were important (see paragraph 36 x. above). As the Report stated *'[n]ot only did they show that [James Ward] had been providing contradictory evidence to that contained within his formal SOCPA [Serious Organised Crime and Police Act 2005] debriefing (and thus his credibility was damaged) but until the discovery the investigation team knew nothing of the matter'*.⁷¹

57. The importance of this information was that James Ward, who had maintained that he was not a violent person, had in fact instructed a person, 'A', to kill a third party and, when that had not happened, he had threatened 'A' that he would be killed if he continued to associate with the third party. The Crown Prosecution Service decided that, in the light of this evidence, which impacted on James Ward's credibility, it could no longer rely on James Ward as a witness. This was explained in open court on 24 January 2011.⁷²

58. The review report stated that, in February 2011, the Defence had been provided with a copy of an internal police report explaining the movements of the 18 crates. It stated that:

'[...] the defence sought access to particular documents stored within the eighteen crates and made specific reference to Box numbers. The police team were unable, in respect of four of the boxes, to locate them.

*Whilst one of the four crates contained material which bore no relevance to the trial proceedings, the other three did. They related to the money laundering case previously referred to. It became apparent that there had been a clear oversight in respect of these three crates. Whilst they were already within the police Exhibit's room, they had not been entered in to the police records, nor ever assessed.'*⁷³

59. The review report stated that *'[t]his was clearly an error'*,⁷⁴ and that *'the Crown were no longer able to be confident they could discharge their disclosure obligations and they would have to offer no evidence against the defendants'*.⁷⁵

60. However, the submissions of Nicholas Hilliard QC to Mr Justice Maddison on 11 March 2011 made clear that there were in fact 21 crates in total of undisclosed material. On 04 March 2011, in addition to the 18 crates discovered in November 2009, he had been told that three more crates of unscheduled material had been discovered in the Abelard Two Exhibits

71 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p13, para 4.28, May 2012

72 Hearing, pp1-6, 24 January 2011.

73 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p13, paras 4.29-4.30, May 2012.

74 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p13, para 4.30, May 2012.

75 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, pp13-14, para 4.32, May 2012.

Room, where they had been stored untouched since March 2008, when four crates of material had been sent to the Abelard Two Investigation, one of which had been declared not relevant and returned.⁷⁶

61. The review report quotes Mr Justice Maddison (from his judgment of 11 March 2011), referring to the '*recent enquiry in relation to the 18 crates and the recent discovery of the four further crates*'. However, the report does not explore the detail of how this very costly failure of disclosure came about.

62. The report should not have conflated the four crates (one of which had been returned) with the 18 crates. It should have made clear that this was a further failure to disclose material which had been in the possession of the Abelard Two Investigation for the previous three years, material which '*had not been listed anywhere or reviewed for disclosure*'.⁷⁷

63. In 2016, in a statement prepared in response to the civil claim by Jonathan Rees and others against the Metropolitan Police, former T/DCI Noel Beswick said that the other three crates had remained in the Exhibits Store until 04 March 2011, having been:

*'overlooked by the exhibits officers and not brought to my attention. The exhibits officer's role was to schedule all exhibits from crates received and provide DS Dalby's disclosure team with non-exhibit material for their review. This had not been done. I believe a genuine mistake was made by the exhibits officers who overlooked the three crates.'*⁷⁸

64. The documents in these crates had later been scheduled, and a further 31 items were identified which had not previously been disclosed.⁷⁹

65. In relation to the four additional crates, evidence now available to the Panel, which was received from the Criminal Cases Review Commission, shows that Nicholas Hilliard QC and Jonathan Rees QC had asked on the week commencing 28 February 2011 what had happened to these crates. This led to the discovery that, while one had been declared irrelevant to the murder investigation, the other three crates had been sent to the Exhibits Store without their contents being examined, or 'scheduled'.

66. The review report failed to highlight the fact that, despite the intense focus on disclosure issues between 2008 and 2011, the four crates of material were not dealt with in an appropriate manner.

⁷⁶ Hearing Transcript, MPS109655001, p125, 11 March 2011.

⁷⁷ Hearing Transcript, MPS109655001, p125, 11 March 2011.

⁷⁸ Witness statement of former T/DCI Noel Beswick, MPS109748001, p69, para 246, 20 October 2016.

⁷⁹ Witness statement of former T/DCI Noel Beswick, MPS109748001, p69, para 247, 20 October 2016.

3.2.2 Recommendations

67. The review report produced one overarching recommendation: '*That steps are taken to disseminate this Review within the Police and CPS [the Crown Prosecution Service], so that Police and CPS can consider the following Good Practice points in future cases.*' It produced 17 Good Practice Points.⁸⁰ In October 2019, the Panel enquired of the Metropolitan Police and the Crown Prosecution Service whether the Good Practice Points identified in the review report have been implemented and asked for evidence of their implementation where appropriate.

68. An initial reply was received from the Metropolitan Police on 07 October 2019, however it did not contain sufficient detail. In response to a further request for specific information, a much more detailed reply was received on 05 May 2020.

69. In response to the question about the overarching recommendation for dissemination, the Metropolitan Police said that an officer had attended a College of Policing course at which there was mention of the Abelard Two Investigation, and that dedicated debriefers have been given full sight of the May 2012 review report. The Metropolitan Police also said that various training documents and fact sheets were being prepared.⁸¹

70. The College of Policing provided to the Panel, on 15 April 2020, a report on two courses which it now delivers: one to Assisting Offender Debriefing Officers and the other to Assisting Offender Managers. It specifically includes material arising from the Abelard Two Investigation.⁸²

71. From the material which it has seen, the Panel is of the view that the courses, if delivered as indicated, should provide an appropriate basis for the development of those involved in debriefing operations under the Serious Organised Crime and Police Act 2005.

72. The review report is very limited in the information which it provides for those who were required to make decisions to give effect to the Good Practice Points. It is accepted that the authors of the review report referred to appendices containing excerpts from court proceedings which focused on particular issues. However, the effect of this was to require the reader to analyse the material presented in the appendices in order to understand the full reasons why the Good Practice Points were made. The consequence of the lack of a fully reasoned analysis of what went wrong was that further opportunities to prevent such situations recurring was lost. This is a further example of failure to face up to and admit major failings in Metropolitan Police investigative processes.

80 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, pp19-27, May 2012.

81 Metropolitan Police response to DMIP received on 07 October 2019, '*Good Practice Recommendations*', p1, 07 October 2019.

82 Report from the College of Policing, 15 April 2020.

3.2.3 Good Practice Points identified in relation to disclosure

73. Eight of the 17 Good Practice Points, Points 4–11,⁸³ dealt with disclosure issues. These can be summarised as follows, the Metropolitan Police responses to the Panel follow each point:

- i. Point 4: From the outset, consideration should be given to the types of unused material which could reasonably be expected to be encountered in a Prosecution, and its anticipated location. The parameters of the search for potentially relevant material need to be clearly documented.

The Metropolitan Police stated that ‘there is a general search throughout the MPS [Metropolitan Police Service] for material that might be disclosable in a particular case. IMS [the Metropolitan Police Information Management System] is one of those search methods.’⁸⁴ The Panel asked for detail of how that search is to be conducted. In May 2020, the Metropolitan Police informed the Panel that its current Disclosure Policy provides guidance on what may amount to ‘reasonable lines of enquiry’, with a reminder that any submission to the Crown Prosecution Service for charging advice must contain sufficient detail without which the submission will be rejected.⁸⁵

- ii. Point 5: There is a requirement for accurate record-keeping, with detailed reasoning behind all material that is reviewed by the investigation during the enquiry and evaluated as not relevant.

The Metropolitan Police referred to the Attorney General’s Guidelines on Disclosure. There was originally no statement as to the process established by the Metropolitan Police to ensure that these Guidelines are complied with. However, after a further request by the Panel, the Metropolitan Police provided key features of their London Disclosure Improvement Plan in its response of 05 May 2020. This indicates that a considerable amount of work has been done and training has been provided. Further work is in progress.

- iii. Point 6: Consideration must be given to the size and complexity of the disclosure task from the outset, and the level of experience required when appointing a disclosure officer. In cases such as this, consideration should be given to the experience which Disclosure Counsel will need to possess, and whether, exceptionally, a more experienced counsel is required rather than the most junior member of the counsel team.

The Metropolitan Police response refers to the Attorney General’s Guidelines on Disclosure and states that Disclosure Counsel had at least eight years’ experience. However, this is incorrect, as the disclosure process started in 2006 and Disclosure Counsel who was appointed at that stage, had only five years’ experience in 2006.

The Crown Prosecution Service provided a response dated 03 April 2020, which included reference to Chapter 29 of its ‘Disclosure Manual’, which outlines disclosure-related issues relating to large-scale cases. It emphasises the need

⁸³ Crown Prosecution Service/Metropolitan Police, ‘Review into Operation Abelard II’, MPS109655001, pp21-25, May 2012.

⁸⁴ Metropolitan Police response to the Panel, pp5-6, October 2019.

⁸⁵ Metropolitan Police response to the Panel, p7, May 2020.

for early discussion between the Crown Prosecution Service and the wider Prosecution team to ensure that disclosure issues are actioned at an early stage. In particular, it states the following:

*'In appropriate cases, a decision to appoint disclosure counsel may be made at the outset of a case with a view not only to assessing unused material but also deciding which items should constitute the evidence relied upon. Counsel instructed may be the junior for the whole case or may be instructed solely to deal with the question of disclosure. Irrespective of this, in complex cases, they should be instructed for the duration of the case. Exceptionally large cases may require a team of disclosure counsel.'*⁸⁶

In addition, in March 2013, the Crown Prosecution Service formalised and mandated a regime for handling disclosure in serious and complex cases which now requires the completion of a Prosecution Strategy Document, a Disclosure Management Document and a Risk Register. The purpose of the Prosecution Strategy Document is to articulate the Prosecution's approach to the case. It includes sections for articulating the pre-charge strategy, the charging strategy, how evidence will be handled, the disclosure strategy, how unused material will be managed and how Counsel will be selected. It is a living document and is reviewed by the Unit Head to quality-assure the approach being taken in such cases. The Disclosure Management Document allows the prosecutor to articulate the way in which disclosure is being handled, and it includes reasonable lines of enquiry which have been pursued and the approach being taken to categories of unused material. It is served on the Defence and the Court and enables disclosure issues to be identified and addressed at an early stage.

- iv. Point 7: The Prosecution Team (police and prosecutors) should frequently review the position and progress of the disclosure strategy.

The Metropolitan Police provided a response in May 2020 which indicated that investigations now use the HOLMES 2 disclosure package. It was decided in the Abelard Two Investigation that this package would not be used. The Metropolitan Police advised the Panel that the Disclosure Officer, who should be appointed at the outset of the investigation, will be an appropriately trained detective who is an integral part of the Major Incident Team. The officer in charge of the case (the Senior Investigating Officer) must provide support and supervision and ensure that the Disclosure Officer has sufficient skills and authority commensurate with the complexity of the investigation to discharge their functions effectively, using HOLMES 2. The Disclosure Officer has the responsibility to advise the Senior Investigating Officer about disclosure strategy issues. Reference was also made to a requirement that the disclosure officer must certify to the prosecutor, *'that, to the best of his knowledge and belief, all relevant material which has been retained and made available to him has been revealed to the prosecutor in accordance with this code'*.

86 Crown Prosecution Service response to the Panel, p2, 03 April 2020.

- v. Point 8: Use should be made of a Disclosure Strategy document, and there should be clarity as to which disclosure regime applies.

In May 2020, the Metropolitan Police advised the Panel of the 2013 Attorney General’s Guidelines on Disclosure, which set out instances when a Disclosure Management Document (otherwise known as a ‘Disclosure Strategy’) should be used in a large and complex investigation/prosecution. A copy of the template and guidance was also provided to the Panel.

- vi. Point 9: Use should be made of the Criminal Procedure Rules to identify the issues in the case.

The Metropolitan Police informed the Panel that this is a matter for the Crown Prosecution Service. The Crown Prosecution Service advised in April 2020 that it has extensive internal guidance about the Criminal Procedure Rules which have been updated several times since May 2012. ‘Gateway’ notices are sent to all staff whenever the Criminal Procedure Rules are updated. A new ‘Better Case Management’ was launched in 2015 which ensures efficient compliance with the Criminal Procedure Rules encouraging the identification of the issues in the case at an early stage.

- vii. Point 10: Disclosure schedules need to be available electronically at Court.

The Metropolitan Police advised in May 2020 that its current disclosure policy provides that material which has to be stored in a safe because of its security classification cannot be issued to the Court in electronic format. The procedures to be followed in such cases are articulated in the policy. That being the case, there still exist security classification issues that may prevent all disclosure schedules being provided electronically to the Court.

- viii. Point 11: Archiving systems should be in place to permit the identification and retrieval of all relevant material from historical operations (for example, informant files, microfiche, Directorate of Professional Standards files and Crown Prosecution Service case files). Concluding point 11, the review report stated, *‘[w]hen faced with a case of this nature it is recommended that a careful and considered judgment about the viability of being able to retrieve all material is made before a decision to proceed to charge is taken. This decision must be scrutinised, documented and recorded.’*⁸⁷

The Metropolitan Police response to the issue of archiving indicated that the Debrief Unit uses the Information Management System to archive records. The further response received in May 2020 provides details of the Metropolitan Police’s Records Retention, Review and Disposal Document of 23 March 2018. This supports the Records Management Policy and provides a framework for the management and control of Metropolitan Police records, across all formats. It is a general principle that no original material is to be destroyed or deleted without appropriate review, in line with the Records Management Policy. The policy, and other documents provided to the Panel, include information about evidence recovery methods, dedicated digital evidence recovery officers who may be commissioned to help extract evidence and to assist with unused material, and Forensic Computer Analysts to assist in the process.

⁸⁷ Crown Prosecution Service/Metropolitan Police, *‘Review into Operation Abelard II’*, MPS109655001, p25, May 2012.

3.2.4 Failures in the handling of witnesses being debriefed under the Serious Organised Crime and Police Act 2005

74. The review report examined the reasons that lay behind the failure to retain, under the Serious Organised Crime and Police Act 2005, the Prosecution witnesses: James Ward, Gary Eaton and Person J5.

3.2.4.1 James Ward

75. The review report stated that:

*'not all of the informant files relating to this witness had been correctly archived. He had been registered with different law enforcement agencies, on several different occasions and in different names. Whilst all possible checks were completed by the investigation team there was no way of them knowing about an un-archived extract from an informant file which was subsequently found under a different pseudonym.'*⁸⁸

76. While it is true that there was material of which the Abelard Two Investigation could not have been aware, there were 22 crates of other material which had been brought to the attention of the Abelard Two Investigation in 2007 and 2008, and which, if dealt with properly, could have been disclosed. This did not happen.⁸⁹

77. The inability to identify multiple pseudonyms for a source is something which should not happen now, given the existence of a national database, if all pseudonyms are contained in the database. However, T/DCI Noel Beswick had sought information from this database and all the relevant information had not been found. The review report could have usefully drawn attention to the importance of ensuring absolute compliance with all aspects of source management to prevent a similar situation arising in the future.

3.2.4.2 Gary Eaton

78. The review report stated that Gary Eaton was *'the prosecution's only eye witness to the murder'*.⁹⁰

79. Gary Eaton did not witness the murder, rather he claimed to have seen Daniel Morgan's body in the car park before the alleged murderers left the car park.

80. The Review Report set out the reasons why Mr Justice Maddison decided to exclude Gary Eaton's evidence. Those reasons are summarised below:

- i. Breaches of the sterile corridor (i.e. the requirement for a witness to have contact only with the debriefing officers and the witness protection officers, and not the investigation);

⁸⁸ Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p15, para 5.7, May 2012.

⁸⁹ Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p15, para 5.3-5.7, May 2012.

⁹⁰ Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p16, para 5.11, May 2012.

- ii. Gary Eaton's mental health and the absence of an appropriate adult during debriefings;
- iii. That Gary Eaton was probably prompted by a senior police officer to implicate Glenn Vian and Garry Vian;
- iv. That Gary Eaton had been tipped off that he had been caught lying about his father's death and given the chance to think of an explanation;
- v. Gary Eaton's unreliability as a witness, including his significant criminal record;
- vi. That Gary Eaton's personality disorder rendered him prone to telling lies;
- vii. Gary Eaton's differing and various accounts; and
- viii. His demonstrative lies and his behaviour during the debrief process.

81. The review report said that Gary Eaton '*frequently disregarded the rules of the de-brief process and breached the requirement that the witness only deal with the debriefing team. He regularly contacted the Senior Investigating Officer directly.*'⁹¹

82. The above statement was correct, and it was established during the pre-trial hearing that Gary Eaton had breached the rules of the debriefing process by contacting DCS David Cook. The impression created by the review report was that the breaches were Gary Eaton's sole responsibility: this is not true. As has been demonstrated in Chapter 8, Abelard Two Investigation, section 6.4, in fact, DCS Cook also contacted Gary Eaton on multiple occasions, despite having agreed not to do so. DCS Cook had the responsibility, which he acknowledged, not to breach the sterile corridor, yet he did so repeatedly.

AC John Yates and others were aware of the extent of some, at least, of the unauthorised contact between former DCS Cook and Gary Eaton. While giving the reasons for the exclusion of his evidence, the Review Report did not refer specifically to the fact that Metropolitan Police systems, and the particular context in which Gary Eaton was debriefed, were such that DCS Cook was able to have regular and unauthorised access to Gary Eaton. Nor did the report refer to the fact that Mr Justice Maddison had also concluded '*that DCS Cook probably did prompt Mr Eaton to implicate the Vian brothers.*'⁹²

⁹¹ Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, p16, para 5.13, May 2012.

⁹² Document D5586, '*Judges ruling re Eaton and other matters*', MPS107506001, p36, para 167, undated.

83. The Crown Prosecution Service/Metropolitan Police joint review was carried out five years after the debrief of Gary Eaton. The review should have considered whether current policies and procedures were adequate to ensure that such a situation could not arise again. The way in which the matter of Gary Eaton was dealt with in the review report effectively minimised the systematic and structural failings within the Metropolitan Police, which contributed to the ultimate decision by Mr Justice Maddison that he would have excluded Gary Eaton's evidence. Although the Terms of Reference of the review did not encompass disciplinary or conduct issues, there were serious management failures during the Abelard Two Investigation. By failing to highlight the actions of the Senior Investigating Officer in this case, the report authors did not seize the opportunity to deal with those failings.

3.2.4.3 Person J5

84. The review report stated that the evidence of Person J5 could no longer be relied upon, after it had been discovered that some of the information which she had provided to police had been obtained from a website for missing persons. Further unrelated allegations had also been found not to be credible.⁹³

85. The way in which the police sought to get evidence from Person J5, and her subsequent debriefing under the Serious Organised Crime and Police Act 2005, gives rise to many questions about whether she should have been used as a witness. Despite her frequently restated terror about what might happen to her if she gave evidence, and her repeated refusals to provide evidence, the police pursued her as a witness. While it is appropriate to try and persuade witnesses to give evidence, consideration should have been given by the Metropolitan Police and Crown Prosecution Service review team to these matters. Furthermore, although in December 2006 she initially provided pertinent information to the Metropolitan Police, Person J5's evidence was ultimately withdrawn in November 2010 after serious doubt was cast upon the veracity of some of the information which she had provided to the police. Significant police resources were expended over the four years in attempting to secure her evidence. This should have resulted in an assessment as to whether there were any lessons to be learned.

3.2.5 Good Practice Points identified in relation to the witnesses

86. The review identified three issues of good practice in relation to the witnesses being debriefed under the Serious Organised Crime and Police Act 2005, which are set out in detail below. However, it noted that procedures under the 2005 Act had evolved in the intervening years, and accordingly, some of the issues raised were simply reflective of current practice.⁹⁴ The Panel enquired of the Metropolitan Police whether these Good Practice Points have been implemented. The Metropolitan Police, in a response received on 07 October 2019, confirmed they had.

⁹³ Crown Prosecution Service/Metropolitan Police, 'Review into Operation Abelard II', MPS109655001, p18, paras 5.21-5.22, May 2012.

⁹⁴ Crown Prosecution Service/Metropolitan Police, 'Review into Operation Abelard II', MPS109655001, p19, para 7.4, May 2012.

87. Good Practice Point 1

'As a necessary pre-condition to any future SOCPA [Serious Organised Crime and Police Act 2005] agreement, the requirement for a thorough investigation addressing the credibility of the witness is paramount.' [bold in original]⁹⁵

88. The review report listed the type of information which would enable a decision to be made as to whether an individual should be accepted as an assisting offender under the Act. They can be summarised as:

- i. medical records and all psychiatric records;
- ii. all case papers regarding previous convictions and those for any investigation that did not lead to a conviction; and
- iii. all intelligence held by various investigative agencies regarding past and current criminality and all material regarding any past history as an informant.

89. The review report recommended that the presumption would be that this material was collated and considered prior to entering into the Serious Organised Crime and Police Act 2005 agreement.⁹⁶

90. **The Metropolitan Police indicated to the Panel that there is full compliance with this recommendation. In addition, in May 2020, the Panel was informed that current Metropolitan Police policy is for a medical questionnaire to be completed in relation to the assessment of an assisting offender who is not located within the prison system. If this leads to concerns, the assisting offender, in consultation with their legal representative, is asked to sign a medical declaration giving authority for their medical records to be disclosed. Following receipt of the records, an assessment is then made of any medical or mental health risks.**

91. Good Practice Point 2

'To maintain a full and auditable record of all police contact regarding the management of any SOCPA [Serious Organised Crime and Police Act 2005] witness.' [bold in original]⁹⁷

92. The review noted that it was important to maintain a record of every contact with the assisting offender, including *'who instigated the contact and the reason for it'*.⁹⁸ It stated that this was particularly important to rebut any allegation that a witness was induced or coached.

93. **This was already a requirement at the time of the Abelard Two Investigation. The Metropolitan Police has provided assurance to the Panel that processes now exist to ensure compliance with this requirement. The Panel has nevertheless seen no provision to ensure that those debriefed do not have telephone access to anyone other than those responsible for their welfare. However, in May 2020, the Panel was informed that Metropolitan Police policy, introduced in 2019, is that telephone numbers and email**

95 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p19, May 2012.

96 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, pp19-20, May 2012.

97 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p20, May 2012.

98 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p20, May 2012.

addresses are not given directly to any such person. The majority of communications with the legal representatives of persons being debriefed are conducted via a specific address that they are given.

94. Good Practice Point 3

'Adherence to the following factors should be considered as "best practice" when dealing with SOCPA [Serious Organised Crime and Police Act 2005] witnesses.' [bold in original]⁹⁹

95. These factors¹⁰⁰ can be summarised as requiring the following:

- i. Effective control and regulation of the witnesses in terms of contact, allowances and privileges;

The Metropolitan Police did not respond to the Panel in relation to these issues initially, but the response to a second request in May 2020 describes detailed current processes and controls for these matters.

- ii. A system to control the extent and duration of the debrief, to be set by a Gold Group in conjunction with the Senior Investigating Officer, with clear objectives;

The Metropolitan Police state that, as not every debrief requires a Gold Group, these matters have in the past been dealt with between the Senior Investigating Officer, the Crown Prosecution Service and the Senior Debrief Officer/ Debrief Manager.

- iii. Immediate transcription of the witness's interviews for the purposes of challenge and corroboration by the investigation team;

The Metropolitan Police state that this is now done as a matter of course.

- iv. Ongoing editing of the debrief material for disclosure purposes;

The Metropolitan Police state that this recommendation is adhered to throughout the debrief process.

- v. That a process to allow the investigation team to provide questions to the debriefers, without fear of breaching the sterile corridor, should be developed;

The Metropolitan Police state that specific arrangements now exist to allow regular appropriate contact between the Debrief Manager and any investigation.

- vi. That a dedicated and separate Debriefing Manager should be appointed to manage and supervise debriefers;

The Metropolitan Police state that this is now done as a matter of course.

99 Crown Prosecution Service/Metropolitan Police, 'Review into Operation Abelard II', MPS109655001, p20, May 2012.

100 Crown Prosecution Service/Metropolitan Police, 'Review into Operation Abelard II', MPS109655001, pp20-21, May 2012.

- vii. That the debrief team should be represented at the Gold Group;

The Metropolitan Police state that this is now done in accordance with the National Guidance on the Serious Organised Crime and Police Act 2005.

- viii. That there should be parity of rank between the Debrief Manager and the Senior Investigating Officer of the investigation team to aid effective communication; there *'should be a relationship which is clearly defined, recorded and subject to inclusion within the terms of reference of the [Gold] Group'*;¹⁰¹

The Metropolitan Police state that a Detective Inspector as Debrief Manager will link in with the Senior Investigating Officer, who may be a Detective Inspector or Detective Chief Inspector, and that the Debrief Manager *'delegates as necessary'*.

- ix. That the whole Prosecution Team (police, Crown Prosecution Service and Counsel) should take a proactive role in the development and function of such witnesses; that as the Crown Prosecution Service enters into the agreement with the witness, it must be kept informed of all developments;

The Metropolitan Police state that this is now done as a matter of course.

- x. That consideration should be given to the benefit of the Crown Prosecution Service lawyer dealing directly with the solicitors for such a witness;

The Metropolitan Police state that *'there has never been occasion when SOCPA [Serious Organised Crime and Police Act 2005] lawyers have not been happy to deal direct with the Police De-brief Unit'*.

- xi. That consideration should be given to the use of an appropriate adult for witnesses who might be vulnerable as a consequence of the state of their mental health.

- xii. **The Metropolitan Police state that they would always err on the side of caution and *'follow the spirit of PACE [Police and Criminal Evidence Act 1984] to ensure that the process was protected, and the Assisting Offender given the assistance and reassurance required'*.**

3.2.6 Control and direction of investigation/Prosecution

96. The review report made six recommendations about the control and direction of an investigation: recommendations 12-17.¹⁰² The first of these related to the fact that the Abelard Two Investigation was not managed within normal Metropolitan Police reporting structures (see Chapter 8, Abelard Two Investigation). The review report noted that *'[c]ircumstances and events' had resulted in the Abelard Two Investigation being managed outside the systems already in place for the investigation of murder within the Metropolitan Police, and that *'[w]ilst this may have had some merit and maintained confidentiality (considering the background of the case) it resulted in a complex management arrangement'*.*¹⁰³

101 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p21, May 2012.

102 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, pp25-27, May 2012.

103 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p25, May 2012.

97. The implication that the Abelard Two Investigation was not managed according to normal reporting structure *'to maintain confidentiality'* is not sustainable in the light of the available evidence. While there was an awareness of the need for security, confidentiality was not given at any stage as a reason why the investigation was not managed according to normal reporting structures.

98. Accordingly, Good Practice Point 12 provided that, ***'[h]istorical and complex cases such as these should be structured within the governance arrangements and systems already in place within the MPS [Metropolitan Police Service] – primarily within the MPS Homicide & Serious Crime command.'*** [bold in original]¹⁰⁴ The Review Report also stated that *'[i]t is recommended therefore that any future investigation of this type should pay particular and detailed attention to the direction of the strategy – utilising the mechanisms already in place and in use within the MPS and as guided by MIRSAP [Major Incident Room Standard Administrative Procedure] and the MPS Murder Manuals'*.¹⁰⁵

99. The Metropolitan Police response to the Panel regarding this Good Practice Point (12) was that *'[t]his particular agreement was unique and is unlikely to be repeated'*. The way in which the Abelard Two Investigation was run resulted in massive unnecessary costs, both human and financial. It is essential that the Metropolitan Police introduce structures to ensure that it does not happen again.

100. The governance arrangements adopted during the Abelard Two Investigation did not have merit and were the subject of challenge by a number of senior police officers (see Chapter 8, Abelard Two Investigation). The review report does not refer to these challenges, or to the fact that there is no record of any Gold Group/oversight group meeting after July 2008, despite the fact that the defendants were not finally acquitted until March 2011. There was an opportunity to consider whether there was any learning to be derived from this fact, but that opportunity was not pursued.

3.2.7 Assessment in the review report of the role of DCS David Cook

101. The review report acknowledged that DCS David Cook had retired from the Metropolitan Police during the investigation, before being immediately re-employed by the Serious Organised Crime Agency. It stated that while he remained within law enforcement and had a detailed knowledge of the case, a handover to a Senior Investigating Officer who was serving in the Metropolitan Police *'would have been more appropriate'*.¹⁰⁶ The review report said that the

104 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p25, May 2012.

105 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p25, May 2012.

106 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p26, May 2012.

decision was made for ‘*sound reasons*’, particularly former DCS Cook’s detailed knowledge of the case and the strong relationship of trust he had developed with members of the family of Daniel Morgan.¹⁰⁷

102. The review report provided in Good Practice Point 13 that, ‘**[t]he SIO [Senior Investigating Officer] *should be employed by the police force that holds primacy for the enquiry. They are then directly accountable to the GOLD group and associated governance arrangements.***’ [bold in original]¹⁰⁸

103. **The Metropolitan Police response to the Panel regarding this Good Practice Point (13) simply reiterated the statement that the decision was made for ‘sound reasons’, particularly former DCS David Cook’s detailed knowledge of the case and the strong relationship of trust he had developed with members of the family of Daniel Morgan.**¹⁰⁹

104. In making this finding, the review report does not allude to the complications resulting from the fact that DCS David Cook had been on full-time secondment from the Metropolitan Police even before his appointment as Senior Investigating Officer in March 2006 and until his retirement in December 2007. There is no consideration of whether any learning might be available with reference to this situation. Nor is there any consideration of the fact that the Gold Group/Oversight Group did not meet after July 2008. This failing was particularly important since former DCS Cook was no longer in the employment of the Metropolitan Police.

105. The review report did not identify the confusion which existed in the Metropolitan Police as to whether former DCS David Cook had continued to be the Senior Investigating Officer of the Abelard Two Investigation after he left the Metropolitan Police (see Chapter 8, Abelard Two Investigation). As stated very clearly in the exchange of emails between the Metropolitan Police and the Serious Organised Crime Agency, from the date of his retirement, former DCS Cook did not have the powers which a Senior Investigating Officer requires. In glossing over these facts, and the consequence of them, the review report did not articulate any learning from this situation, other than that the Senior Investigating Officer should be employed by the police force which holds primacy in the investigation. This was not, and is not, necessary. What was, and is, necessary is that the Senior Investigating Officer’s role and responsibilities are clear, that the Senior Investigating Officer has the necessary authority, and that there is a proper and clear command structure for any investigation.

107 Crown Prosecution Service/Metropolitan Police, ‘*Review into Operation Abelard II*’, MPS109655001, p26, May 2012.

108 Crown Prosecution Service/Metropolitan Police, ‘*Review into Operation Abelard II*’, MPS109655001, p25, May 2012.

109 Crown Prosecution Service/Metropolitan Police, ‘*Review into Operation Abelard II*’, MPS109655001, p26, May 2012.

106. The review report did not consider any other aspects of the role held by former DCS David Cook, which included assumption of the role of Family Liaison Officer and his overall command of the debrief of James Ward and in the absence of a Gold Group.

3.3 The case management process

107. The review report stated that Case Management Panels¹¹⁰ were held during the Abelard Two Investigation and that their use had become well established practice. The Review Report stated *‘[t]he panel is chaired by a senior lawyer, including the Director of Public Prosecutions or Chief Crown Prosecutor and their function is to oversee the effective progression of the prosecution, ensuring sound decision making and offering advice and guidance’*.¹¹¹

108. Accordingly, Good Practice Point 14 provided that **‘[c]ases of this significance and complexity should be the subject of a CPS [Crown Prosecution Service] Case Management Panel’**. [bold in original]¹¹²

109. In its response to the Panel on 03 April 2020, the Crown Prosecution Service stated that Case Management Panels *‘continued to be a common feature in serious and complex cases’*. The Crown Prosecution Service further stated that:

*‘Local Case Management Panels (LCMPs) are regularly held in teams across the CPS [Crown Prosecution Service] – usually chaired by the Deputy Chief Crown Prosecutor. These are a useful tool for senior oversight of serious and/or complex cases. Cases of National significance are reported to the Director of Legal Services each month by the Chief Crown Prosecutors of each CPS Area. Cases which require further oversight can be called for a National Case Management Panel, chaired by the Director of Legal Services. Now, as then, the purpose is to oversee the effective progression of the prosecution, ensure sound decision making and offer advice and guidance.’*¹¹³

110. Examination of the papers available to the Panel reveals extensive consultation between the Crown Prosecution Service lawyer for the case, Stuart Sampson, Counsel, DCS David Cook and others. However, the Panel has not seen evidence of such a structured process including the Director of Public Prosecutions or Chief Crown Prosecutor or any other senior lawyer employed by the Crown Prosecution Service during the Abelard Two Investigation.

110 *‘The CPS [Crown Prosecution Service] [...] introduced Case Management Panels during 2005 to oversee the strategies being applied in the prosecution of these very high cost cases likely to take more than eight weeks at trial. Case Management Panels in respect of the most serious and complex cases are chaired by the DPP [Director of Public Prosecutions], whilst others are chaired by CCPs [Chief Crown Prosecutors] or Heads of Casework Divisions. The process enables the Director, and CCPs [Chief Crown Prosecutors], to provide personal assurance to the Attorney, and the wider CJS [Criminal Justice System] community, that appropriate consideration has been given to all pertinent issues surrounding the launch of any substantial prosecution case due to last eight weeks or more at trial, and that the case is kept under regular review.’* (Crown Prosecution Service annual report and resource accounts 2005-06, p30, ordered by the House of Commons to be printed July 2006).

111 Crown Prosecution Service/Metropolitan Police, *‘Review into Operation Abelard II’*, MPS109655001, p26, May 2012.

112 Crown Prosecution Service/Metropolitan Police, *‘Review into Operation Abelard II’*, MPS109655001, p26, May 2012.

113 Crown Prosecution Service response to the Panel, Good Practice Point 14, 03 April 2020.

111. The review report stated that, '[f]urther to Recommendation 13,¹¹⁴ we recommend that the police and CPS [Crown Prosecution Service] consider succession planning for all members of the prosecution team. It may be appropriate to appoint deputies for key members of the prosecution team, who will be able to assist both in busy periods and take over in the event that the relevant police officer or lawyer is absent or leaves the team.'¹¹⁵

112. Accordingly, Good Practice Point 15 provided that '**[i]n protracted cases prosecution team succession planning should be considered**' [bold in original].¹¹⁶

113. In its response to the Panel on 03 April 2020, the Crown Prosecution Service stated that such cases are relatively rare and are likely to be handled by their Central Casework Divisions. The Crown Prosecution Service further stated that:

*'The decisions around allocation of lawyer and prosecutor to a case is one for local managers, however where it is anticipated that a case is likely to be particularly complex or lengthy the CCD's [Central Casework Divisions] operate a "buddying" system where cases are allocated to a lead lawyer and a junior lawyer. This allows for work to be shared but also provides some resilience to the team in the event that one of the lawyers becomes unwell or leaves the organisation.'*¹¹⁷

114. The Metropolitan Police response was that this was a matter for the Crown Prosecution Service. However, Good Practice Point 15 clearly envisages that police officers are part of the '*prosecution team*' and requires a response from the police as to how succession issues in investigation teams are dealt with. The Metropolitan Police subsequently provided information about a 2017 model adopted by a named Detective Superintendent. However, it does not address the specific question.

115. The review report stated that:

'[a] strategy is required to assist effective judicial case management throughout the duration of the case and adherence to the Criminal Procedure Rules. Case Management hearings should utilise clear agendas, as identified in this case, as good practice.

*'In multiple defendant prosecutions there are likely to be extensive and repetitive oral legal arguments as between defendants. We recommend that the trial Judge is encouraged to rely on written advocacy, supplemented only when necessary by oral submissions. This will ensure hearings are focused, and court time is used efficiently. The prosecution should also encourage the management of the case through adherence to the Criminal Procedure rules.'*¹¹⁸

116. Good Practice Point 16 therefore stated the need to '**[e]nsure there is a strategy in place to assist effective judicial case management**'¹¹⁹ [bold in original].

114 Good Practice Point 13.

115 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, p26, May 2012.

116 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, p26, May 2012.

117 Crown Prosecution Service response to the Panel, Good Practice Point 15, 03 April 2020.

118 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, pp26-27, May 2012.

119 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, p26, May 2012.

117. In its response to the Panel on 03 April 2020, the Crown Prosecution Service stated that its new case management initiative, the '*Better Case Management*' introduced in 2015, '*supports the Court to play its pivotal role in ensuring consistent judicial case management*'. The Crown Prosecution Service further stated that:

'The use of PTPH [Plea and Trial Preparation Hearing] forms, completed prior to the Court hearing, allow for active judicial scrutiny of the preparation of the case.

Lead Counsel is, ultimately, responsible for assisting the Judge at any hearings and it is common practice in complicated cases for Agenda's [sic] or Case Notes to be provided in advance of hearings to assist the Court.

*DMDs [Disclosure Management Documents] are another mechanism by which the Prosecution engages the Court and the Defence in its strategy in respect of the handling [of] unused material. They are served in advance of the PTPH [Plea and Trial Preparation Hearing] where possible.'*¹²⁰

118. Good Practice Point 17 was '**Appointment of a trial judge**'¹²¹ [bold in original].

119. The review report stated that:

*'[d]ue to the category of the charge in this case, namely murder, under the case release provisions, consideration had to be given to the appropriateness of releasing the proceedings from a High Court Judge to an authorised Senior Circuit or Circuit Judge. Owing to the complexities in this case it was retained by a High Court Judge. It will be important for the CPS [Crown Prosecution Service] to inform the court of all the complexities in a case, in order to ensure a Judge with the necessary experience is appointed.'*¹²²

120. In its response to the Panel, the Crown Prosecution Service stated that:

*'The allocation of cases to an appropriate Judge is a matter for the Court. However, the CPS [Crown Prosecution Service] and HMCTS [Her Majesty's Courts and Tribunals Service] operate a "case release" system which allows the prosecution to identify matters of significance that may warrant the case to be released from the ordinary allocation route. This is secured by completing a case release form and sending it to the Court.'*¹²³

120 Crown Prosecution Service response to the Panel, Good Practice Point 16, 03 April 2020.

121 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, p27, May 2012.

122 Crown Prosecution Service/Metropolitan Police, '*Review into Operation Abelard II*', MPS109655001, p27, May 2012.

123 Crown Prosecution Service response to the Panel, Good Practice Point 17, 03 April 2020.

121. Although the Crown Prosecution Service stated to the Panel in November 2020 that the review report was a '*review into key aspects of the investigation and prosecution of the murder of Daniel Morgan*' and that it was '*not intended to be a cross criminal justice system review*', it would have been useful had those conducting the review consulted with the judiciary generally, or with Mr Justice Maddison in particular, during the course of their work and with the defence lawyers. They may have had useful observations to make about the operation of the Crown Prosecution Service and the Metropolitan Police and these could have been discussed at the time. It was not entirely surprising that issues arose that potentially affected other parts of the Criminal Justice System. These should have been discussed at the time by the Crown Prosecution Service/Metropolitan Police review team with the relevant institutions to determine whether any amendments to current practice were required.

122. The Crown Prosecution Service and Metropolitan Police review process afforded an opportunity for the two organisations to consider in depth what had happened during the Abelard Two Investigation and to identify any lessons learned, or good practice. Even accepting the limitations of the Terms of Reference, the review report did not clarify many of the failures in the governance and management of the Abelard Two Investigation. Its 'Good Practice Points', while largely representing current guidance and legal requirements, did not cover the totality of the issues which can be identified.

123. The review report did not identify any issues which had resulted from current practice not being followed in this case and did not identify any lessons which might have been learned. The failures of governance, the conduct of the Senior Investigating Officer and the disclosure failings led, ultimately, to very protracted pre-trial hearings which would have been avoided had the investigation been properly managed, Prosecution Counsel been properly informed, and appropriate consequential decisions made. Ultimately, it led to successful civil actions against the Metropolitan Police by four of those charged. Very significant damages of £514,000¹²⁴ and costs resulted from these civil actions and added further to the overall costs of the Abelard Two Investigation.

124 Rees & Ors v Commissioner of Police for the Metropolis [2019] EWHC 2120 (Admin), p15, paras 15 and 54-55.

4 The Operation Longhorn Report: the investigation into DCS David Cook's unauthorised disclosure of documents

124. In 2011, Commander Simon Foy and the Metropolitan Police Directorate of Information had conducted a general audit of email contact between journalists and police officers.¹²⁵ As a result, an email had been identified which had been sent from former DCS David Cook to Michael Sullivan, Chief Crime Reporter at *The Sun* newspaper, on 10 March 2011.¹²⁶ The email had included confidential information sent between the solicitor for Daniel Morgan's family and AC John Yates. Former DCS Cook had been copied into this information. The report noted that the email read, *'Mike. Please treat this in confidence but it may be worthy of consideration. Why don't you come to [named police premises] and we will make a coffee. We will have privacy. There is no need to sneak about. Regards DC.'*

125. Both Commander Simon Foy and AC John Yates regarded this as an inappropriate level of contact between a police officer and a journalist.¹²⁷ Consequently, on 26 May 2011, during a meeting with Commander Foy, former DCS David Cook was given an informal verbal warning in relation to his future conduct.¹²⁸ No full audit of former DCS Cook's email account(s) was conducted.

126. At this time, former DCS David Cook was not a police officer, and therefore was not subject to the disciplinary arrangements applicable to serving officers. The status of this warning is therefore unclear. In interview with members of the Panel, former Commander Simon Foy said that at the time the warning was given, he was not aware of any other inappropriate emails being sent by former DCS Cook. He added that if he had been aware of other emails, *'it should have been a criminal investigation'*. Regarding the warning, Commander Foy stated, *'there was a consideration for a thought for Dave's health'*.¹²⁹

127. Unrelated Metropolitan Police investigations into alleged corruption were ongoing in 2011. Michael Sullivan was one of the journalists under investigation in Operation Elvedon, which dealt with allegations that journalists had made corrupt payments to the police for information. Material had been found in the possession of Michael Sullivan which he had received from former DCS David Cook, including over 500 emails between former DCS Cook and Michael Sullivan.^{130,131} The matter was brought to the attention of the Serious Organised Crime Agency, as former DCS Cook's current employer.

125 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p8, para 22, September 2014.

126 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p8, para 22, September 2014.

127 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, pp8-9, para 23, September 2014.

128 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p9, para 24, September 2014.

129 Panel interview with former Commander Simon Foy, PNL000180001, p7, 26 November 2019.

130 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p9, para 25, September 2014.

131 Metropolitan Police Operations Elvedon, and Tuleta; *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p3, para 4, September 2014.

128. On 07 December 2011, the Serious Organised Crime Agency referred the matter to the Independent Police Complaints Commission, alleging that during his time in charge of the investigation into the murder of Daniel Morgan, former DCS Cook had passed sensitive information and material (including police files, reports to the Crown Prosecution Service and other sensitive investigative material) to Michael Sullivan. The Independent Police Complaints Commission launched an investigation into the conduct of former DCS Cook as a result of these allegations.¹³² This investigation was referred to as Operation Longhorn.

129. The Independent Police Complaints Commission established the following Terms of Reference for the investigation:

- i. *'To investigate:*
 - a. *The quantity, content and sensitivity of classified police documentation/ information passed by David Cook (e-mail and any other means) to individuals outside the police service during the period 2006 to 2011.*
 - b. *Whether or not David Cook was authorised by any law enforcement agency to disclose such material to any third party outside the police service.*
 - c. *To identify whether any subject of the investigation may have committed a criminal offence and if appropriate, make early contact with the Director of Public Prosecutions [...]. On receipt of the final report, the Commissioner shall determine whether the report should be sent to the DPP [Director of Public Prosecutions].*
 - d. *To identify whether any subject of the investigation, in the investigator's opinion, has a case to answer for misconduct or gross misconduct, or no case to answer.*
- ii. *To consider and report on whether there is organisational learning, including:*
 - *Whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated;*
 - *Whether the incident highlights any good practice that should be shared.*¹³³

130. Former DCS David Cook was arrested on 10 January 2012, on suspicion of having committed the offence of misconduct in public office and offences contrary to section 55 of the Data Protection Act 1998.¹³⁴ Various computers, mobile phones, IT storage equipment and documents were seized from former DCS Cook's home, and charred remains of what appeared to be intelligence-related documents were found in a dustbin.¹³⁵ He was taken to a police station for questioning and interviewed under caution. During the interview, which was recorded and

¹³² 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p3, paras 1-2, September 2014.

¹³³ 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, pp4-5, para 5, September 2014.

¹³⁴ 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p5, para 7, September 2014.

¹³⁵ 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p5, paras 7-8, September 2014.

videoed, he made no comment in response to the questions put to him and was released on bail, pending further enquiries. He was formally suspended from duty by the Serious Organised Crime Agency before he was released.¹³⁶

131. The Independent Police Complaints Commission was granted full access to all the material recovered during the search of Michael Sullivan's home and workplace. Material from his computers and other electronic storage devices matched that sent by former DCS David Cook to him. The Independent Police Complaints Commission was provided by the Metropolitan Police with 620 emails and 5,846 pages of documents which had been provided to Operation Elveden by the Management Standards Committee at News International, which had been established to provide oversight of all matters relating to News International. The documents covered the period from 23 August 2006 to 07 September 2011. Michael Sullivan was also in possession of material relating to the Daniel Morgan murder which '*could not be sourced back to David Cook's trail of e-mails*'.¹³⁷ The Independent Police Complaints Commission stated that '*it is not known how the journalist came to be in possession of this material*'.¹³⁸

132. Michael Sullivan was treated by the Independent Police Complaints Commission as a witness. It was established that former DCS David Cook was actively seeking Michael Sullivan's help in writing a book about his investigation of the murder of Daniel Morgan. There was a genuine friendship between the two of them and no evidence had been found to suggest he had used the material sent to him by former DCS Cook for any other journalistic purpose.¹³⁹ Michael Sullivan declined to assist the investigation.

133. It is understandable that Michael Sullivan was not treated as a suspect by the Independent Police Complaints Commission, but he was a suspect in Operation Elvedon, and he was in possession of information which belonged to the Metropolitan Police and others, and which should not have been made available to him. This matter should have been dealt with by the Metropolitan Police.

134. The Panel asked the Metropolitan Police about the emails and attachments sent between former DCS David Cook and Michael Sullivan, which had been handed to them during Operation Elveden, by News International, the owner of *The Sun* newspaper for which Michael Sullivan worked. According to the Metropolitan Police response, the Panel understands that the Metropolitan Police did not:

- i. take any measures to ensure that copies of the material that were handed over to them were retrieved and deleted from all News International systems;
- ii. seek an undertaking or any assurances from News International, Michael Sullivan and/or anyone else that no copies of this material had been taken and preserved elsewhere;

136 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p6, para 10, September 2014.

137 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p13, para 46, September 2014.

138 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p13, para 46, September 2014.

139 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, pp13-14, paras 47-48, September 2014.

- iii. nor did they consider seeking an order under section 3 of the Torts (Interference with Goods) Act 1977 for obtaining emails and the attached documents which may still be held by Michael Sullivan.¹⁴⁰

135. The Panel has found no evidence that the Metropolitan Police considered all possible options available to them to enable the recovery of material belonging to them, as a law enforcement agency. This was a significant failing, as much of the material, disclosed without authorisation to Michael Sullivan, was highly sensitive. The disclosure of at least some of this material may have involved a risk to life of those identified in particular documents.

RECOMMENDATION

136. It is recommended that the Metropolitan Police establish a process to inform police officers about the recovery options available to them when material is unlawfully disclosed.

137. The Independent Police Complaints Commission stated that former DCS David Cook had been authorised to work from home, that his address had been subject to relevant Home Office security checks, and that his homeworking was approved by both the Metropolitan Police and the Serious Organised Crime Agency.¹⁴¹

138. The Independent Police Complaints Commission articulated the content and impact of the Metropolitan Police policies, in relation to both working away from the office and protective marking. These policies are outlined below:¹⁴²

- i. Emails should only be sent from the appropriate Metropolitan Police accounts when working away from the office.
- ii. Emails should only be sent to personal accounts if the contents and attachments did not merit a protective marking and did not contain personal information.
- iii. The Protective Marking System¹⁴³ provides for marking documents so as to ensure correct handling procedures:
 - a. To view 'Restricted' or 'Confidential' documents it is necessary to be approved as at least 'Security Cleared'.
 - b. Material marked 'Restricted' must not be transmitted over the internet without the use of approved encryption.

140 Email response from the Metropolitan Police, 07 May 2020 2:01 pm.

141 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p5, para 9, September 2014.

142 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, pp36-38, paras 179-191, September 2014.

143 These were the Information Handling policies relevant at the time. Since 2015 the policies and the classification system has changed.

c. Material marked 'Confidential' must not be transmitted over the internet.

(Only the categories 'Restricted' and 'Confidential' are relevant to the material disclosed by former DCS David Cook.)

iv. Any access to the internet must be through an approved firewall.

v. Any use of Metropolitan Police information must be lawful and must not breach any relevant Metropolitan Police policy or operating procedures.

139. Police officers, civil servants and others are vetted, and their vetting status determines the extent to which they can have access to documentation and secure premises. Records show that DCS David Cook was vetted to a high level from 1999, 2004 and 2009.¹⁴⁴ DCS Cook would have had the access he required to enter secure premises and to hold, in accordance with security requirements, sensitive documentation.

140. The Independent Police Complaints Commission did not articulate in its report the restrictions on access to protectively marked documentation, which can only be viewed by people who have the appropriate security clearance to enable the viewing of such documents. There is nothing in the report to indicate that Michael Sullivan had ever been assessed for security clearance.

141. The Independent Police Complaints Commission Report considered the Metropolitan Police media policy of 2006. The Independent Police Complaints Commission Report noted that '*[i]nspectors and above were authorised to speak to the media about their own areas of responsibility, provided an embargo would not be broken or disclosure would not compromise an investigation, operation or the judicial process and in high profile investigations SIO's [sic] [Senior Investigating Officers] were expected to make the media handling policy for the investigation clear to their team through briefings and decision log entries*'.¹⁴⁵ In addition, the policy '*allowed for "off the record" dealings with journalists dealing with matters not for public disclosure with an understanding of maintaining confidentiality and specification of what could be published*'.¹⁴⁶

142. The Independent Police Complaints Commission Report also noted the media policy's provision that '*[t]he MPS [Metropolitan Police Service] will not, however, tolerate any police officer [...] who improperly discloses information (either deliberately or recklessly) to the media (for example for personal gain or contrary to the media handling policy set out by an SIO [Senior Investigating Officer])*'.¹⁴⁷

144 D140, MPS107542001, pp48 and 67.

145 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p36, para 180, September 2014.

146 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p36, para 181, September 2014.

147 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, pp36-37, para 182, September 2014.

143. The Independent Police Complaints Commission Report noted that ‘[a]s a *Detective Chief Superintendent attached to the MPS [Metropolitan Police Service] Homicide Command, David Cook would have been fully aware of the MPS media policies including that which warned, “The unofficial disclosure of information could not only have an impact on an investigation it could also damage the credibility of the MPS and its staff”*’.¹⁴⁸

144. The Panel obtained from the Metropolitan Police documents and policies covering the period between 2000 and 2019. Two policies applied during the period when DCS David Cook was working on the Abelard One/Morgan Two and Abelard Two Investigations.

145. The first document, dated 22 September 2000, was issued as a Special Notice to the Metropolitan Police by the then Commissioner, Sir John Stevens (now Lord Stevens). It was generally very encouraging of disclosure of information to the media, while recognising that ‘*it would be inappropriate for officers and civil staff to comment, such as with issues of security, terrorism and other critical incidents*’.¹⁴⁹ Among other things, the Commissioner said:

*‘If we are to gain the goodwill, **confidence** [bold in original] and support of the general public and achieve our aim of making London a safer place, we need to re-engage with the media and seize every opportunity to be much more proactive.*

‘I want to see Metropolitan Police officers and civil staff representing the Service through the media, speaking up about their achievements, correcting inaccuracies and just as importantly, explaining why things may not have gone as we would have liked.’¹⁵⁰

146. The Special Notice provided that:

- i. *‘Inspectors and above are authorised to speak to the media about their own areas of responsibility.*
- ii. *When confidence and trust is established, there may be occasions when **senior officers** [bold in original] will feel able to talk to reporters on an ‘off the record’ basis – dealing with matters not for public disclosure, explaining reasons for maintaining confidentiality and specifying what might be published.*
- iii. *It will be for OCU [Operational Command Unit] commanders and heads of branches to decide at what levels within their own areas of responsibility such discretion may be exercised.’¹⁵¹*

147. **The Special Notice made no specific reference to investigations. However, the Panel notes that in justification of his many disclosures to journalists, former DCS David Cook spoke repeatedly of correcting misapprehensions, protecting the reputation of the police and acting in the public interest. This was very much the language of the Commissioner’s document on media relations.**

148 ‘Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office’, IPC001370001, p40, para 202, September 2014.

149 Special Notice19-00, p2, 22 September 2000.

150 Special Notice19-00, p1, 22 September 2000.

151 Special Notice19-00, p2, 22 September 2000.

148. The second document was the Media Relations Standard Operating Procedures, which were issued in 2006 by the then Commissioner, Sir Ian Blair (now Lord Blair), and were referred to by the Independent Police Complaints Commission (see paragraphs 141-143 above). In addition to the matters alluded to by the Independent Police Complaints Commission, the Standard Operating Procedures stated that *'it is unlikely that', in high profile investigations, 'the senior investigating officer (SIO) would wish any officer or police staff to divulge information without his/her express permission'*. The Procedures provided no specific advice or requirements for Senior Investigating Officers who wished to liaise with the media in relation to their investigations. They did, however, state very clearly that it is necessary that such *'disclosure would not compromise an investigation, operation or the judicial process'*.¹⁵²

149. Some of the emails had been sent by DCS David Cook from his work email account(s) to his personal email account(s), and then forwarded to Michael Sullivan's personal account, which Michael Sullivan shared with his wife. On occasion, Michael Sullivan forwarded the documents to other email accounts which he had, predominantly his account with *The Sun* newspaper.¹⁵³

150. The Independent Police Complaints Commission Report stated that *'[t]he emails sent by David Cook have been graded and those which are detailed below are those which in the view of the IPCC [Independent Police Complaints Commission] contain information which is of a most serious nature including those which contain sensitive police information and or personal information about others. Due to the quantity of email contact a policy decision was made to prioritise those which contained some level of sensitive or classified information.'*¹⁵⁴

151. Although all the emails and attachments sent by former DCS David Cook to Michael Sullivan were analysed, the report of the Independent Police Complaints Commission focused on 46 emails which had been sent from former DCS Cook to Michael Sullivan. These 46 emails were considered to *'represent potentially the most serious examples of unauthorised or inappropriate disclosure'*.¹⁵⁵ Of the 46 emails, 43 had attachments.¹⁵⁶ The majority of these emails were sent between September 2008 and March 2011.¹⁵⁷

152. An analysis of the attachments to the 43 emails which had been sent by former DCS David Cook to Michael Sullivan was prepared for the Independent Police Complaints Commission by DS Gary Dalby of the Metropolitan Police. The Operation Longhorn Report states that DS Dalby *'had previously worked on the investigation into the murder of Daniel MORGAN and as such had retained a considerable working knowledge of all aspects of the murder investigation'*.¹⁵⁸ DS Dalby was the case officer for the Abelard Two Investigation. A copy of a schedule of 43 attachments to the emails was provided to the Panel.

152 Media Relations Standard Operating Procedures 2006, 05 July 2006.

153 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, pp15-27, paras 56-134, September 2014

154 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p14, para 50, September 2014.

155 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p14, para 51, September 2014.

156 Emails 1-43 from Appendix A of Operation Longhorn Report, IPC001322001-IPC001364001, 07 July 2008-04 May 2011.

157 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p14, para 51, September 2014.

158 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p15, para 53, September 2014.

153. In the schedule,¹⁵⁹ DS Gary Dalby indicated in respect of each attachment:

- i. The identification/description of the document.
- ii. The Protective Marking Assessment:

All the documents which belonged to the Metropolitan Police were classified by DS Dalby as being 'Restricted', with the exception of a letter of apology, dated 30 March 2011, to Alastair Morgan signed by Acting Commissioner Tim Godwin. One of the documents was described as having originally had a '*Highly Confidential*' marking, but as being '*now restricted*'.¹⁶⁰ Another document was marked '*Confidential*' but a redacted version had been disclosed to the Defence. It is not clear whether a redacted version or the unredacted version was sent by former DCS Cook to Michael Sullivan.¹⁶¹ Four documents did not belong to the Metropolitan Police.

- iii. The author, disclosure and circulation details for the document:

In many cases there is no indication that the document had been properly disclosed for the purposes of the Abelard Two Investigation, but it is noted on the schedule that information contained in the document, or the subject matter of the document, had been disclosed in the course of the investigation or discussed in Court at some stage.

- iv. The date on which the document was created.

154. It was legitimate for the Independent Police Complaints Commission to establish whether any of the documents disclosed by former DCS David Cook to Michael Sullivan had previously been disclosed to others. This might enable some assessment of possible harm resulting from the disclosure of the documents. However, the principal question to be determined was whether former DCS Cook had the authority to disclose the particular documents to Michael Sullivan.

155. The following documents/information were among the material which was provided by former DCS David Cook to Michael Sullivan. Some of it was protectively marked, other documents carried no protective marking but former DCS Cook, as an experienced investigator, knew that this material should not have been disclosed to a journalist:

- i. On 07 July 2008, copies of documents created by Defence lawyers for the purposes of a bail application were sent by former DCS Cook to Michael Sullivan. The information within these documents included the naming of five prosecution witnesses together with the Defence's view of their credibility. It also included personal data about the Defendant's extended family, those prepared to stand surety, and details of the Defendant's wife's bank balance.¹⁶² These documents were identified as having been

¹⁵⁹ 'Review of Exhibit KRR/50', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, undated.

¹⁶⁰ 'Review of Exhibit KRR/50', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p1, item 5, undated; and, email 5 of 46 from Appendix A of the Operation Longhorn Report, IPC001326001, pp1-5, 01 February 2009.

¹⁶¹ 'Review of Exhibit KRR/50', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p2, item 7, undated; and, email 7 of 46 from Appendix A of the Operation Longhorn Report, IPC001328001, pp1-6, 16 April 2009.

¹⁶² 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, pp15-16, paras 57-59, September 2014.

supplied by Defence lawyers to the Prosecution for a bail application three days previously, on Friday 04 July 2008. In his email of 07 July 2008, former DCS Cook stated, *'Mike, you can see the way in which JC¹⁶³ will go in his defence.'*¹⁶⁴ The report by the Independent Police Complaints Commission recorded that *'[i]t would not be expected that such a document would be shared with a journalist. The application contained personal information relating to individual bank accounts and similar private information. There was also no investigative rationale or justification for disclosing this document.'*¹⁶⁵

- ii. On 19 January 2009, former DCS Cook sent Michael Sullivan three emails, containing: an original witness statement dated 15 April 1987 from the Morgan One Investigation; the advice file which he had submitted to the Crown Prosecution Service dated 24 March 2003; and a discipline report dated 25 September 2000 from an investigation into corruption offences in 1999. All these documents were marked *'Restricted'*, and the final document was stated in the accompanying schedule (see paragraphs 153-154 above) to be *'[n]ot relevant to the Morgan murder investigation'*.¹⁶⁶
- iii. On 31 January 2009, two emails were sent by former DCS Cook to Michael Sullivan. One contained a typed note, marked *'Abelard Two Highly Confidential.'* It was believed to have been created in January 2009 to explain the chronology and relationships between three connected anti-corruption investigations: Landmark, Hallmark, Nigeria and Two Bridges. The observation on the protective marking column of the schedule was that this had been *'Confidential at time of creation but now restricted'*.¹⁶⁷ The second document was entitled *'Points of Interest from Operation Gallery'* (another Metropolitan Police anti-corruption operation), which contained details of police intelligence about a specific individual and other sensitive information, including detailed information about other named individuals. This document was marked *'Confidential'* and had not been disclosed to the Defence or to the Court.¹⁶⁸
- iv. On 15 April 2009, the Central Service Record of former DS Sidney Fillery was sent to Michael Sullivan. There is no indication that this document was ever disclosed to the Defence lawyers. This document was classified as *'Restricted'*.¹⁶⁹
- v. On 16 May 2009, a copy of a bail application and other sensitive documents, which had been sent to the Crown Prosecution Service and Counsel on 12 May 2009 by a Defendant's solicitor and forwarded to the Metropolitan Police the following day, were provided to Michael Sullivan by former DCS David Cook. The bail application had been heard on 15 May 2009. The accompanying email read *'[t]his, because of its very nature must be kept to yourself and not disseminated or referred to. But it gives some good background.'*¹⁷⁰

163 James Cook

164 Email 1 of 46 from Appendix A of the Operation Longhorn Report, IPC001322001, p2, 07 July 2008.

165 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p16, para 62, September 2014.

166 *'Review of Exhibit KRR/50'*, Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p1, items 2,3 and 4, undated.

167 *'Review of Exhibit KRR/50'*, Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p1, item 5, undated.

168 *'Review of Exhibit KRR/50'*, Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p1, item 6, undated.

169 *'Review of Exhibit KRR/50'*, Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p2, item 11, undated.

170 *'Review of Exhibit KRR/50'*, Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p8, item 33, undated.

- vi. On 28 May 2009, an email was sent from former DCS Cook's personal email account to both Michael Sullivan's personal and *The Sun* newspaper email addresses. There were no documents attached to this email. The email read '*Mike I will speak about this later*',¹⁷¹ and went on to include details of witnesses, some of whom had admitted a number of criminal offences, together with details of their relatives and home addresses.¹⁷²
- vii. An email dated 02 June 2009 informed Michael Sullivan that the Abelard Two Investigation was going to arrest Kim Vian (wife of Glenn Vian) the following week for conspiracy to murder.¹⁷³
- viii. On 04 June 2009, a document totally unrelated to Daniel Morgan's murder was sent by former DCS Cook to Michael Sullivan. It included names, dates of birth and personal telephone numbers of a number of prison officers. This was material which former DCS Cook had obtained in disc format from his employer, the Serious Organised Crime Agency.¹⁷⁴ The material which made up the final document was gathered through the Serious Organised Crime Agency's Document Exchange facility and comprised a synopsis of intelligence reports between August 2004 and 2006, with the caveat '*[t]his publication contains information which if made public may be harmful to the enforcement objectives of the department. Readers are requested to ensure that adequate security arrangements exist for this publication.*'¹⁷⁵
- ix. On 15 July 2009, a copy of a witness statement made by Person J5 was leaked by former DCS Cook to Michael Sullivan.¹⁷⁶ It contained particularly sensitive information. Furthermore, the beginning of the statement indicated that this witness had taken some persuasion to provide information and would not have wanted their details passed to a journalist. According to the schedule, DS Gary Dalby stated that it was subsequently provided to the Prosecution, Defence and the Court, but no date was given as to when this happened. This document was classified as '*Restricted*'. The witness statement was passed to Michael Sullivan on the day after it had been taken, demonstrating the close and regular relationship between former DCS Cook and Michael Sullivan.¹⁷⁷
- x. On 25 August 2009, former DCS Cook emailed Michael Sullivan informing him of the forthcoming arrest of Jacqueline Cook (the wife of James Cook) in a money laundering case. It was accompanied by the following message: '*[...] gets arrested tomorrow for Money Laundering but we do not anticipate much out of it*'.¹⁷⁸

171 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p26, para 125, September 2014.

172 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p26, para 126, September 2014.

173 Email 44 of 46 from Appendix A of the Operation Longhorn Report, IPC001365001, 02 June 2009.

174 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p26, paras 128-130, September 2014.

175 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, pp26-27, paras 130-131, September 2014.

176 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p3, item 13, undated.

177 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p3, item 13, undated.

178 Email 45 of 46 from Appendix A of the Operation Longhorn Report, IPC001366001, 25 August 2009.

- xi. On 05 September 2009, a statement made three days previously, on 02 September 2009, by the wife of one of the Defendants, was leaked by former DCS Cook to Michael Sullivan. It was disclosed to the Defence on 17 September 2009 in the unused witness list.¹⁷⁹ This document was classified as '*Restricted*'.¹⁸⁰
- xii. An email dated 11 September 2009 was sent to Michael Sullivan, to which was attached a report to the Crown Prosecution Service seeking a decision as to whether to charge Kim Vian (see paragraph 155 vii above) in connection with the murder of Daniel Morgan. The email contained the following statement: '[s]he will never get charged but you could almost turn this into part of a chapter on its own right with a bit of wordsmithing'.¹⁸¹
- xiii. On 17 October 2009, by email, former DCS Cook informed Michael Sullivan that '*we have found 4 pieces of DNA on Daniel's shoe which we have sent for urgent profiling...*'. This information should not have been disclosed. In the event no profile was secured.¹⁸²
- xiv. On 27 October 2009, a report on an unrelated and unsolved murder in 1996 was emailed by former DCS Cook to Michael Sullivan. It named suspects and had been sent to the Abelard Two Investigation by Essex Police, following the provision of information by a witness to the Abelard Two Investigation.¹⁸³ This document was classified as '*Restricted*' and had, until that point, only been revealed to the Crown Prosecution Service and Prosecution Counsel. Former DCS Cook had written in his email to Michael Sullivan, '[n]ot for further circulation'.
- xv. On 02 November 2009, details of a visit made to a secure psychiatric hospital, to obtain information from two named patients about violent incidents to which they were linked, were leaked by former DCS Cook to Michael Sullivan.¹⁸⁴ The document containing the details had been provided to the Abelard Two Investigation three days previously, on 30 October 2009, by the officer who had visited the hospital.¹⁸⁵ It was reported to be accompanied by an email from former DCS Cook which stated, '*Mike, This will give you some great background of the levels of violence the Vians are engaged in. It is absolutely not for further circulation.*'¹⁸⁶ DS Dalby recorded that it was made available for inspection by Defence lawyers from February 2010.¹⁸⁷ This document was marked '*Sensitive*' and classified as '*Confidential*'.
- xvi. On 22 November 2009, a very lengthy statement made by an undercover police officer, which related to a drugs operation and which ultimately led to a conviction, was provided by former DCS Cook to Michael Sullivan.^{188,189} It did not relate directly to the

179 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p3, item 15, undated.

180 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p3, item 15, undated.

181 Email 18 of 46 from Appendix A of the Operation Longhorn Report, IPC001339001, 13 September 2009.

182 Witness statement, MPS003719001, 21 December 2009.

183 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p5, item 22, undated.

184 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, [IPC001321001](#), p5, item 23, undated.

185 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, [IPC001321001](#), p5, item 23, undated.

186 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, [IPC001321001](#), p5, item 23, undated.

187 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, [IPC001321001](#), p5, item 23, undated.

188 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p6, item 25, undated.

189 Email 25 of 46 from Appendix A of the Operation Longhorn Report, IPC001346001, pp2-21, 22 November 2009.

murder of Daniel Morgan but was relevant to the credibility of one of the witnesses.¹⁹⁰ It was disclosed a month later on 21 December 2009 to Defence lawyers. This document was classified as '*Restricted*'.¹⁹¹

- xvii. On 26 November 2009, the Metropolitan Police Report to the Crown Prosecution Service dated 03 October 1999 following Operation Two Bridges, which included details of officers suspected of corruption and the investigation thereof, was sent by former DCS Cook to Michael Sullivan.¹⁹² The schedule records that '*[a]ll information contained in the file would have been disclosed at the trial of Rees and Others in 2000 and was discussed at length in the Abuse arguments*'. This document was classified as '*Restricted*'.¹⁹³
- xviii. On 30 November 2009, documentary exhibits gathered in a previous Metropolitan Police corruption operation, including invoices from Southern Investigations and Experian¹⁹⁴ and a list of VAT of clients were leaked by former DCS Cook to Michael Sullivan.¹⁹⁵ They related to Southern Investigations enquiries and Experian checks made in 1999, apparently on behalf of the *Daily Mirror* newspaper, regarding a named Member of Parliament and his family.¹⁹⁶ These documents were classified as '*Restricted*'.
- xix. On 02 June 2010, a document was provided by former DCS Cook to Michael Sullivan^{197,198} which contained information about two of the suspects and extracts from probe material obtained during Operation Nigeria/Two Bridges, together with a list of corrupt, named former police officers associated with the Defendants, including details of any criminal convictions. This document was created by DS Dalby in May 2010. The accompanying email from former DCS Cook to Michael Sullivan conveyed that '*[t]he attached file may be of some interest re background [...] the project is lodged in my mind about hoping to get something out of this otherwise I am saddled with a mortgage that I neither want or need*'.¹⁹⁹ This document was classified as '*Restricted*'.
- xx. On 23 February 2011, an email was sent by former DCS Cook to Michael Sullivan which contained a transcript from a covert listening device recorded in Glenn Vian's home on 19 October 2002.²⁰⁰ In the accompanying email, former DCS Cook wrote '*Mike Reference our discussion yesterday. The attached is the conspiracy by Glenn and Garry that was captured by the probe we deployed through the house we purchased. With regards the other stuff, if I can find a way of getting it out without causing any problems I will see what I can do.*' This document was classified as '*Restricted*'.²⁰¹

190 Person F11.

191 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p6, item 25, undated.

192 Email 32 of 46 from Appendix A of the Operation Longhorn Report, IPC001353001, 26 November 2009.

193 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p7, item 32, undated.

194 Experian plc is a company which carries out financial checks on individuals and companies.

195 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p7, item 31, undated.

196 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan [GXD/1/01052013], IPC001321001, p7, item 31, undated.

197 Email 28 of 46 from Appendix A of the Operation Longhorn Report, IPC001349001, pp3-8, 02 June 2010.

198 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p6, item 28, undated.

199 Email 28 of 46 from Appendix A of the Operation Longhorn Report, IPC001349001, p2, 02 June 2010.

200 Email 37 of 46 from Appendix A of the Operation Longhorn Report, IPC001358001, 23 February 2011.

201 '*Review of Exhibit KRR/50*', Email from former DCS David Cook to Michael Sullivan, IPC001321001, p9, item 37, undated.

156. Thirteen emails, which had been sent by former DCS David Cook from his Serious Organised Crime Agency email address, were examined on behalf of the Serious Organised Crime Agency. The assessment was that eight posed a critical risk, three a high risk and two a medium risk to the organisation.²⁰²

157. The material (see paragraph 155 above) which was leaked by former DCS David Cook derived from a number of sources. It was fundamentally important material which should not have been leaked and its leaking had the capacity to jeopardise future investigative work on the issues contained in the material, to endanger named individuals and to significantly damage public trust in the institutions concerned. It is noted that former DCS Cook was leaking material within days of receipt by him, often before legitimate disclosure to others in the course of his work.

158. Emails sent by former DCS David Cook to Michael Sullivan which were not considered among the 46 emails analysed in depth in the Independent Police Complaints Commission report, included:

- i. An email dated 09 April 2010 to which was attached a file relating to the evidence provided by Person J5 about the Asda supermarket robbery in March 1998. The email stated, '*[i]t will give you a further flavour of the stuff from [Person J5]*'.²⁰³
- ii. An email dated 28 June 2010 which had been sent to AC John Yates, attached to which was a tabular analysis of the evidence given by all the major witnesses to date and evidence derived from the Inquest against each of the four Defendants charged with the murder of Daniel Morgan. Former DCS Cook stated, '*I have sent this on to JY [AC John Yates] for his information, but you may find it of value.*'^{204,205}

159. In addition to these emails, the material provided to Operation Longhorn, by the Metropolitan Police, from News International's Management and Standards Committee included:

- i. An email dated 30 April 2009 in which Michael Sullivan boasted to an independent agent that he had been given '*exclusive access to confidential police files going back 20 years*' relating to the murder of Daniel Morgan;
- ii. An email dated 28 September 2010 from former DCS David Cook to Michael Sullivan which had attached copy invoice receipts from News International Supply Company relating to work completed by WJ Rees for various enquiries;
- iii. An email dated 14 January 2011 to Michael Sullivan containing a copy of the Summary of Evidence against Jonathan Rees and a copy of all the evidential probe transcript material.²⁰⁶

202 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p27, para 134, 07 December 2011.

203 Email from former DCS David Cook to Michael Sullivan, EDN001121001, 09 April 2010.

204 Email from former DCS David Cook to Michael Sullivan, EDN001819001, 28 June 2010.

205 Evidence summary, document attached to email dated 28 June 2010, EDN001820001, undated.

206 Report MPS10984001, p.2 31 July 2014.

- iv. An email dated 24 May 2009 from former DCS Cook to Michael Sullivan in which he said that he had *'boxed up all 9 of the material I have in terms of corres etc'* and that material relates to: *'[t]he Adams (believed to be Ray Adams) and Taffy Holmes stuff but includes the "Hampshire Investigation"'*. Former DCS Cook said that he had *'told Jacqui we are moving it to your brothers so that we can work on it there.'* There was no search of Michael Sullivan's brother's house during either Operation Elvedon or Operation Longhorn.

The Crown Prosecution Service was said to have been provided with all the emails and attachments which had been disclosed to Michael Sullivan. For reasons of economy and brevity, the report focused on the 46 emails discussed above. However, other documents such as those referred to in paragraphs 158 and 159 were equal in significance to many of those on which the report focused.

160. The Panel asked the Metropolitan Police a series of questions on 05 September 2019 about the steps taken in relation to the unauthorised disclosures and breaches of the Data Protection Act 1998. In response to those questions, the Metropolitan Police:

- i. indicated that no Metropolitan Police risk assessments of affected individuals were completed;
- ii. indicated that individuals who were mentioned in the documents, or whose witness statements had been disclosed, had not been informed of the personal data breach; and
- iii. could provide no information as to whether the Information Commissioner's Office had been informed about the data breaches at the time.²⁰⁷

161. The Information Commissioner was asked whether the breaches of the Data Protection Act 1998 had been reported to the Information Commissioner as required by law. The Information Commissioner was unable to state whether the breaches had been reported but confirmed that no information regarding the issue was currently held.

162. The Metropolitan Police owed a duty of care to anyone who was put at risk by the unlawful disclosure of documents by former DCS David Cook. The Metropolitan Police should have conducted any necessary risk assessments, notified these individuals that their personal data had been unlawfully disclosed, and informed the Information Commissioner, as was good practice at the time and is now prescribed by law under section 67 and section 68 of the Data Protection Act 2018. There is no evidence that this happened.

²⁰⁷ Metropolitan Police response to questions from the Panel, 07 January/28 February 2020.

163. The Independent Police Complaints Commission noted that, in a number of the emails sent with the above documents, former DCS David Cook stressed to Michael Sullivan the sensitivity of the content and urged him not to pass the documents on further.²⁰⁸

4.1 Former DCS David Cook's responses to questioning

164. The Independent Police Complaints Commission reported that former DCS David Cook provided responses to a series of questionnaires through three prepared statements, after an initial '*no comment*' interview. He formally adopted his responses during a subsequent interview under caution by the Independent Police Complaints Commission on 08 November 2012.²⁰⁹

165. In response to questions regarding sending documents from his work email address to his personal email address, former DCS David Cook said that he was permitted to work from home and, because he did not have a Metropolitan Police computer, he used his personal computer which he locked away when not in use.²¹⁰ Former DCS Cook said that scanning documents and sending them via email was the most expedient way to access them while at home and saved him from carrying them in hard copy. Former DCS Cook denied an allegation that he sent documents in PDF format to avoid Metropolitan Police firewalls.²¹¹ He did, however, acknowledge that, with hindsight, he should not have sent any documentation which was marked 'Highly Confidential' or 'Confidential', nor documents which contained personal data.²¹²

166. Former DCS David Cook also told the Independent Police Complaints Commission that he accepted that he should not have sent confidential documents, and this would never have been authorised. The Independent Police Complaints Commission noted that '[h]e *did not attempt to argue that there was any legitimate investigative purpose for disclosing the information and it would appear to have been sent simply to assist the book project*'.²¹³

167. Analysis of the emails had shown that, as early as 2006, DCS David Cook began to discuss with Michael Sullivan the prospect of writing a book about the investigation of the murder of Daniel Morgan, referring to it as '*the Book Project*'.²¹⁴ The Independent Police Complaints Commission Report contains a quotation from an undated email from former DCS Cook to Michael Sullivan discussing the proposed book, which concluded:

'The main thing I ask is that we

1. Make an early agreement as to how we are going to do this and work towards it

2. Keep it to ourselves to prevent professional problems and infiltration as you will soon find out

208 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, pp39-40, para 199, September 2014.

209 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p6, paras 10-11, September 2014.

210 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p31, para 154, September 2014.

211 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p31, para 154, September 2014.

212 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p32, para 156, September 2014.

213 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p18, para 72, September 2014.

214 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, pp27-28, para 135, September 2014.

3. *Keep it absolutely factually based*
4. *Do not expose secret police methodology*
5. *Split everything 50/50.*²¹⁵

168. Former DCS David Cook told the Independent Police Complaints Commission that he had approached one literary agent as a potential publisher, but he asserted that the motivation behind the publication of such a book was solely *'to reflect the progress of the MPS [Metropolitan Police Service] had made following previous criticisms'*.²¹⁶ Former DCS Cook could not recall whether he or Michael Sullivan had first made the suggestion of writing the book. He said that they had verbally agreed that the material would not be used until after the murder trial.²¹⁷

169. The Independent Police Complaints Commission also identified two occasions, in May 2009 and August 2010, on which Michael Sullivan, in conversation with a publisher and a literary agent, raised the issue of the book project. No interest was shown in the project on either occasion.²¹⁸

170. Former DCS David Cook said that he was under the impression that AC John Yates was comfortable with Michael Sullivan writing the book and that he (former DCS Cook) trusted Michael Sullivan *'implicitly'*.²¹⁹ Former DCS Cook also stated that he was aware of the Metropolitan Police previously allowing a journalist, Graeme McLagan, to access Metropolitan Police material for the purpose of writing a book.²²⁰ Former AC Yates told the Panel in 2020 that *'as a senior and experienced detective, David Cook would have been well aware that the briefing of Michael Sullivan did not constitute carte blanche to share information about the investigation which was unrelated to the newspaper article intended to trigger fresh lines of enquiry and/or incriminating evidence.'*

171. Former DCS David Cook denied ever receiving payment for information provided to Michael Sullivan. Neither the Independent Police Complaints Commission, nor an independent financial investigation carried out on behalf of the Independent Police Complaints Commission, found evidence of payments from Michael Sullivan to former DCS Cook.²²¹

215 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p28, para 137, September 2014.

216 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p29, para 139, September 2014.

217 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, pp29 and 33, paras 140 and 161, September 2014.

218 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, pp30-31, paras 146-151, September 2014.

219 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p29, para 141, September 2014.

220 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p29, para 142, September 2014.

221 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p32, para 157, September 2014.

172. Although there is no record of any immediate financial benefit, the following email from former DCS David Cook to Michael Sullivan shows that it was anticipated by both parties that they would benefit from access to and use of the material contained in these unauthorised disclosures to make a profit from the book which they planned to publish:

- iv. An email on 29 June 2009 stated that *'the book will allow me to put over my or the Police side of the events [...] Yes any money accrued from the book would also be an advantage [...] but I do not anticipate that I/we will become rich out of it unless of course there is a movie deal of some sort.'*²²²
- v. An email on 02 June 2010, which stated: *'I am saddled with a mortgage that I neither want or need.'*²²³

173. The Independent Police Complaints Commission Report said that former DCS David Cook had told investigators that *'a lot had been written about the Daniel Morgan murder that was incorrect. He wanted Michael Sullivan to have the material and did not have time to identify it himself so e-mails were the quickest way.'*²²⁴ When asked whether he thought he had authorisation to release information/documents, he said: *'[i]t is difficult to know what I believed at the time. I believed I had the authority to discuss with the media anything relating to the investigation. There were no parameters set by anybody.'*²²⁵

174. The statement that there were no parameters set by anyone is not true and does not reflect the various policies and procedures which were well established with the Metropolitan Police, and of which former DCS David Cook as a senior officer would have been fully aware.

175. The evidence shows that the reason why former DCS David Cook was sharing material with Michael Sullivan was that they proposed to write a book together from which they anticipated earning royalties which they would split evenly.

176. In a further prepared statement, responding to additional questions from the Independent Police Complaints Commission, former DCS David Cook stated that *'my mindset was affected greatly by the ill health I was suffering although I did not necessarily realise this at the time. I was unwaveringly focussed on ensuring that Mike [Michael Sullivan] had all the information he needed to be able to tell my story if I was not alive to do so.'*²²⁶

222 Email 8 of 46 from Appendix A of the Operation Longhorn Report, IPC001329001, p2, 29 June 2009.

223 Email 28 of 46 from Appendix A of the Operation Longhorn Report, IPC001349001, p2, 2 June 2010.

224 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p32, para 159, September 2014.

225 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p32, para 160, September 2014.

226 *'Addendum Prepared Statement of Mr David Imrie-Cook'*, IPC001319001, p2, para 12, undated.

177. Former DCS David Cook told the Independent Police Complaints Commission that he was unaware of exactly how Michael Sullivan was storing the documents: he believed that no other person had access to them.²²⁷ He acknowledged *'that sending sensitive and confidential documents to Mike would never have been authorised. I accept that providing Mike with material later in the investigation by way of email was not the best professional decision.'*²²⁸ However, he went on to say that he did not understand the full extent of the Data Protection Act 1998 and did not at any stage consider he was contravening it until he was arrested and this was put to him.²²⁹

178. Former DCS David Cook's belief that no other person than Michael Sullivan could have access to the material was misplaced. Much of the material was sent to an email address shared by Michael Sullivan and his wife.

On many, but not all occasions, former DCS Cook stressed to Michael Sullivan the confidentiality of the documents which he had leaked. This demonstrates that DCS Cook appreciated the sensitivity of what he was sending.

The evidence demonstrates that this was not a matter of the failure of professional judgement but was a wrongful and unlawful leaking of highly confidential and sensitive information by former DCS Cook.

As stated above, former DCS Cook was a senior officer and would have known the occasions and circumstances in which disclosure was permitted, and the limitations on disclosure.

4.2 The findings of the Independent Police Complaints Commission

179. The Independent Police Complaints Commission concluded its report and made a number of findings as follows:

- i. Found that former DCS David Cook sent documents via secure Government email to his own personal email account(s) before forwarding them to Michael Sullivan and retained the documents sent from his Serious Organised Crime Agency and Metropolitan Police email accounts within his insecure personal email accounts.²³⁰
- ii. Stated that *'[t]he SOCA [Serious Organised Crime Agency] risk assessment ... identified those e-mails sent by David Cook from his SOCA e-mail account to his personal e-mail address(s) which [the Serious Organised Crime Agency] considered posed a critical risk to that organisation'*.²³¹

227 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p33, para 161, September 2014.

228 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p33, para 162, September 2014.

229 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p33, para 163, September 2014.

230 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p40, para 200, September 2014.

231 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, pp27 and 40, paras 134 and 201, September 2014.

- iii. Found that the friendship between former DCS Cook and Michael Sullivan was genuine.²³²
- iv. Found that there was no evidence that Michael Sullivan had used information provided by former DCS Cook for any other journalistic purposes.²³³
- v. Concluded that former DCS Cook was reckless as to the security of the information or the consequences, should the material have '*landed in the possession of others*',²³⁴ which demonstrated a disregard for law enforcement and legislative policies.²³⁵
- vi. Found that former DCS Cook had shown little or no consideration for those identified in the material, disclosure of which could have a particularly grave effect on those vulnerable individuals identified in the documentation.²³⁶ The examples given included the witness statement of a victim who described herself as '*frightened for her life*' and a report detailing a visit to a high security psychiatric unit, where two patients were interviewed.²³⁷
- vii. Concluded that former DCS Cook did not have any authorisation to disclose the material sent to Michael Sullivan. Much of the material which was leaked contained sensitive and/or personal data. Of the 46 emails which were examined, 23 of the attachments should not have been disclosed to anyone outside the Metropolitan Police or the Serious Organised Crime Agency.²³⁸
- viii. Rejected former DCS Cook's admission that he failed to consider the implications of the Data Protection Act 1998, the consequences of the disclosure of material sent to Michael Sullivan, and the Metropolitan Police media policies, saying it was '*remarkable given that he held the highest security vetting status working on an investigation that had been damaged by allegations of police wrongdoing and leaking*'.²³⁹
- ix. Found no evidence of any financial gain as a result of former DCS Cook sending documentation to Michael Sullivan for the purpose of the book project, although comments were made in the emails regarding potential earnings.²⁴⁰
- x. Concluded that although Michael Sullivan had been initially used as part of an investigative strategy during the Abelard Two Investigation to place articles in the press to prompt conversations between suspects, any email communication after this related to a plan by former DCS Cook and Michael Sullivan to write a book on the

232 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, pp13-14, para 47, September 2014.

233 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p14, para 48, September 2014.

234 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p41, para 203, September 2014.

235 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p41, para 205, September 2014.

236 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p41, para 205, September 2014.

237 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, pp41-42, paras 206-207, September 2014.

238 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p38, para 192, September 2014.

239 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, pp 38-39, para 193, September 2014.

240 'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p41, para 204, September 2014.

police investigation of Daniel Morgan's murder. Additionally, former DCS Cook had provided information to Michael Sullivan which could not have been considered part of the original Metropolitan Police *'inclusion strategy'*.²⁴¹

- xi. Stated that former DCS Cook had not provided any credible explanation as to why he sent material unconnected to Daniel Morgan's murder to Michael Sullivan. One document contained a large volume of sensitive personal data dealing with issues of corruption within HM Prison Service, compiled from intelligence reports (see paragraph 155 viii above).²⁴²
- xii. Stated that no evidence had been found indicating that Michael Sullivan had misused any information provided to him by former DCS Cook, or that the passing of information to Michael Sullivan had any impact on the collapse of the Daniel Morgan murder trial in March 2011.²⁴³
- xiii. Stated that although former DCS Cook claimed that his psychological health was suffering (which was corroborated, in part, by his medical records), an analysis of the text of emails painted a different picture, suggesting that he was well aware of the risk attached to what he was doing in sending such material to Michael Sullivan.²⁴⁴ Comments contained in emails from former DCS Cook which warned Michael Sullivan of the sensitivity of the content included: *'keep this absolutely to yourself'*;²⁴⁵ *'very sensitive therefore for your information only'*;²⁴⁶ *'absolutely not for further dissemination'*;²⁴⁷ and, *'very sensitive so please do not share'*.²⁴⁸
- xiv. Stated that *'[t]he investigation has identified serious failings in David Cook's handling of law enforcement material in general. There is evidence of reckless neglect on his part while holding a senior position in public office. The conduct of David Cook was entirely self serving and is not what the public might reasonably expect from a person entrusted with such information.'*²⁴⁹
- xv. Stated that *'David Cook retired as a serving officer from the MPS [Metropolitan Police Service] in 2007 and as a senior manager from SOCA [Serious Organised Crime Agency] in July 2013. Had he been an employee of either organisation at this time and subject to either Code of Conduct (SOCA or MPS) I believe from the evidence available there would be a case to answer for gross misconduct.'*²⁵⁰

241 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, pp41-42, para 207, September 2014.

242 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p39, para 197, September 2014.

243 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p41, para 204, September 2014.

244 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, pp39-40, paras 198-199, September 2014.

245 Email 9 of 46 from Appendix A of the Operation Longhorn Report, IPC001330001, p2, 03 July 2009.

246 Email 14 of 46 from Appendix A of the Operation Longhorn Report, IPC001335001, p2, 03 August 2009.

247 Email 16 of 46 from Appendix A of the Operation Longhorn Report, IPC001337001, p2, 07 September 2009; and, email 19 of 46 from Appendix A of the Operation Longhorn Report, IPC001340001, p2, 14 September 2009.

248 Email 20 of 46 from Appendix A of the Operation Longhorn Report, IPC001341001, p2, 10 October 2009.

249 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p42, para 210, September 2014.

250 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p42, para 211, September 2014.

180. The Independent Police Complaints Commission's Report was then sent to the Crown Prosecution Service for review on 13 October 2014.

4.3 Review by the Crown Prosecution Service to determine whether the case should proceed further

181. The Crown Prosecution Service reviewed the case under Paragraph 4.2 of the Code for Crown Prosecutors of 2013, which stated the following:

*'In most cases prosecutors should only decide whether to prosecute after the investigation has been completed and after all the available evidence has been reviewed. However, there will be cases where it is clear, prior to the collection and consideration of all likely evidence, that the public interest does not require a prosecution. In these instances, prosecutors may decide that the case should not proceed further.'*²⁵¹

182. Paragraph 4.3 of the Code states:

'Prosecutors should take such a decision when they are satisfied that the broad extent of the criminality has been determined and that they are able to make a fully informed assessment of the public interest. If prosecutors do not have sufficient information to take such a decision, the investigation should proceed and a decision taken later in accordance with the Full Code Test set out in this section.'

183. The purpose of the review of the file was therefore to establish whether a full investigation was required or whether it was clear that the public interest did not require a prosecution.

184. The Panel has reviewed email correspondence, from October 2014 to October 2015, between the Independent Police Complaints Commission and the Crown Prosecution Service. It has noted that the Crown Prosecution Service requested a full file after the Independent Police Complaints Commission's referral on 13 October 2014.²⁵² The Independent Police Complaints Commission worked on putting together a full file, as requested. However, in May 2015, after a meeting between the Independent Police Complaints Commission and the Crown Prosecution Service, it was decided that *'in light of the more recent Op Elveden trials and following the issue of further guidance to the CPS [Crown Prosecution Service], AF [Adrian Flasher] was considering whether it was in the public interest to prosecute David Cook (Op Longhorn)'*, and that the Independent Police Complaints Commission *'could postpone any further work they were doing in relation to Op Longhorn'*.^{253,254} The Crown Prosecution Service then reviewed the file under Paragraph 4.2 of the Code for Crown Prosecutors.

185. In November 2020, the Crown Prosecution Service stated that there was additional engagement which occurred between the Crown Prosecution Service and the Independent Police Complaints Commission after the report was received, involving additional correspondence and conferences which took place in the intervening period, and further

251 The Code for Crown Prosecutors of 2013, https://www.cps.gov.uk/sites/default/files/documents/publications/code_2013_accessible_english.pdf, p6, Paragraph 4.2.

252 Independent Office for Police Conduct Disclosure on 03 April 2020, Early Case Planning Strategy form.

253 Independent Office for Police Conduct Disclosure on 03 April 2020, meeting with Crown Prosecution Service.

254 Independent Office for Police Conduct Disclosure on 03 April 2020, guidance document from Crown Prosecution Service *'Additional guidance on cases involving payments made to corrupt public officials by journalists'*.

evidence which allowed the prosecutor to understand the extent of criminality alleged. Although, the Panel had asked for all relevant correspondence, it did not receive any in respect of the period after the report was received.

186. The Crown Prosecution Service's decision to review the file in relation to former DCS David Cook was not justified by the evidence which had been identified during the Independent Police Complaints Commission investigation. The effect of the decision was to limit further investigation. Given what had been uncovered, analysed and concluded by the Independent Police Complaints Commission, a full investigation should have ensued, and a full file should then have been considered by the Crown Prosecution Service.

187. The Panel has examined the additional '*guidance to prosecutors on prosecuting public officials, journalists, and others for the Common Law offence of Misconduct in Public Office, arising out of Operation Elveden, the police investigation into the payment of corrupt public officials by journalists for information.*'^{255,256} This additional guidance deals only with the situation in which money is given by the recipient of the document(s) to the person disclosing the document(s). It refers only therefore to immediate benefit and does not make any reference to the situation in which no money passes, but the two individuals concerned are, as in the case of former DCS David Cook and Michael Sullivan, engaged in a project which is intended to make money in the future. The Panel does however acknowledge that such guidance cannot feasibly cover every factual scenario.

188. The additional guidance stated:

'Police officers are entrusted with a great deal of power and discretion, and exercise these powers with the public at large. They regularly receive confidential information from the public, as victims and witnesses about crimes and other traumatic events. The public rightly believe they can rely on the integrity and incorruptibility of police officers to protect their privacy. In addition, and unlike many of the public office holders, the police have access to powerful databases, which store confidential information and hold it securely for police purposes. Corrupt police officers who have access to these databases and confidential information, and misuse the information by selling it to journalists and others, do profound harm to the public interest in maintaining confidence in law and order. For this reason, unless the factors in paragraph 31 of the Guidelines apply, the public interest will usually require the prosecution of a corrupt police officer.'^{257,258}

255 Independent Office for Police Conduct Disclosure on 03 April 2020, guidance document from Crown Prosecution Service, '*Additional guidance on cases involving payments made to corrupt public officials by journalists*', p1, para 1, undated.

256 <https://www.cps.gov.uk/legal-guidance/media-additional-guidance-case-involving-payments-made-corrupt-public-officials>.

257 Independent Office for Police Conduct Disclosure on 03 April 2020, guidance document from the Crown Prosecution Service, '*Additional guidance on cases involving payments made to corrupt public officials by journalists*', p2, para 9, undated.

258 <https://www.cps.gov.uk/legal-guidance/media-additional-guidance-case-involving-payments-made-corrupt-public-officials>.

RECOMMENDATION

189. It is recommended that the Crown Prosecution Service's additional guidance should be amended to include a requirement that the Prosecutor should consider whether the information was disclosed with a view to one or both parties securing future profit from the use of that material. Moreover, the additional guidance should also be amended to note that the advantage to the parties disclosing the document(s) may not be purely financial but, as in the case of former DCS David Cook and Michael Sullivan, could be reputational and could have improved their employability in the future.

190. The Crown Prosecution Service asked one of its Specialist Prosecutors, Adrian Flasher, to review the case in accordance with Paragraph 4.2. Hereafter, Adrian Flasher will be referred to by his post as a Specialist Prosecutor.

191. The Specialist Prosecutor stated that he was '*asked to advise whether the conduct of DC [former DCS David Cook] amounts to the criminal offence of Misconduct in a Public Office or an offence under the Data Protection Act 1988*'.²⁵⁹

192. He went on to state:

*'I am reviewing this case under Paragraph 4.2 of The Code, as I am satisfied that I have sufficient information to assess the broad extent of the criminality and that it is clear that the public interest does not require a prosecution against DC [former DCS David Cook] for an offence of Misconduct in Public Office or for a breach of the Data Protection Act 1998 (Full Code Test – Paragraph 4.2).'*²⁶⁰

193. During the introduction to the written advice, the Specialist Prosecutor set out his understanding of the allegations and their status:

- i. He described the allegations as being, '*in short [...] that DC [former DCS David Cook] sent to MS [Michael Sullivan] personal data about witnesses and suspects together with sensitive police information so that a book could be written about the role of DC [former DCS David Cook] in the MPS [Metropolitan Police] investigation into the murder of Daniel Morgan*'.²⁶¹

This narrow assessment of the allegation fails to recognise that a number of highly sensitive documents not connected to the murder of Daniel Morgan were sent by former DCS David Cook from a variety of police investigations and operations. These documents largely related to wider issues of alleged corruption. It cannot be concluded that the only motive for such action was to write a book on the Daniel Morgan murder investigations.

- ii. The Specialist Prosecutor considered it to be '*significant*' that former AC John Yates (Head of the Directorate of Professional Standards) made a statement to the Independent Police Complaints Commission in this investigation, where he observed

²⁵⁹ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p4, para 12, 11 September 2015.

²⁶⁰ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p5, para 14, 11 September 2015.

²⁶¹ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p4, para 8, 11 September 2015.

there to have been occasions when Michael Sullivan had mentioned writing a book and that he, John Yates, may have considered the co-operation of the Metropolitan Police in such a project after the conclusion of the case.²⁶²

- a. The analysis does not recognise that, in his statement, former AC John Yates wrote, *'My experience of journalists [...] is that they often talk about such projects but rarely [...] get around to it. I took Mike Sullivan's mention of the book to be in this vein. I cannot recall him mention any formal collaboration with Dave Cook – neither did Dave Cook ever mention it to me.'* This contradicts what former AC John Yates told the Panel in November 2020, that the possibility of cooperating with Michael Sullivan was something he discussed with DCS David Cook on the express understanding that *'this would require the endorsement of the Morgan family and could not be undertaken until the case had concluded, including all avenues of appeal'*.
- b. Former AC John Yates then went on to describe how another journalist who had written a book had the cooperation of the Metropolitan Police in allowing him access *'under supervision'* to a range of sensitive material. He went on, *'I would certainly not have authorised such access to sensitive material by Mike Sullivan prior to the conclusion of the case. I believe Dave Cook would have been well aware of this.'* The provision of copies of Metropolitan Police documents to Michael Sullivan would not have been considered as appropriate or authorised by former AC John Yates. In addition, he stated, *'[t]he idea of the SIO [Senior Investigating Officer] collaborating (and no doubt benefitting commercially) on writing a book would have been hugely significant [...] I would certainly have advised Dave against it. If Alistair [sic] Morgan had found this out I believe this would have done a great amount of damage to the relationship that we had fought so hard to build up with his family.'*²⁶³
- iii. The Specialist Prosecutor stated in the introduction to his review, *'[i]t is worthy of note that in the relevant period of the emails (2006 to 2011) and particularly between September 2008 and February 2011, DC [DCS David Cook] was receiving medical treatment for anxiety and depression.'*²⁶⁴

While this assessment of former DCS David Cook might be accurate, and be relevant to mitigating his behaviour, the steadfast and determined way in which former DCS Cook leaked the highly sensitive documents demonstrates a lucid, focused mind. Despite this, he continued to work full time, firstly for the Metropolitan Police on secondment to the Serious Organised Crime Agency, and later for the Serious Organised Crime Agency with an ongoing remit from the Metropolitan Police in respect of the Abelard Two Investigation.

262 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p4, para 9, 11 September 2015.

263 Witness statement of former AC John Yates, IPC001368001, pp7-8, 08 July 2012.

264 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p4, para 11, 11 September 2015.

194. After the introduction, the Specialist Prosecutor went on to set out the following:

- i. The offences under consideration;
- ii. The key evidence;
- iii. Outstanding investigation;
- iv. Review of the evidence received to date;
- v. The Director's guidelines;
- vi. The Public Interest Stage of the 'Full Code Test'; and
- vii. His conclusions.²⁶⁵

195. The Specialist Prosecutor examined the material sent to him. The Panel has not seen a list of the documentation considered. He reported that, since he did not have a full file, he could not apply the Evidential Stage of the Code. In order to do so, he reported he would have required significant further material, without which he could not review the file to determine whether there was sufficient evidence for a realistic prospect of conviction. He provided a non-exhaustive list of the further material, which included:

- i. Victim impact statements from the family of Daniel Morgan and individuals whose data had been leaked.
- ii. Interview transcripts or tapes for the interview on 08 November 2012 of former DCS David Cook.
- iii. Unused material schedules of other interlinked operations.
- iv. Evidence about former DCS Cook's authority and security clearance to work from home and to use non-secure email.
- v. Evidence about the extent of information given to a freelance journalist, Graeme McLagan, and how access to material was facilitated.
- vi. Forensic evidential reports on the contents of media exhibits seized from former DCS Cook's home.
- vii. Minutes of the Gold Group meetings that would shed light on: (a) the Media Strategy; and (b) the reasons that former DCS Cook continued to act as Senior Investigating Officer after his retirement from the Metropolitan Police.
- viii. Evidence to support the security classification placed on documents.
- ix. Evidence about former DCS Cook's health and his applications for a senior position within the Serious Organised Crime Agency.

265 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, pp5-46, 11 September 2015.

- x. More detailed evidence about the decision to bring Michael Sullivan into the Metropolitan Police investigation and minutes of any meeting where the extent of his involvement was considered.²⁶⁶

196. In relation to 194 iii. above, there were several interlinked operations, investigations and judicial enquiries around and involving former DCS David Cook. The Specialist Prosecutor made reference to both the Metropolitan Police enquiry, 'Operation Megan' (which he knew to be considering former DCS Cook's contact with other journalists), and the Independent Police Complaints Commission's *Panorama* investigation (which was considering the provision of material relating to Jonathan Rees to BBC journalists by former DCS Cook). He noted that they would both appear to him to be 'highly relevant' but was, nevertheless, prepared to state that he was able to determine the broad extent of former DCS Cook's criminality without reference to them.

197. In relation to 195 x above, the Specialist Prosecutor had apparently considered the statement made by former AC John Yates to the Independent Police Complaints Commission. This, however, defined the very limited authorised use of Michael Sullivan within the Daniel Morgan investigation: '[t]o be clear, this was a one off authority/inclusion of a particular individual (Mike Sullivan) for a particular purpose. It could never have been interpreted as a more general authority for any officer to release additional material then or in the future [...]. My recollection is that Mike Sullivan was briefed about the background of the case, including that covert methods were employed. I repeat, in my opinion the inclusion could never have been interpreted as a more general authority for any officer to release additional material then or in the future.'²⁶⁷

4.4 Consideration of the offence of misconduct in public office

198. The Specialist Prosecutor stated that former DCS David Cook had been a public officer, acting as such at the time he sent the emails in question to Michael Sullivan.²⁶⁸ In order to prove the offence of misconduct in public office, it had to be shown that he had wilfully neglected to perform his duty or misconducted himself to such a degree as to amount to an abuse of the public's trust in him, without reasonable excuse or justification.²⁶⁹

199. Given the admission of former DCS David Cook, that he had sent the emails and attachments to Michael Sullivan, that he had known he should not have done so, and his admission that the purpose of the emails was in relation to the future publication of a book (the 'Book Project'), the Specialist Prosecutor found that in respect of some of the emails sent by former DCS Cook, he had wilfully misconducted himself.²⁷⁰

200. As former DCS David Cook's reason for the 'Book Project' was to set 'the record straight' and 'show the integrity of his investigation',²⁷¹ it was the view of the Specialist Prosecutor that this could be capable of being construed as amounting to a reasonable excuse or justification for former DCS Cook sending the emails and attachments to Michael Sullivan.²⁷²

266 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, pp27-28, para 124, 11 September 2015.

267 Witness Statement of former AC John Yates, IPC001368001, pp6-7, 08 July 2012

268 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p29, para 130, 11 September 2015.

269 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p29, para 129, 11 September 2015; Attorney General's Reference (No.3 of 2003) Court of Appeal Criminal Division, 07 April 2004.

270 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p29, para 131, 11 September 2015.

271 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, pp31 and 33, paras 137 and 146, 11 September 2015.

272 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 147, 11 September 2015.

201. The Specialist Prosecutor's conclusion was based on a number of factors:

- i. He had seen no evidence that former DCS David Cook received any financial gain,²⁷³ or that the sending of emails had any responsibility for the failure to prosecute or had caused damage to the murder investigation.²⁷⁴

There was clear evidence of an intention that former DCS David Cook would financially benefit. This was set out in the Operation Longhorn report. Furthermore, it was impossible to assess the future damage that the disclosure of the highly sensitive material might do, especially that assessed by the Serious Organised Crime Agency as posing a '*critical risk*' (see paragraph 157 above).

- ii. The '*sole purpose*' of a number of the emails sent by former DCS Cook to Michael Sullivan was to further the '*Book Project*',²⁷⁵ the aim of which was to '*put the record straight*'²⁷⁶ in relation to the previous investigation into the murder of Daniel Morgan, and to put forward the Metropolitan Police's and former DCS Cook's approach to the investigation in a positive light.²⁷⁷

There were emails sent that were not connected to the investigation of Daniel Morgan's murder. There is an inference to be drawn, therefore, that the Daniel Morgan case was not the sole purpose of the agreement between former DCS Cook and Michael Sullivan.

- iii. The sending of information by former DCS Cook to Michael Sullivan did not amount to an abuse of the public's trust in the office holder to the very high threshold required for a prosecution. The Specialist Prosecutor recommended that the matter would more properly have been dealt with internally by the Metropolitan Police rather than by prosecution.²⁷⁸

273 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p30, para 135, 11 September 2015.

274 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p30, para 134, 11 September 2015.

275 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p31, para 137, 11 September 2015.

276 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 146, 11 September 2015.

277 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p31, para 139, 11 September 2015.

278 Crown Prosecution Service, Operation Longhorn Report, p32, para 144, 11 September 2015.

202. The Specialist Prosecutor did not explain how he came to the conclusion that the threshold for prosecution was not met. None of the documents examined during the investigation should have been provided by former DCS David Cook. Some of them, such as an Essex Police report on a murder,²⁷⁹ were not disclosed to Defence lawyers acting in the case in question and did not relate to the murder of Daniel Morgan. The Panel does not consider it appropriate to conclude that such actions by an individual police officer could be justified as seeking to ‘prove the integrity of his investigation’, nor could they amount to actions which should be reasonably excused and therefore not prosecuted. Were this the case, then any dissatisfied police detective would have a route through which to seek to justify his or her actions, a route which would almost inevitably involve breach of the law and of police policy, and which might ultimately compromise the integrity of future prosecutions.

4.5 Offences under the Data Protection Act 1998

203. The Specialist Prosecutor concluded that the emails sent by former DCS David Cook to Michael Sullivan ‘disclosed personal data or the information contained in personal data’.²⁸⁰

204. The Specialist Prosecutor then considered whether former DCS David Cook could rely on any of the following statutory defences:

- i. ‘[T]hat he acted in the reasonable belief that he had in law the right to obtain or disclose the data or information’.²⁸¹

The Specialist Prosecutor did not believe, based on the evidence, that former DCS Cook had such a right in law.²⁸²

- ii. ‘[T]hat he acted in the reasonable belief that he would have had the consent of the data controller if the data controller had known of the obtaining, disclosing or procuring and the circumstances of it’.²⁸³

The Specialist Prosecutor noted, based on former DCS Cook’s knowledge of the book ‘*Bent Coppers*’ and the extent of information previously provided by the Metropolitan Police to the journalist Graeme McLagan, that it was arguable that former DCS Cook had acted in the reasonable belief that he would have had consent for the ‘*Book Project*’.²⁸⁴

279 Email 22 of 46 from Appendix A of the Operation Longhorn Report, IPC001343001, 27 October 2009.

280 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 148, 11 September 2015. Contrary to Section 55(1)(a) of the Data Protection Act 1998.

281 Data Protection Act 1998, s 55(2)(b).

282 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 148i, 11 September 2015.

283 Data Protection Act 1998, s 55(2)(c).

284 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 148ii, 11 September 2015.

This ignores the fact that former DCS Cook had admitted he had no such permission from the Metropolitan Police and that any such permission could only have been obtained some considerable time after the leaking of the material, i.e. at the conclusion of the case. The data belonged to the Metropolitan Police.

- iii. That '*in the particular circumstances the obtaining, disclosing or procuring was justified as being in the public interest*'.^{285,286}

The Specialist Prosecutor stated that there was a public interest²⁸⁷ in the publishing of the book, subject to an investigation into the extent of what information had been in the public domain:²⁸⁸

- i. Former DCS Cook wanted to use his book to highlight the integrity of the investigation into the murder of Daniel Morgan, as well as the integrity of the Metropolitan Police from the time of his involvement.²⁸⁹
- ii. The public had an interest in the case because of corruption during earlier investigations and the fact that the case remained an unsolved crime.²⁹⁰ The Specialist Prosecutor stated that former DCS Cook's proposed book had the potential to expose corruption and potential miscarriages of justice.²⁹¹
- iii. His proposed book had been capable of raising or contributing to an important matter of public debate, which although no exhaustive definition had existed, included public debate about serious impropriety, significant unethical conduct and significant incompetence, which affected the public.²⁹²

205. The Specialist Prosecutor concluded that he was satisfied that he had sufficient information to assess the broad extent of the criminality of former DCS David Cook, concluding that it was unlikely that there would be sufficient evidence for a realistic prospect of conviction in relation to an offence of misconduct in public office and, in addition, there were potential statutory defences available to former DCS Cook for an offence under the Data Protection Act 1998.²⁹³

285 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 148iii, 11 September 2015.

286 Data Protection Act 1998, s 55(2)(d).

287 *When considering cases affecting the media in which freedom of expression and the right to receive and impart information are in issue, prosecutors should specifically go on to consider: Whether the public interest served by the conduct in question outweighs the overall criminality?* Media: Guidance for prosecutors on assessing the public interest in cases affecting the media, <https://www.cps.gov.uk/legal-guidance/media-guidance-prosecutors-assessing-public-interest-cases-affecting-media> para 28.

288 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 148iii, 11 September 2015.

289 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p35, para 156, 11 September 2015.

290 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p35, para 157, 11 September 2015.

291 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p35, para 159, 11 September 2015.

292 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p36, para 161, 11 September 2015.

293 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p34, para 150, 11 September 2015.

206. The Specialist Prosecutor does not appear to have considered that, by the time he was making this decision, the murder trial had collapsed due, in part, to major failings on the part of former DCS David Cook. These had been classified by the defence as corrupt activities and the Judge had concluded that former DCS Cook had prompted and “tipped off” witnesses. In these circumstances, it was inappropriate for the Specialist Prosecutor to decide that there was any public interest in former DCS Cook leaking confidential information to publish a book which would be self-serving both in terms of seeking to clear his name and benefitting financially. In November 2020, the Crown Prosecution Service stated to the Panel that in their view, *‘the decision reached was a reasonable one and is justifiable based upon the evidence which was available, applying the law, guidance and Code as it was’*. The Crown Prosecution Service also reiterated that the threshold for an offence of misconduct is high, and that such misconduct must be dishonest, oppressive or corrupt to come within the criminal threshold. The Panel believes that the elements of dishonesty and corruption are present.

4.6 The Director of Public Prosecutions’ Guidelines on Assessing the Public Interest in cases involving the Media

207. The Specialist Prosecutor went on to consider the Director of Public Prosecutions’ Guidelines on Assessing the Public Interest in cases involving the Media, which stated the following:

‘When considering cases affecting the media in which freedom of expression and the right to receive and impart information are in issue, prosecutors should specifically go on to consider: Whether the public interest served by the conduct in question outweighs the overall criminality.’²⁹⁴

208. In line with the guidance, the Specialist Prosecutor engaged in a three-stage process:

- i. Assessing the public interest served by the conduct in question:

The Specialist Prosecutor assessed the public interest served by the conduct as being medium to high.²⁹⁵ His reasoning for this was that there had been *‘a number of public enquiries and a television documentary about the investigation’*,²⁹⁶ and that former DCS David Cook’s planned book was capable of *‘exposing corruption and potentially miscarriages of justice’*.²⁹⁷

²⁹⁴ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p34, para 152, 11 September 2015.

²⁹⁵ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p36, para 161, 11 September 2015.

²⁹⁶ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p35, para 158, 11 September 2015.

²⁹⁷ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p35, para 159, 11 September 2015.

In fact, former DCS David Cook had said that the book was to be written to *'put over my or the Police side of the events putting a balance on whatever is said'*.^{298,299} By the time the Specialist Prosecutor's assessment was being made, former DCS Cook's integrity had been seriously criticised during the collapse of the Abelard Two Prosecution case. He was the subject of two other investigations for potentially criminal behaviour alleging similar leaks not connected to the writing of this book. It is impossible to understand how the Specialist Prosecutor could reach the view that he did.

ii. Assessing the overall criminality:

The Specialist Prosecutor assessed the overall criminality as being medium to high.³⁰⁰ His reasoning for this was that former DCS David Cook was a high-ranking police officer in a position of trust (leading a difficult and sensitive investigation which was already tainted by corruption), whose offending behaviour amounted to *'not respecting the security classifications of documents and their handling, and improper use of personal data'*. He went on to say that *'the only person who would have known about the emails or their contents was MS [Michael Sullivan]'* and, as for the victims, the effect upon them of former DCS Cook's leaks were difficult to assess, but he concluded that a *'great deal of information about witnesses and defendants inevitably found its way into the public arena'*. He noted that former AC John Yates would have preferred the matter to have been finalised without *'the need for a prosecution'*.³⁰¹

The Specialist Prosecutor ignored the fact that the emails were sent to the joint account of Michael Sullivan and his wife, and then further distributed to Michael Sullivan's *The Sun* newspaper email account, without the Metropolitan Police having any continuing control of the material. The potential distress and danger for those whose personal details were disclosed must have been significant and was impossible to assess. Moreover, most of the information sent to Michael Sullivan had not been in the public domain at the time at which it was sent, and some of it never entered the public domain. The Guidelines confirm that the impact on the victims of the conduct in question *'is of considerable importance [...] therefore, prosecutors should ensure that, where possible, information is obtained about the particular impact of the conduct in question on the victims'*.

298 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p35, para 156, 11 September 2015

299 Email 8 of 46 from Appendix A of the Operation Longhorn Report, IPC001329001, p2, 29 June 2009.

300 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p37, para 170, 11 September 2015.

301 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, pp36-37, 11 September 2015.

Although former AC John Yates has consistently said that he had not, and would not have authorised disclosure, he had said that he hoped that the matter could be dealt with without prosecution.³⁰² He was the person to whom DCS Cook reported throughout the Abelard Two Investigation. Former AC Yates told the Panel that *'when [he] expressed a hope that DCS David Cook's unauthorised disclosures to Michael Sullivan might ultimately be dealt with as organisational learning, [former AC Yates] was motivated at that time solely by a genuine concern about David Cook's mental health and wellbeing.'*

- iii. Weighing the two considerations of overall criminality and the public interest served by the conduct in question:

The Specialist Prosecutor repeated that he did not have a *'full evidential file'* but that, in his opinion, the public interest outweighed the criminality involved.³⁰³

4.7 The 'Public Interest Stage' of the 'Full Code Test'

209. The Specialist Prosecutor then assessed the conduct of former DCS David Cook against the five relevant questions set out within the 'Public Interest Stage' of the Code for Crown Prosecutors' 'Full Code Test':³⁰⁴

- i. How serious is the offence committed?
- ii. What is the level of culpability of the suspect?
- iii. What are the circumstances of, and the harm caused to, the victim?
- iv. What is the impact on the community?
- v. Is prosecution a proportionate response?³⁰⁵

4.7.1 How serious were the offences committed?

210. In considering how serious the offences of misconduct in public office and breach of the Data Protection Act 1998 were, the Specialist Prosecutor considered a number of matters, including the following:

- i. Misconduct in public office is a serious offence. Similar cases³⁰⁶ against public officials had often resulted in custodial penalties. Breach of the Data Protection Act 1998 carries a fine only, even on indictment.³⁰⁷

302 Witness statement of former AC John Yates, IPC001368001, pp7-11, 08 July 2012.

303 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p38, para 173, 11 September 2015.

304 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p38, para 176, 11 September 2015.

305 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, pp39-43, para 177, 11 September 2015.

306 brought under Operation Elveden.

307 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p39, para 177, 11 September 2015.

In considering the possibility of the offence of misconduct in public office, the only test of corruption apparently used by the Specialist Prosecutor was whether money had passed between former DCS David Cook and Michael Sullivan. As former AC John Yates observed in his statement to the investigation, it was to be anticipated that former DCS Cook might have benefitted considerably had the book been published. There is no evidence that former DCS Cook and Michael Sullivan had abandoned the idea of writing the book before the unauthorised disclosure of the material was discovered. Indeed, according to the Operation Longhorn Report, at least three literary agents had been approached by one or the other of them. The evidence is very clear that former DCS Cook and Michael Sullivan reasonably expected to profit in the future from the book which they intended to write.

- ii. The motivation had been to facilitate the writing of a book, something which had been authorised in respect of another matter on a previous occasion. The Specialist Prosecutor noted that there were clear requests by former DCS Cook to Michael Sullivan to ensure the emails and their content remained confidential.³⁰⁸

The Specialist Prosecutor's comments that the publication of a book had previously been authorised by the Metropolitan Police and that former DCS Cook had asked Michael Sullivan to keep the material (which consisted not only of emails) confidential, were not relevant to motivation. DCS Cook had not sought any consent to write a book, nor had he sought consent for the disclosure which he had ultimately made.

- iii. The information disclosed had not affected the prosecution of any Defendant, nor had it led to any published newspaper story.³⁰⁹

The Specialist Prosecutor did not refer to the fact that disclosure of this information by former DCS Cook could adversely affect the safety of individuals whose details were leaked; breached the privacy of individuals whose data was leaked; and had the potential to lead to abuse of process arguments in any future trial of an individual for the murder of Daniel Morgan should an attempt be made to rely on any of the information leaked. These were all matters which should have been taken into consideration.

- iv. There was mitigation to be found in the fact that Michael Sullivan had previously been given significant authorised access to sensitive case material.³¹⁰

308 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p39, para 177, 11 September 2015.

309 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p39, para 177, 11 September 2015.

310 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p39, para 177, 11 September 2015.

There is no evidence that Michael Sullivan had been given ‘*significant authorised access*’ previously to sensitive material. He had been briefed only to assist in the placing of an article in the media in relation to the Daniel Morgan case.

- v. In any event former DCS David Cook was authorised, as the Senior Investigating Officer, to share information largely at his discretion.³¹¹

The Panel notes that former AC John Yates, in his statement, had said:

‘My recollection is that Mike Sullivan was briefed about the background of the case, including that covert methods were employed. I repeat, in my opinion, the inclusion could never have been interpreted as a more general authority for any officer to release additional material then or in the future.

‘I cannot recall other instances where either Mike Sullivan or other journalists were used in this way (post 2006) in this case – other than press releases for significant events.’³¹²

Former AC John Yates had also said:

‘The MPS [Metropolitan Police Service] media policy at the time allowed for “off the record” discussions between journalists and officers of Inspector and above. I acknowledge Mike Sullivan was included in the early stages and I would not have been surprised if Dave Cook had discussed the case with Mike [Sullivan] over the years. However, I repeat that the sending of sensitive and confidential documents would never have been authorised.’³¹³

There is no evidence that former DCS David Cook ‘*was authorised, as the Senior Investigating Officer, to share information largely at his discretion*’. The Independent Police Complaints Commission Report set out clearly some of the restrictions on disclosure of material. This finding by the Specialist Prosecutor is not consistent with the contents of the report submitted by the Independent Police Complaints Commission or with evidence given in the statement of former AC John Yates ‘*that the sending of sensitive and confidential documents would never have been authorised*’.

- vi. A previous email between former DCS David Cook and Michael Sullivan had been brought to the attention of the Metropolitan Police via an internal audit. This had been dealt with by way of an internal informal warning, and no further investigation had been considered necessary.³¹⁴

311 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p39, para 177, 11 September 2015.

312 Witness statement of former AC John Yates, IPC001368001, pp6-7, 08 July 2012.

313 Witness statement of former AC John Yates, IPC001368001, p9, 08 July 2012.

314 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p39, para 177, 11 September 2015.

In describing the seriousness of the offence, the Specialist Prosecutor aligned the current situation to that dealt with by Commander Simon Foy in which the sending of one email containing an unauthorised attachment had been dealt with by way of an informal warning. The situation under consideration at this stage was manifestly more serious and concerned awareness of around 500 disclosures. Nevertheless, the Specialist Prosecutor assumed that the way in which the Metropolitan Police dealt with one wrongful disclosure should indicate the way in which all other unauthorised disclosures should be handled. This rationale was not justified by the circumstances.

- vii. The Specialist Prosecutor considered that the '*health position*' of former DCS David Cook, particularly between September 2008 and February 2011,³¹⁵ did not provide any defence to his actions, although it was seen to go some way in explaining his mindset and mitigated the seriousness of the offence.³¹⁶

The Specialist Prosecutor was correct that poor mental health may mitigate the seriousness of an offence. In considering mitigating factors against the seriousness of the offence, the Specialist Prosecutor erroneously relied on, among others, the fact that former DCS David Cook had not received or sought payment.

4.7.2 What is the level of culpability of the suspect?

211. The Specialist Prosecutor determined that because former DCS David Cook had held high rank within the police service, in a position of trust, and had been responsible for a difficult and sensitive investigation which had already been tainted by corruption, this indicated a high level of culpability.³¹⁷

212. Despite the fact that former DCS David Cook had clearly shown, in a number of emails, his understanding of the significance of what he had been sending to Michael Sullivan,³¹⁸ there were, the Specialist Prosecutor found, matters of significant mitigation.³¹⁹ The Specialist Prosecutor referred to the fact that he had been able to cross-reference the timings of emails with evidence of former DCS David Cook's medical position at the time. He also acknowledged former DCS Cook's admission that his judgement had been affected by his state of health.

213. In November 2020, the Specialist Prosecutor explained to the Panel that although he had not had sight of a medical report, he was in possession of a full bundle of medical records in relation to former DCS David Cook which he had assessed.

315 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p26, para 115, 11 September 2015.

316 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p40, para 177, 11 September 2015.

317 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p40, para 177, 11 September 2015.

318 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p40, para 177, 11 September 2015.

319 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p40, para 177, 11 September 2015.

214. It was open to the Specialist Prosecutor to consider whether former DCS David Cook was, at the time of consideration of charging or at the time of the offence, affected by any 'significant' mental ill health or disability. In some circumstances this may mean that it is less likely that a prosecution is required. However, the Code for Crown Prosecutors makes clear that the prosecutor will also need to consider how serious the offence was. It is the Panel's view that the state of former DCS Cook's mental health might have mitigated the seriousness of the sentence or penalty applied to this offence, but that the Specialist Prosecutor should not have assessed former DCS Cook's mental health as demonstrating significant mental illness in the absence of a medical report.

215. Consideration was given to the evidence of former AC John Yates that the case had taken a dramatic toll on the health of former DCS David Cook, and to whether pressures had contributed to lapses in his professional judgement.³²⁰

216. The Specialist Prosecutor did not explain why, despite the evidence which he had before him, he described former DCS David Cook as '*a man of good character*'. Although this may, previously, have been true, there was no justification for basing any decision on such an observation.³²¹ As a result of this, in addition to the other factors considered and the very remote prospect of any further similar behaviour since former DCS Cook had retired, the Specialist Prosecutor concluded that the culpability of former DCS Cook was at '*a medium level*'.³²²

217. There is no evidence that the health of former DCS David Cook was raised as having affected his performance at any review of his work between 2006 and 2011. It is accepted that former DCS Cook experienced health difficulties during this period. However, the Panel is aware of only one relatively prolonged period of sickness during the Abelard Two Investigation. In these circumstances, a disproportionate weight seems to have been given by the Specialist Prosecutor to the issue of former DCS Cook's mental health, and the effect of that weighting was to diminish his culpability disproportionately.

4.7.3 What are the circumstances of, and the harm caused to, the victim?

218. The Specialist Prosecutor identified three potential primary '*victims*' as a consequence of the conduct of former DCS David Cook. These potential primary '*victims*' were:

- i. The Metropolitan Police:

The Specialist Prosecutor said that he was aware that there had been '*a number of articles, Court cases and indeed an ongoing Public Enquiry [sic]*',³²³ assessing the failures of various Metropolitan Police investigations and alleged corruption.³²⁴

320 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p41, para 177, 11 September 2015.

321 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p41, para 177, 11 September 2015.

322 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p41, para 177, 11 September 2015.

323 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p41, para 177, 11 September 2015.

324 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p41, para 177, 11 September 2015.

As such, the Specialist Prosecutor determined that the allegation against former DCS Cook would not have significantly increased the reputational damage already suffered by the Metropolitan Police.

The Panel struggles to understand how these allegations, relating as they do to the activities of an officer who was initially a serving Metropolitan Police officer, and who was subsequently retained by the Metropolitan Police to work on the Abelard Two Investigation, could not have significantly increased the reputational damage of the organisation.

ii. Individuals whose personal data was leaked by former DCS David Cook:

The Specialist Prosecutor said that it was difficult to assess the harm caused to individuals *'who were suspects, defendants and witnesses both for the defence and for the Crown'*, whose personal data was disclosed by former DCS Cook, *'beyond MS [Michael Sullivan] seeing the information'*. Although sending data via an insecure email had the potential to cause harm, this did not ever materialise.³²⁵ In the view of the Specialist Prosecutor, former DCS Cook was *'at the very least reckless when sending out the personal data'*.³²⁶

The Special Prosecutor did not, as he admitted, have the evidence to support a finding that no harm had *'materialised'* as a consequence of the use of insecure email. Without an investigation, it is not possible to identify the harm which may have resulted from DCS David Cook's unauthorised disclosure of the material.

The Metropolitan Police has since informed the Panel that no risk assessments were conducted in relation to the individuals potentially affected by the data leaks, and nobody was informed of any leak of material pertaining to them. Former DCS Cook had also disclosed very sensitive material belonging to the Serious Organised Crime Agency, in which he was employed at a high level at the time of the disclosures. The Special Prosecutor should have considered this issue and questioned whether the Serious Organised Crime Agency also a victim.

³²⁵ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, pp41-42, para 177, 11 September 2015.

³²⁶ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p42, para 177, 11 September 2015.

The Special Prosecutor had the benefit of the Independent Police Complaints Commission Report in Operation Longhorn, which contained, among other conclusions, the fact that former DCS David Cook had leaked to Michael Sullivan the statement of a vulnerable witness who was *'frightened for her life'*.³²⁷ This was done within a day of it having been signed by the witness. The analysis of the Specialist Prosecutor apparently also ignored the assessment of the Serious Organised Crime Agency that, of the 13 emails belonging to the Agency, eight posed a critical risk to the Agency, three a high risk, and two were assessed as being a medium risk to the organisation (see paragraph 156 above).

iii. The members of Daniel Morgan's family.³²⁸

The Specialist Prosecutor's findings included the fact that *'no story was ever printed or book published following the emails and that nothing sent by DC [former DCS David Cook] appears to be or intended to be deliberately against the interests of the Morgan family'*. He found that the position of former DCS Cook had been crucial, because of the *'highly damaged'* relationship between the Metropolitan Police and the family.³²⁹ The Specialist Prosecutor added that *'the whole investigation remains in the public domain in any event and as I have said there is an ongoing Public Enquiry [sic]'*. In addition, the Specialist Prosecutor acknowledged that Daniel Morgan's brother, Alastair Morgan, had at the time been writing his own book.³³⁰

This analysis ignored the conclusions of former AC John Yates, in his statement to the Independent Police Complaints Commission, that *'[t]he idea of the SIO [Senior Investigating Officer] collaborating (and no doubt benefitting commercially) on writing a book would have been hugely significant [...] I would certainly have advised Dave [former DCS David Cook] against it. If Alistair [sic] Morgan had found out I believe this would have done a great amount of damage to the relationship that we had fought so hard to build up with his family.'*³³¹

It was completely irrelevant that Alastair Morgan was writing his own book. He was not the Senior Investigating Officer, as former DCS Cook was, and he did not use confidential material in his book, whereas former DCS Cook had, and former DCS Cook was also sending such material to Michael Sullivan for the purposes of the *'Book Project'*.

The Specialist Prosecutor concluded *'on balance that the harm to any victim is low'*.³³²

327 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p41, para 206, September 2014.

328 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p42, para 177, 11 September 2015.

329 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p42, para 177, 11 September 2015.

330 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p42, para 177, 11 September 2015.

331 Witness statement of former AC John Yates, IPC001368001, p8, 08 July 2012.

332 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p42, para 177, 11 September 2015.

4.7.4 What is the impact on the community?

219. The Specialist Prosecutor stated there was ‘an impact on the community if an officer, and particularly one of the seniority of DC [former DCS David Cook], either acts corruptly or reduces their performance because they are improperly distracted by other tasks’.³³³

220. The Specialist Prosecutor found no evidence to suggest that former DCS David Cook was corrupt, nor that the nature of his relationship with Michael Sullivan was corrupt. As such he found ‘the impact on the community to be low’.³³⁴

221. The narrow definition of corruption adopted by the Specialist Prosecutor enabled him to reach this conclusion. A wider definition of corruption, which included the use of this material to generate future profit, should have resulted in a different conclusion. In fact, DCS David Cook had been intending to write a book and had during this investigation already drafted a significant number of chapters.

4.7.5 Is prosecution a proportionate response?

222. In considering whether the prosecution of former DCS David Cook was a proportionate response to his conduct, the Specialist Prosecutor found the following:

- i. There had been no evidence to suggest that the emails or attachments sent by former DCS Cook were the reason for the failure of any prosecution or that the emails had damaged the murder investigation.³³⁵

There was no consideration of the damage which might have been done to investigations other than the murder of Daniel Morgan, by the unauthorised leaking of confidential information relating to those investigations.

- ii. He had seen no evidence of former DCS Cook receiving or requesting payment from Michael Sullivan.³³⁶

The Specialist Prosecutor had, however, seen evidence that former DCS Cook and Michael Sullivan reasonably anticipated making a profit from their joint activities. This should have been of concern to the Specialist Prosecutor.

³³³ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p42, para 177, 11 September 2015.

³³⁴ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p42, para 177, 11 September 2015.

³³⁵ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p43, para 177, 11 September 2015.

³³⁶ Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p43, para 177, 11 September 2015.

- iii. The fact that one email had been dealt with previously through an informal warning was important in deciding on the proportionality of a prosecution.³³⁷

The Panel does not accept this conclusion (see paragraphs 124-126 and 210 vi above).

- iv. The email communication under consideration was '*somewhat historic in nature*'.³³⁸

The matter had been referred to the Independent Police Complaints Commission in 2012 and some of the emails under consideration dated from 2011. This cannot be regarded as '*historic*' communication. Nor was there consideration of the effect on future investigations of leaking so much police information.

- v. There would be considerable cost implications should the Independent Police Complaints Commission be required to complete a full file for submission to the Crown Prosecution Service.³³⁹ The Specialist Prosecutor coupled this with a reference to '*evidential challenges*'.

Prosecutions are expensive and many face evidential challenges. These issues were not particularly different from any other case. The Specialist Prosecutor, having reviewed the over 500 emails, considered the 46 emails indicated by the Independent Police Complaints Commission as the '*most appropriate on which to focus when considering the criminality of the case*'. The Specialist Prosecutor did not elaborate on what the evidential challenges might be. However, the fact remains that a significant volume of very specific case related material belonging to several law enforcement agencies had been disclosed unlawfully. The effect of not acknowledging the extent of the problem and dealing with it may well be to give comfort to others who are contemplating similar action.

337 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p43, para 177, 11 September 2015.

338 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p43, para 177, 11 September 2015.

339 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p43, para 177, 11 September 2015.

- vi. The Specialist Prosecutor could not make any comment on the impact a prosecution might have had on former DCS Cook's mental health; however, it was relevant in considering the proportionality of a prosecution. His mental health would also be relevant to any sentence likely to be imposed in the event of a successful prosecution.³⁴⁰

The Panel accepts that the mental state of a suspect at the time of the charging decision being made is potentially relevant to the issue of the proportionality of a prosecution. However, here the Specialist Prosecutor had not been provided with any medical report confirming the extent to which a prosecution would impact upon former DCS Cook's mental health.

223. The Specialist Prosecutor did not consider a prosecution to be a proportionate response.³⁴¹

224. The Panel disagrees with the reasoning on which the Specialist Prosecutor based his conclusions.

4.8 Conclusion by the Specialist Prosecutor

225. The Specialist Prosecutor concluded that he was satisfied that, under paragraph 4.2 of the Code for Crown Prosecutors (January 2013), even in the absence of all available evidence, the public interest did not reach the threshold for a prosecution for offences of misconduct in public office or breach of the Data Protection Act 1998.³⁴² In reaching this conclusion, he referred to the range of matters discussed above.

226. The Specialist Prosecutor added the following:

*'At the time I was asked by the IPCC [Independent Police Complaints Commission] to provide a charging advice in this case, I was also made aware of a separate MPS [Metropolitan Police Service] Investigation (Operation Megan) into a complaint by Jonathan Rees that his personal data had been provided to the Panorama television programme and to the media by DC [former DCS David Cook]. I am told that the MPS Operation Megan team propose to deal with any misuse by DC [former DCS David Cook] of the personal data of Jonathan Rees as an internal matter rather than one for prosecution and I consider that to be relevant and indicative of how matters of that nature may have been dealt with at that time.'*³⁴³

340 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p43, para 177, 11 September 2015.

341 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p43, para 177, 11 September 2015.

342 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p46, para 190, 11 September 2015.

343 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p45, para 182, 11 September 2015.

227. The function of the Specialist Prosecutor was to consider the evidence available to him and to assess whether a prosecution should occur. There is nothing in the Code for Crown Prosecutors which indicates that it was appropriate to consider how the Metropolitan Police proposed to deal with another separate offence.

The Specialist Prosecutor stated, *'I also assess that there is a public interest in the publication of a book detailing the good investigative work of DC [former DCS David Cook] and the MPS [Metropolitan Police Service] and the "setting of the record" straight'*.³⁴⁴ The Specialist Prosecutor had not examined the content of the investigations conducted by former DCS Cook or of the Metropolitan Police so as to be able to identify the *'good investigative work'* which he said had been done by former DCS Cook. Moreover, the evidence available showed that the case had collapsed because of the failings of the investigation as acknowledged by former AC John Yates and quoted above by the Specialist Prosecutor.

The Specialist Prosecutor acknowledged that former DCS Cook had acted unlawfully in releasing the material. That material had included information about witnesses, suspects, evidence obtained from a listening device, as well as internal police reports on various investigations into Daniel Morgan's murder, and investigations not connected to his murder. The Specialist Prosecutor's reasoning was set out at length in his report.

That reasoning does not, in the Panel's view, justify his decision. The hope expressed by former AC Yates that the matter could be dealt with *'under the umbrella of organisational learning'* is not justification for the decision. The Crown Prosecution Service/Metropolitan Police Review to which former AC Yates referred did not preclude the possibility of prosecution. What was required in the circumstances before the Specialist Prosecutor was further investigation to enable full analysis of whether a prosecution should occur.

4.9 Review of the decision by the Specialist Prosecutor

228. The decision by the Specialist Prosecutor was endorsed by the Head of the Organised Crime Division at the Crown Prosecution Service, Gregor McGill.³⁴⁵

229. In a document entitled 'Endorsement by Head of Division', Gregor McGill took a different approach from that taken by the Specialist Prosecutor to the question of whether or not former DCS David Cook should be prosecuted. Rather than assessing the matter under paragraph 4.2 of the Code (which does not engage the question of whether or not the 'Evidential Test' had been passed), Gregor McGill's report encompassed answering that very question almost entirely.

230. Gregor McGill recorded that, *'[t]he allegation against Dave Cook is that he sent to Mike Sullivan MPS [Metropolitan Police Service] data about witnesses and suspects together with evidence obtained from a probe'*.³⁴⁶

344 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p44, para 179, 11 September 2015.

345 *'Endorsement by Head of Division'*, IPC001410001, pp47-58, 29 September 2015.

346 *'Endorsement by Head of Division'*, IPC001410001, p48, para 9, 29 September 2015.

231. This repeated the overly narrow and incomplete picture that had been painted by the Specialist Prosecutor.

232. He continued, '[t]he purpose of his doing this is so that he and Mike Sullivan could collaborate on the writing of a book about the murder [...] It is clear that SIO's [sic] [Senior Investigating Officers] were encouraged to co-operate with the media in large, high profile investigations and MPS [Metropolitan Police Service] policy on how this was done was open to some interpretation by senior officers.'³⁴⁷

233. There is nothing to affirm the suggestion that the leaking of highly sensitive personal data during the course of a criminal investigation was merely the result of the Senior Investigating Officer's interpretation of the Metropolitan Police media policy.

234. Gregor McGill acted on the basis that medical evidence showed that former DCS David Cook was suffering from '*depression and anxiety and [...] suicidal thoughts*' and that former DCS Cook himself had confirmed his '*fragile mental state*' and a desire to put the Metropolitan Police's side of the story.³⁴⁸ There is no evidence that he had been provided with the original medical reports.

235. Gregor McGill went on to consider that Michael Sullivan was '*fully briefed about the murder investigation*' by the Metropolitan Police mid-2006.³⁴⁹ He expressed '*surprise*' at the scope of this briefing (despite the fact that neither he nor the Specialist Prosecutor had seen any minutes of the meeting) and observed that the Metropolitan Police '*had made a decision to fully indoctrinate [...] Mike Sullivan into the investigation*',³⁵⁰ and that it could be argued that '*Mike Sullivan had a legitimate expectation that he would be kept regularly updated as the investigation developed.*' He continued, '*I can certainly see, objectively and despite the observation to the contrary by John Yates, how Dave Cook could have formed this impression.*'³⁵¹ This aspect of the position of Michael Sullivan did, in Gregor McGill's view, reduce the culpability of former DCS Cook's conduct '*by a considerable degree*'.³⁵²

236. There is no justification for the inference by Gregor McGill that Michael Sullivan had '*a legitimate expectation that he would be kept regularly updated as the investigation developed*'. The briefing provided in 2006 was for a specific purpose. Gregor McGill did not explore how Michael Sullivan might have been lawfully updated, nor did he distinguish between lawful updating and unauthorised leaking, despite the lengthy statement by former AC John Yates on this matter.

The use of Michael Sullivan on one aspect of the investigation, which was short-lived and concluded before the leaks began, did not in any way make former DCS David Cook's actions less culpable.

347 '*Endorsement by Head of Division*', IPC001410001, p48, paras 9-10, 29 September 2015.

348 '*Endorsement by Head of Division*', IPC001410001, p48, paras 11-12, 29 September 2015.

349 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, pp49-50, 29 September 2015.

350 '*Endorsement by Head of Division*', IPC001410001, pp50-51, 29 September 2015.

351 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p51, 29 September 2015.

352 '*Endorsement by Head of Division*', IPC001410001, p52, 29 September 2015.

237. In reaching his decision, Gregor McGill stated that, '[t]here appears to be some 550 e mails [sic] – but some 46 have been identified as being e mails [sic] where either the documents or the information in the e mail [sic] itself should not have been shared by Dave Cook with a journalist'.³⁵³

238. **Gregor McGill, in making this statement, did not take note of the Independent Police Complaints Commission investigator's original statement:**

'This report has focussed [sic] upon a total of 46 e-mails sent by David Cook to Mike Sullivan over the period 2006 to 2011. They have been chosen as they represent potentially the most serious examples of unauthorised or inappropriate disclosure by David Cook to Mike Sullivan.'³⁵⁴

The report also stated that '[a] number of other documents sent by David Cook included information concerning a variety of police investigations and operations unconnected to the murder of Daniel Morgan'.³⁵⁵

239. Gregor McGill referred to the informal warning given to former DCS David Cook by Commander Simon Foy for the sending of a single email to Michael Sullivan after the conclusion of the trial as a *'very minor form of sanction'*. He went on to add, *'if Commander Foy had known of these other breaches, would it really have made any difference? It is arguable that it would not have done so.'*³⁵⁶

240. Gregor McGill appears to have made his decision on the basis of a false assumption about the nature and extent of the unauthorised disclosures by DCS David Cook, some of which did not even relate to the investigation of the murder of Daniel Morgan. The Panel does not agree that it was *'arguable'* that Commander Simon Foy would have taken such a lenient view of former DCS Cook's actions had he known there to have been over 500 such emails sent to Michael Sullivan, most sent before the conclusion of the trial, and at least 46 of which had been declared by the Case Officer from the Abelard Two Investigation to have contained sensitive material. When interviewed by the Panel, former Commander Foy indicated that this would not have been the case (see paragraph 126 above).

241. Gregor McGill then went on to consider the Director's Guidelines (as referred to in the Specialist Prosecutor's advice). He assessed the public interest in the disclosure made by former DCS David Cook to Michael Sullivan to be *'high'* and the overall criminality of former DCS Cook's behaviour as being *'medium'*. In coming to this decision, Gregor McGill noted that *'there was no real element of corruption [...] there were no threats and the disclosures did not affect the result of any police investigation. Dave Cook's motivation appears to have been to put*

353 *'Endorsement by Head of Division'*, IPC001410001, p52, 29 September 2015.

354 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p14, para 51, September 2014.

355 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p15, para 54, September 2014.

356 *'Endorsement by Head of Division'*, IPC001410001, p53, 29 September 2015.

*the record straight so as to explain the MPS [Metropolitan Police Service] investigation and try to mitigate some of the criticism made of the MPS', so that, on balance, a prosecution was less likely to be required in the public interest.*³⁵⁷

242. Gregor McGill concluded that:

*'Dave Cook does have a potential public interest defence in making these alleged disclosures, and that this makes a prosecution for Misconduct in Public Office less likely in the public interest, the same public interest factors must apply for an offence under section 55 (1) DPA 1998.'*³⁵⁸

243. Relying on the advice provided by the Specialist Prosecutor, he said: *'I am satisfied [...] that there is not at this stage, and is unlikely to be in the future, a realistic prospect of a conviction for an offence disclosed by this offending.'*³⁵⁹

244. Gregor McGill then finally dealt with the question of whether, under paragraph 4.2 of the Code, a prosecution should follow. He said:

*'I am satisfied that the broad extent of the criminality has been determined and that I can make a fully informed assessment of the public interest. I am satisfied that the public interest does not require a prosecution in this case and that this case should not proceed further.'*³⁶⁰

245. The way in which the following matters were handled by the Specialist Prosecutor and the Head of the Organised Crime Division, Gregor McGill, dictated their advice:

- i. The reason for former DCS David Cook's leaking of information being limited to the writing of a book on the Daniel Morgan investigation.
- ii. The narrow interpretation of the purpose of the leaks and the definition of corruption.
- iii. The misinterpretation by them of AC John Yates's view that he would have condoned the provision of sensitive material to Michael Sullivan for the purposes of writing this book. AC Yates specifically stated that the disclosure was not, and would not have been, authorised.
- iv. The poor mental health of former DCS Cook equating to a lack of intent and determination.
- v. The failure to equate future remuneration from the publishing of a book as constituting financial motive or gain.
- vi. The use of Michael Sullivan's journalistic skill on one occasion in a discrete and limited way as leading to a legitimate expectation that he would be provided with highly sensitive restricted information.

357 'Endorsement by Head of Division', IPC001410001, p55, 29 September 2015.

358 'Endorsement by Head of Division', IPC001410001, p56, 29 September 2015.

359 'Endorsement by Head of Division', IPC001410001, p57, 29 September 2015.

360 'Endorsement by Head of Division', IPC001410001, p57, 29 September 2015.

- vii. The failure to call for the Operation Megan and *Panorama* papers to determine the broad extent of former DCS Cook's criminality.
- viii. The assumption that Commander Simon Foy would have issued an informal warning had he known there to have been over 500 questionable emails, 46 of which contained sensitive attachments and 13 of which were considered by the Serious Organised Crime Agency to have carried a '*critical risk*' to that organisation.
- ix. The assessment of the effect on the victims as being '*low*' when in fact no risk assessments or exploration of this impact had been undertaken.

The conclusions of the Specialist Prosecutor and the Head of the Organised Crime Division were dictated by this approach and analysis of the available information. These conclusions have, in turn, affected subsequent consideration of the behaviour of former DCS Cook.

246. In November 2020, the Specialist Prosecutor stated to the Panel that his advice was reviewed at the time by his manager, the deputy Head of the Division, albeit informally, and by the Head of Division personally. The Specialist Prosecutor also noted that both of these lawyers agreed with his conclusions, and the Independent Police Complaints Commission decision not to appeal his advice, nor to carry on its investigation also indicated its acceptance. While a review of his advice may have provided some reassurance, the Panel's view is that the advice itself was not based upon a sound factual basis.

247. The Panel interviewed former DCS David Cook after the conclusion of all the investigations into his conduct. He generally declined to discuss these matters, saying that he could not now account for his thought process in disclosing material to Michael Sullivan, but he did make some comments. He told the Panel that during the Abelard Two Investigation, Michael Sullivan was '*out drinking with John Yates*', and that AC John Yates had been telling Michael Sullivan things about the investigation.³⁶¹ Former DCS Cook said that Michael Sullivan '*was getting a far more detailed briefing initially from John Yates than he was from myself*'.³⁶² When asked whether he had mentioned this to anyone previously he said that he had not done so because, '*I've never had cause to*'.³⁶³

248. AC John Yates discussed his relationship with Michael Sullivan and briefings given to journalists during the Abelard Two Investigation in a statement to the Independent Police Complaints Commission in 2012. He stated that he had known Michael Sullivan for several years and their relationship was a professional one, but they also met socially '*although within a work-based context*'.³⁶⁴ AC Yates also stated that he was present when briefings were provided to journalists '*off the record*'.³⁶⁵ As stated above (at paragraph 193 ii), AC Yates also said, '*I would certainly not have authorised such access to sensitive material by Mike Sullivan prior to the conclusion of the case. I believe Dave Cook would have been well aware of this.*'³⁶⁶

361 Panel interview with former DCS David Cook, Transcript 3, pp9-10 and 15, 25 August 2020.

362 Panel interview with former DCS David Cook, Transcript 3, p10, 25 August 2020.

363 Panel interview with former DCS David Cook, Transcript 3, p10, 25 August 2020.

364 Witness statement of former AC John Yates, IPC001368001, p1, 08 July 2012.

365 Witness statement of former AC John Yates, IPC001368001, p7, 08 July 2012.

366 Witness statement of former AC John Yates, IPC001368001, p8, 08 July 2012.

249. Former AC John Yates told the Panel that *'[he] had frequent interactions with the press, including Michael Sullivan. These were professional engagements as part of [his] role as the most senior detective in London. [He] was open and transparent about these interactions in [his] evidence to the Leveson Inquiry and [he] reiterate[s] that no finding of wrongdoing was made by Leveson LJ.'* Former AC Yates has categorically denied that he provided Michael Sullivan with any confidential information other than a formal briefing at an early stage in the Abelard Two Investigation.

250. Former DCS David Cook had, in 2012, previously raised his suspicions in a statement to the Independent Police Complaints Commission that AC John Yates was passing information to Michael Sullivan. By 2020 he seemed convinced that it must have been AC Yates. However, the Panel has not seen any information to support this suggestion. There is no evidence that the matter was raised by the Independent Police Complaints Commission with the Metropolitan Police.

251. Former DCS David Cook also told the Panel that one other person within the Abelard Two Investigation team may have disclosed information to Michael Sullivan.³⁶⁷ When asked whether he had taken any action as Senior Investigating Officer to stop this other person disclosing material to Michael Sullivan, he said that:

'[t]his was 2010 I think, when it came. I was no longer in the Metropolitan Police, we were already in the process....

*These are personal relationships that Mike has with other people. Do I know what this other person was saying to Mike? I know that one area that the person was discussing with Mike, she was discussing with Mike their view on the success of the case and how it's going. They were very negative, I was very positive. But in terms of the detail of what was being discussed, I don't know.'*³⁶⁸

252. When asked about his stated belief that he had authority to talk to the media, and whether he distinguished between briefing and giving Michael Sullivan confidential reports, former DCS David Cook responded, *'I did have, you could say I did have the authority as the SIO to sit down and brief Mike on absolutely anything. And that's contained within the Met Police policy at that time.'*³⁶⁹ He also said *'[c]an I also make it clear that other journalists who were interested in the investigation, if they came in and they asked us questions then we sat down and we gave them a comprehensive briefing.'*³⁷⁰ When asked if he kept a log of who came and what they were told, he responded that *'[t]here should be some sort of log.'* He also said: *'It wasn't just me that did this, sometimes Noel was present etc.'*³⁷¹

367 Panel interview with former DCS David Cook, Transcript 3, p11, 25 August 2020.

368 Panel interview with former DCS David Cook, Transcript 3, p11, 25 August 2020.

369 Panel interview with former DCS David Cook, Transcript 3, p13, 25 August 2020.

370 Panel interview with former DCS David Cook, Transcript 3, p13, 25 August 2020.

371 Panel interview with former DCS David Cook, Transcript 3, p13, 25 August 2020.

253. It is the case that DCS David Cook had authority to conduct media briefings within normal constraints, and that AC John Yates and others attended such briefings. However, the proposition that DCS Cook had authority to brief and to provide documents to the extent that he disclosed material to Michael Sullivan and others is completely rejected. No log of meetings with journalists has been provided to the Panel. Had such regular and comprehensive briefings occurred, they should have been recorded in a log and there should have been a strategy throughout for what could and could not be disclosed. The Panel rejects former DCS Cook's account that he was entitled to disclose material as he suggested he was.

5 Operation Megan

5.1 Complaint by Jonathan Rees

254. On 30 January 2012, Jonathan Rees made a complaint to the Independent Police Complaints Commission against the Metropolitan Police. The Metropolitan Police were informed of the complaint, which contained four allegations. In subsequent meetings and correspondence, Jonathan Rees amended these allegations. The four allegations were as follows:

- i. *'Confidential information belonging to Mr Rees had been improperly disclosed to the BBC Panorama programme on 14th March 2011.'*
- ii. *DCS Cook prompted and coached prosecution witness Gary Eaton to change his evidence. DCS Cook then gave live evidence at the Voir Dire^[372] and lied about his contact with him.*
- iii. *Mr Rees was defamed in a Sun Newspaper article^[373] published on 27th October 2006. This complaint was later withdrawn.*
- iv. *Mr Alistair [sic] Morgan the brother of Daniel Morgan attended the IPCC to "question" them about the arrest of DCS Cook by the IPCC in January 2012.'*³⁷⁴

255. The first allegation³⁷⁵ referred to video taken from Jonathan Rees's computer hard drive; transcripts of covert police recordings; and invoices that had Jonathan Rees's personal details on them, which had been seized by the Abelard Two Investigation during a search of Jonathan Rees's home on 07 February 2007.^{376,377} Some of this material had been shown during the BBC *Panorama* programme on 14 March 2011.³⁷⁸ Jonathan Rees named two journalists, Graeme McLagan, who appeared in the *Panorama* programme, and Michael Sullivan, as contacts of former DCS David Cook.^{379,380}

372 The pre-trial hearing.

373 *'Found! The 1957 Austin Healey that could solve 20-year murder riddle'*, Michael Sullivan, MPS102671001, 27 October 2006.

374 Operation Megan Report, MPS109687001, p9, para 5.1, undated.

375 *'Investigation into complaint made by William J. Rees'*, IPC001411001, p4, paras 1-3, 14 December 2016.

376 Witness statement of Jonathan Rees, MPS109704001, pp47-48, para 28, 13 June 2014.

377 *'Investigation into complaint made by William J. Rees'*, IPC001411001, p8, para 41, 14 December 2016.

378 Witness statement of Jonathan Rees, MPS109704001, p41, para 4c, 13 June 2014.

379 *'Investigation into complaint made by William J. Rees'*, IPC001411001, p10, para 60, 14 December 2016.

380 Witness statement of Jonathan Rees, MPS109704001, pp63-64, para 71, 13 June 2014.

256. Following D/Supt Mark Mitchell's review in February 2012 (see section 2 above), there was discussion between the Independent Police Complaints Commission and the Metropolitan Police about who should investigate Jonathan Rees's complaint. On 03 July 2012, the Independent Police Complaints Commission Investigator contacted Commander Peter Spindler at the Metropolitan Police requesting that the first two allegations should be dealt with by the Metropolitan Police. Jonathan Rees withdrew his third allegation, and the fourth was dealt with by the Independent Police Complaints Commission.³⁸¹

5.1.1 Review into the complaint by Jonathan Rees and findings of Mr Justice Maddison, in R v Rees & Others, 19 April 2013³⁸²

257. Commander Allan Gibson of the Directorate of Professional Standards asked DCI Fiona McCormack and DI Donna Smith to carry out the review of the complaint by Jonathan Rees and of the findings of '*The Maddison Ruling*'.

258. The Terms of Reference for DCI Fiona McCormack's review were as follows:

- i. To contact Jonathan Rees's solicitor and establish the extent of the allegations and supporting evidence.
- ii. To review the judgment of Mr Justice Maddison '*around improper handling and prompting*' of Gary Eaton by DCS David Cook.
- iii. To review the evidence given in Court by former DCS Cook.
- iv. To review the evidence of others given in Court that related to the police handling of Gary Eaton.
- v. To prepare a report detailing a timeline of events, investigative opportunities and potential criminal/misconduct offences that may have been committed.
- vi. To seek early Crown Prosecution Service advice.³⁸³

259. On 14 February 2013, Jonathan Rees was interviewed, and he disclosed further complaints. This interview was transcribed by police into a draft statement for Jonathan Rees, which was supplied to him for signature. However, at that stage he did not sign it, as he wished to make further amendments.³⁸⁴

260. On 05 March 2013, DCI Fiona McCormack and DI Donna Smith met Alison Saunders, the Chief Crown Prosecutor for the London region of the Crown Prosecution Service, to discuss the emerging findings of the review. Alison Saunders stated that she believed a full investigation should take place into Jonathan Rees's complaint and the issues addressed by Mr Justice Maddison, pointing out that, without this, the family of Daniel Morgan would always have unanswered questions. It was recorded that she further recommended '*the investigation should not be conducted by the MPS [Metropolitan Police Service] as the public and the family had lost confidence in the MPS as a result of numerous failed investigations*'.³⁸⁵

381 Operation Megan Report, MPS109687001, p9, paras 5.1-5.2, undated.

382 '*Review into the public complaint of Jonathan Rees and the findings of "The Maddison Ruling"*', MPS109704001, p19, 19 April 2013.

383 '*Review into the public complaint of Jonathan Rees and the findings of "The Maddison Ruling"*', MPS109704001, p22, 19 April 2013.

384 Operation Megan Report, MPS109687001, p9, para 5.4, undated.

385 Operation Megan Report, MPS109687001, p10, paras 5.7-5.8, undated.

261. On 19 April 2013, DCI Fiona McCormack reported the results of her review. She detailed potential investigative opportunities, focusing on the following:

- i. The unauthorised contact between former DCS David Cook and Gary Eaton.
- ii. The possibility that Gary Eaton had been prompted by former DCS Cook when providing his evidence.
- iii. Whether Gary Eaton had been ‘tipped off’ regarding his claim that his father was dead.
- iv. Jonathan Rees’s allegations regarding the lack of investigations by officers during the Abelard Two Investigation.
- v. Confidential information belonging to Jonathan Rees being disclosed to the *Panorama* programme³⁸⁶ (this matter was transferred back to the Independent Police Complaints Commission in 2015 and dealt with there).

262. DCI Fiona McCormack stated in her report:

‘There are vast political and moral reasons for ensuring that a thorough, impartial investigation takes place into Abelard II. If this is not done, it could be perceived that the MPS [Metropolitan Police Service] are failing to act on comments made by the Crown Court Judge, a public complaint made by a defendant and civil complaints made by the family and other defendants.’³⁸⁷

263. DCI Fiona McCormack concluded her report with a recommendation that an independent investigation be carried out by the Independent Police Complaints Commission.³⁸⁸

264. During the months which followed, there was discussion as to who should conduct the investigation. On 14 June 2013, the Independent Police Complaints Commission Deputy Chair, Deborah Glass, wrote to Commander Allan Gibson declining to investigate and saying that ‘[w]hile the IPCC [Independent Police Complaints Commission] does investigate a small number of corruption cases you are aware that we are not currently resourced to carry out many or large corruption enquiries [...]’.³⁸⁹ She suggested that either Sir Stanley Burnton, then newly appointed Chair of the Daniel Morgan Independent Panel, or the Serious Organised Crime Agency (as former DCS David Cook’s employer) might investigate former DCS Cook.³⁹⁰ On 16 August 2013, the Metropolitan Police invited Sir Stanley Burnton to conduct the investigation.³⁹¹ On 17 September 2013, Sir Stanley Burnton declined to take the complaints investigation, stating that the Panel’s remit ‘does not include investigating complaints of misconduct against any particular officer’. He went on to say that the Panel would ‘not be conducting an investigation in the sense that might be expected to be conducted by the MPS [Metropolitan Police Service] in respect of a recordable conduct matter under the Police Reform Act 2002’.^{392,393}

386 Operation Megan Report, MPS109687001, p10, para 5.11, undated.

387 ‘Review into the public complaint of Jonathan Rees and the findings of “The Maddison Ruling”’, MPS109704001, p36, 19 April 2013.

388 ‘Review into the public complaint of Jonathan Rees and the findings of “The Maddison Ruling”’, MPS109704001, p38, 19 April 2013.

389 Letter from Deborah Glass to Commander Allan Gibson, MPS109847001, pp1-2, 14 June 2013.

390 Letter from Deborah Glass to Commander Allan Gibson, MPS109847001, pp2-3, 14 June 2013.

391 Decision 38, SIO Decision Log, MPS109902001, p45, 16 August 2013.

392 Letter from Sir Stanley Burnton to Commander Allan Gibson, 17 September 2013.

393 Decision 41, SIO Decision Log, MPS109902001, p48, 23 September 2013.

265. On 25 October 2013, DCI Fiona McCormack recorded that Commander Allan Gibson had decided that the Directorate of Professional Standards should take the investigation and that it would be led by DCI McCormack as the Senior Investigating Officer.³⁹⁴ On 01 December 2013, the Metropolitan Police requested that the British Transport Police should be appointed to provide independent oversight of the enquiry, to ensure that a thorough and professional investigation was conducted with integrity.³⁹⁵ On 18 December 2013, DCS Martin Fry of the British Transport Police was appointed as the Senior Investigating Officer, to provide independent oversight.³⁹⁶ The investigation commenced in January 2014.³⁹⁷

5.2 The Operation Megan Investigation

266. In November 2013, Jonathan Rees explained that he wanted to amend his draft statement of 14 February 2013.³⁹⁸ On 21 January 2014, Jonathan Rees was interviewed. The Terms of Reference for the Operation Megan Investigation, derived from his complaints which were made formally in a statement dated 13 June 2014,³⁹⁹ were as follows:

- A. To fully investigate the complaints made by Jonathan Rees:
 - i. Police officers dealing with the witness, Gary Eaton, breached the sterile corridor between the Abelard Two Investigation and the witness debriefing team.
 - ii. Gary Eaton was prompted and/or coached by the Operation Abelard Two Investigation team, particularly DCS David Cook.
 - iii. Gary Eaton was tipped off by the Operation Abelard Two Investigation team that Defence lawyers had discovered that he had lied about his father being dead.
 - iv. Former DCS Cook lied in court during a bail application regarding the history of James Ward and did not disclose relevant information about his background.
 - v. Former DCS David Cook lied during a bail application when providing evidence that Glenn Vian threatened a named individual⁴⁰⁰ with an axe.
 - vi. DCS David Cook, AC John Yates and other members of the Operation Abelard Two Investigation team allowed Gary Eaton to confess to serious crimes despite being mentally ill. Gary Eaton should have had an appropriate adult, and the Operation Abelard Two Investigation team did not conduct any enquiries to corroborate Gary Eaton's confessions.
 - vii. The Operation Abelard Two Investigation team pressurised Person J5 into giving a statement despite her being mentally ill.
 - viii. The Operation Abelard Two Investigation team failed to challenge Gary Eaton and Person J5 on their allegations despite believing that the information they provided could not be correct.

394 Decision 42, SIO Decision Log, MPS109902001, p49, 14 October 2013.

395 Decision 54, SIO Decision Log, MPS109903001, p9, 01 December 2013.

396 Operation Megan Report, MPS109687001, p13, para 6.3, undated.

397 Decision 49 and Decision 50, SIO Decision Log, MPS109903001, pp3-5, 26 November 2013.

398 Operation Megan Report, MPS109687001, page 11, para 5.19, undated.

399 Witness statement of Jonathan Rees, MPS109704001, pp40-64, 13 June 2014.

400 Person W14.

- ix. The Operation Abelard Two Investigation team were aware of, but failed to disclose, 18 crates of relevant material.
 - x. Information was improperly disclosed to *Panorama* by Metropolitan Police officers, and subsequently by others following the seizure of Jonathan Rees's computers and documents during a search in 2007.
 - xi. The Operation Abelard Two Investigation team attempted to pressurise Jonathan Rees's partner, Margaret Harrison, into providing a statement against him.⁴⁰¹
- B. To consider whether any person had committed any criminal offences and/or had a case to answer for misconduct or gross misconduct.⁴⁰²
- C. To identify any organisational learning and make recommendations as deemed necessary.⁴⁰³

267. DCI Fiona McCormack's initial focus was to investigate allegation (x) above, that information was improperly disclosed to *Panorama* by Metropolitan Police officers, and subsequently by others, following the seizure of computers and documents during a search at Jonathan Rees's home address in 2007.⁴⁰⁴ Photographs and invoices, which were contained within a laptop seized from Jonathan Rees by police during the Abelard Two Investigation, had been shown on the *Panorama* programme entitled '*Tabloid Hacks Exposed*' (broadcast on 14 March 2011).⁴⁰⁵

268. This was the first occasion upon which this aspect of Jonathan Rees's complaint had actually been examined. For the previous two-and-a-half years the Metropolitan Police and the Independent Police Complaints Commission had been clarifying the allegations contained in the complaint and discussing who should investigate the allegations. The Independent Police Complaints Commission did not have to investigate such a complaint and had the right to refer it back to the Metropolitan Police which it sought to do. The Metropolitan Police preferred the Independent Police Complaints Commission to carry out the investigation.

269. Following extensive investigation, Operation Megan established that a working copy of a disc produced from Jonathan Rees's computer for the Abelard Two Investigation, which contained the material which was shown on the *Panorama* programme, was missing and could not be located. It was also established that the invoices which were shown on the programme had been sent by email from former DCS David Cook to the journalist Michael Sullivan.⁴⁰⁶

270. Simultaneously, the Independent Police Complaints Commission investigation, Operation Longhorn (see section 4 above) was investigating leaks of police material from former DCS David Cook to Michael Sullivan.⁴⁰⁷

271. Although the Operation Megan Investigation made some progress in relation to the investigation of the unauthorised disclosure of material to the *Panorama* programme, there was a very real problem created by the dual roles of the Metropolitan Police and the Independent Police Complaints Commission, and the lack of resources to investigate at the Independent

401 Operation Megan Report, MPS109687001, p2, para 2, undated.

402 Operation Megan Report, MPS109687001, p2, para 2.2, undated.

403 Operation Megan Report, MPS109687001, p2, para 2.3, undated.

404 Operation Megan Report, MPS109687001, p14, para 7.1, undated.

405 Operation Megan Report, MPS109687001, p14, paras 7.1-7.4, undated.

406 Operation Megan Report, MPS109687001, p14, paras 7.9 and 7.10, undated.

407 Operation Megan Report, MPS109687001, p14, paras 7.12-7.13, undated.

Police Complaints Commission. This led to a meeting on 08 January 2015, between the Independent Police Complaints Commission, Senior Investigator Chris Mahaffey and the Metropolitan Police Senior Investigating Officer, DCI Fiona McCormack. At this meeting, it was agreed that the investigation into the *Panorama* leakage would be conducted wholly by the Independent Police Complaints Commission.⁴⁰⁸

272. The Independent Police Complaints Commission Report on the *Panorama* allegation is analysed at section 6 below.

273. As a result of the meeting on 08 January 2015, one of Jonathan Rees's complaints to the Independent Police Complaints Commission, which was that '*DCS Cook prompted and coached prosecution witness Gary Eaton to change his evidence. DCS Cook then gave live evidence at the Voir Dire*⁴⁰⁹ *and lied about his contact with him,*⁴¹⁰ was returned to the Metropolitan Police for investigation, by the Independent Police Complaints Commission.

274. Operation Megan investigators accessed various data and information sources, including the following:

- i. The seven HOLMES accounts used to investigate the murder of Daniel Morgan.⁴¹¹
- ii. Exhibits seized following the arrest of Jonathan Rees in 2007.⁴¹²
- iii. Documentation and exhibits seized after the arrest of former DCS David Cook by the Independent Police Complaints Commission in 2012.⁴¹³
- iv. Exhibits seized by police following the execution of a search warrant at former DCS Cook's home address in 2014.⁴¹⁴
- v. All material held by the Criminal Cases Review Commission in relation to the proposed prosecution of Jonathan Rees and others, which was withdrawn on 11 March 2011.⁴¹⁵

5.2.1 The initial review of exhibits seized from former DCS David Cook's home address in November 2014

275. In the course of communication by former DCS David Cook with the Metropolitan Police on a personal matter in 2014, he supplied the Metropolitan Police with a copy of a Metropolitan Police document which he should not have had, since he was retired. This led the Metropolitan Police to question whether he might also be holding other Metropolitan Police material.⁴¹⁶ Operation Megan investigators obtained and executed a search warrant at former DCS Cook's home address in November 2014.^{417,418} During this search, numerous exhibits were seized,

408 Operation Megan Report, MPS109687001, p15, para 7.16, undated.

409 The pre-trial hearing.

410 Operation Megan Report, MPS109687001, p9, para 5.1, undated.

411 Operation Megan Report, MPS109687001, p13, para 6.7, undated.

412 Operation Megan Report, MPS109687001, p13, para 6.7, undated.

413 Operation Megan Report, MPS109687001, p13, para 6.7, undated.

414 Operation Megan Report, MPS109687001, p13, para 6.7, undated.

415 Operation Megan Report, MPS109687001, p11, para 5.18, undated.

416 Decision 89, SIO Decision Log, MPS109903001, pp45-46, 23 July 2014.

417 Decision 98, SIO Decision Log, MPS109904001, p4, 21 October 2014.

418 Witness statement, MPS1097130001, p221, 04 November 2014; Witness statement, MPS1097130001, pp242-244, 05 November 2014.

including a large number of electronic storage devices such as laptops, memory sticks and mobile telephones. These electronic devices were subjected to forensic examination and the contents were analysed by Operation Megan investigators.⁴¹⁹

276. Two exhibits were assessed to be of particular note: a hard drive concealed in a recess in former DCS David Cook's guest bathroom, and a MacBook Pro laptop.^{420,421} Investigators also gained access to former DCS Cook's Metropolitan Police, the Serious Organised Crime Agency and Yahoo email accounts, which contained in excess of 20,000 emails.⁴²²

277. Interrogation of the electronic devices and email accounts owned by former DCS David Cook showed that he had retained copies of material and correspondence relating to many of the investigations he had managed during his time as a Senior Investigating Officer. This material was varied, and included intelligence logs, case file papers, research and analysis documents, and email correspondence. The recovered documentation ranged in its classification, from open source material which is freely available to the public, to highly sensitive, secret documents.⁴²³

278. Operation Megan was also provided by the Independent Police Complaints Commission with 620 emails and 5,846 pages of documents covering the period between 23 August 2006 and 07 September 2011, which had been provided to Operation Elveden by the Management Standards Committee at News International. The documents covered the period from 23 August 2006 to 07 September 2011. These documents were analysed, and a report was submitted by a Detective Constable on 31 July 2014.⁴²⁴ The report concluded that:

*'what is evident from reviewing these 5,846 pages of documents is that David COOK was intent on advancing his career as a future author of books and as a result provided Mike SULLIVAN with unrestricted access to material belonging to the Metropolitan Police Service and Operation Abelard Two. Although it is apparent from the content of some of these emails and from his prepared statements to the IPCC [Independent Police Complaints Commission] that he was experiencing both health and personal problems, he was undeterred in his mission to publish this book.'*⁴²⁵

279. This conclusion is clearly justified by the content of the emails.

280. Operation Megan had specific, limited Terms of Reference. These did not include an investigation into material found concealed at former DCS David Cook's home in November 2014. Following a meeting with AC Martin Hewitt (who was newly appointed to deal with these matters following the departure of AC Cressida Dick⁴²⁶ from the Metropolitan Police), this material was transferred to a new investigation called Operation Edison (see section 10 below).⁴²⁷

419 Decision 99, SIO Decision Log, MPS109904001, p5, 20 November 2014.

420 Briefing note re Operation Megan Report, Metropolitan Police Service Directorate of Professionalism, MPS109907001, p1, 26 January 2015.

421 Witness Statement, MPS1097130001, p221, 04 November 2014, Witness Statement, MPS1097130001, p243, 05 November 2014.

422 Briefing note re Operation Megan Report, Metropolitan Police Service Directorate of Professionalism, MPS109907001, p1, 26 January 2015.

423 Briefing note re Operation Megan Report, Metropolitan Police Service Directorate of Professionalism, MPS109907001, p1, 26 January 2015.

424 D276 Op Megan, p19, 31 July 2014.

425 D276 Op Megan, pp17-18, 31 July 2014.

426 Subsequently returned to the Metropolitan Police as Commissioner in April 2017.

427 Decisions 99 and 100, SIO Decision Log, MPS109904001, pp5-6, 20 November 2014 and 20 January 2015.

5.2.2 Allegations concerning the debrief and handling of Gary Eaton and the allegation that Gary Eaton was prompted and coached by former DCS David Cook and other members of the Abelard Two Investigation

281. Operation Megan investigators examined the information concerning allegations of a breach in the sterile corridor between Gary Eaton and the Abelard Two Investigation and whether he had been prompted or coached by former DCS Cook and other members of the Abelard Two Investigation.⁴²⁸ Gary Eaton had not given evidence at the pre-trial hearing in relation to these matters. The matters were dealt with together because the occasions on which the sterile corridor was said to be breached were the occasions on which it was alleged that Gary Eaton had been prompted or coached.

282. Gary Eaton was interviewed by Operation Megan investigators on 08 and 09 July 2014.^{429,430,431,432,433} An interview strategy prepared by a Detective Inspector provided that Gary Eaton was to be treated as a vulnerable witness.

283. In summary, it was reported that Gary Eaton had said that:

- i. He knew about the sterile corridor and how it should work. It had been explained to him in the debrief and by his witness protection team.⁴³⁴
- ii. That the sterile corridor had only been breached on one occasion, and this happened when he was being asked about Glenn Vian and Garry Vian and he could not remember their names. During a break he had gone with DS (later DI) Anthony Moore for a walk. Gary Eaton said that DS Moore said to him *'if you are having difficulty remembering their names I can give them to you'*. He said that he *'went mad'* and returned to the debrief telling his solicitor what had happened and recording the breach on tape at the start of the next session. He said that he did not trust DS Moore due to the fact that DS Moore had tried to feed him information.⁴³⁵
- iii. Former DCS David Cook was *'an honest, totally upfront "Old Style Copper"'*. All contacts with former DCS Cook were in relation to welfare issues and issues surrounding the protection of his family. Contact which had taken place with former DCS Cook had not related to the ongoing investigation and were not inappropriate. He also said that the majority of the calls were made to him by former DCS Cook.⁴³⁶
- iv. He was never given instructions on what to say by anyone.⁴³⁷
- v. He had not signed the handwritten statement of 05 September 2006 in which he had stated that he wanted to disclose that *'the brothers are involved'* (see Chapter 8, Abelard Two Investigation).⁴³⁸

428 Operation Megan Report, MPS109687001, p2, paras 2.1.1-2.1.2, undated.

429 Gary Eaton Interview, Disk 1, MPS109853001, 08 July 2014.

430 Gary Eaton Interview, Disk 2, MPS109854001, 08 July 2014.

431 Gary Eaton Interview, Disk 3, MPS109855001, 08 July 2014.

432 Gary Eaton Interview, Disk 4, MPS109856001, 09 July 2014.

433 Gary Eaton Interview, Disk 5, MPS109857001, 09 July 2014.

434 Overview of Gary Eaton's interviews of 8th and 9th July 2014, MPS109821001, p2, undated.

435 Overview of Gary Eaton's interviews of 8th and 9th July 2014, MPS109821001, p2, undated.

436 Overview of Gary Eaton's interviews of 8th and 9th July 2014, MPS109821001, pp2-3, undated.

437 Overview of Gary Eaton's interviews of 8th and 9th July 2014, MPS109821001, p3, undated.

438 Overview of Gary Eaton's interviews of 8th and 9th July 2014, MPS109821001, p2, undated.

284. Operation Megan investigators were aware that a further allegation had been made by Gary Eaton that:

- i. during his debrief an officer had dropped him a name;
- ii. when he was attending an identity parade he had 'been shown a face' by DS Anthony Moore; and
- iii. had also said that 'Cook [(DCS David Cook)] *should not have been on the case*'. This was alleged to have happened on 12 May 2010 when Gary Eaton had commented on the two alleged breaches of the sterile corridor to two police officers.⁴³⁹

285. These matters referred to in the previous paragraph had been brought to the attention of a Detective Inspector in the Witness Protection Unit. The Detective Inspector had recorded on 20 May 2010 that he had visited Gary Eaton at his home on 19 May 2010, and had asked him about these allegations:

- i. Gary Eaton had explained that during a break in his debrief one day, DS Anthony Moore had suggested that he might jog his memory in respect of the name of a person whom he had been discussing. He immediately rejected the suggestion and the matter had been dropped. Gary Eaton had also said that he later complained about this incident to D/Supt Barry Phillips and that, as a result, a very short time later DS Moore had been removed from the enquiry.

Gary Eaton had confirmed to the Detective Inspector '*that he had already formally complained about this incident and it had been dealt with*'.⁴⁴⁰

- ii. when asked what he meant by saying that after he had participated in an ID procedure he had been '*shown a face*', Gary Eaton had said that after the ID procedure DS Moore had asked Gary Eaton whether he had picked out a particular suspect, and he had replied that he had not. He said that at a later debrief DS Moore had '*tried to "force" the matter*' but that he stated that he had refused to be drawn on the matter.⁴⁴¹
- iii. when asked what he meant when he commented that '*Cook should not have been on the case*' he explained that David Cook used to ring him up and say things but that none of what he said was inappropriate.

286. The Detective Inspector from the Witness Protection Unit determined that the first allegation had been reported and dealt with and, in respect of the second and third allegations, nothing improper had occurred.⁴⁴² He also said that that being the case, and because Gary Eaton was no longer a prosecution witness, he had decided to take no further action.

287. The interview by the Detective Inspector from the Witness Protection Unit on 19 May 2010 was simply recorded as a Case Note in the Witness Protection files. There is no evidence that it was brought to the attention of Prosecuting Counsel or to his senior officers. However, it is recorded that on 05 October 2010 the Case Note was sent to the Directorate of Professional Standards.

⁴³⁹ Witness Protection Unit Case Note, MPS001357001, p1, 20 May 2010.

⁴⁴⁰ Witness Protection Unit Case Note, MPS001357001, p1, 20 May 2010.

⁴⁴¹ Witness Protection Unit Case Note, MPS001357001, p1, 20 May 2010.

⁴⁴² Witness Protection Unit Case Note, EDN001096001, p2, 20 May 2010.

288. An investigation was then carried out by a Detective Sergeant in the Directorate of Professional Standards who reported on 13 October 2010. He stated that he had reviewed these matters and:

- i. On 08 October 2010, Gary Eaton's solicitor had been contacted but had responded that Gary Eaton had not made a complaint and does not intend to do so. Gary Eaton's solicitor was unable to give a statement without the consent of her client and that consent had not been forthcoming.⁴⁴³ However, the Detective Sergeant recorded that the solicitor had been present throughout all the interviews and had accompanied Gary Eaton on all breaks and had not made any complaint.⁴⁴⁴
- ii. Gary Eaton had disputed that he made these complaints and did not wish to complain.⁴⁴⁵
- iii. He could find no record of how the first allegation about the giving of a name had been dealt with, and no record of the allegation on the police discipline computer system.⁴⁴⁶ However, neither Gary Eaton nor his solicitor, *'alleged any inappropriate actions [by] DI Tony Moore regarding this allegation'*.⁴⁴⁷
- iv. There was no impropriety in the second allegation because Gary Eaton had not been shown a photograph before the ID procedure.⁴⁴⁸
- v. The third allegation was an expression of Gary Eaton's opinion that David Cook should not have been on the investigation.⁴⁴⁹
- vi. *'No evidence has been found to corroborate any inappropriate actions by either DI Tony Moore or Dave Cook. Unless new information comes to light, it is not proportionate or appropriate to investigate this matter any further.'*⁴⁵⁰

289. Operation Megan became aware of this matter, and officers who were deemed to be significant to the allegations were interviewed in 2014. It was reported that:

- i. Former D/Supt Barry Phillips provided no new disclosures to the investigation but referred the Operation Megan investigators to his decision logs which were contemporaneous records.⁴⁵¹ There was nothing in the logs.
- ii. DI (formerly DS) Anthony Moore provided no further evidence.⁴⁵² As the Debrief Manager, he produced the report about alleged interference in the debrief of Gary Eaton by members of the Abelard Two Investigation which was referred to by defence lawyers and others as 'Mooregate',⁴⁵³ and reiterated that the matters alleged by Gary Eaton had not occurred

443 Operation Scaup Report, MPS109851001, p8, paras 12-14, 13 October 2010.

444 Operation Scaup Report, MPS109851001, p8, para 7, 13 October 2010.

445 Operation Scaup Report, MPS109851001, p9, para 15, 13 October 2010.

446 Operation Scaup Report, MPS109851001, p7, para 3, 13 October 2010.

447 Operation Scaup Report, MPS109851001, p8, para 8, 13 October 2010.

448 Operation Scaup Report, MPS109851001, p8, paras 9-10, 13 October 2010.

449 Operation Scaup Report, MPS109851001, p8, para 11, 13 October 2010.

450 Operation Scaup Report, MPS109851001, p9, paras 16-17, 13 October 2010.

451 Operation Megan Report, MPS109687001, p41, para 8.5.3.14, undated.

452 Operation Megan Report, MPS109687001, p41, para 8.5.3.13 and 8.5.3.15, undated.

453 Report by DI Anthony Moore, MPS006784001, undated.

- iii. One of the debriefers, a former police officer, also felt that Gary Eaton had been coached or led by the Abelard Two Investigation. He also said that *'during one of the debriefs Mr Eaton mentioned that he and DCS Cook would speak on "Skype" to avoid any trace'*. This was not recorded in any of the transcripts. The debriefer also referred to DNA evidence in relation to Gary Eaton being 'buried' or 'covered up.' A review of the forensic evidence in relation to Gary Eaton was conducted by Operation Megan and it was reported that nothing improper was discovered.⁴⁵⁴
- iv. The Operation Megan Report stated that one of the other debriefers added nothing to the documentation which he had already provided.⁴⁵⁵

290. The Panel checked whether DS Anthony Moore had been removed from Gary Eaton's debrief team, as alleged by Gary Eaton. It has been established that DS Moore remained manager of the debrief team until the end of the debrief.

291. The Operation Megan Report states that former DCS David Cook had been arrested by the Independent Police Complaints Commission on 10 January 2012, and that following his arrest he had been interviewed regarding the offences for which he was arrested and matters relating to Gary Eaton. That interview had been carried out under caution, in accordance with the requirements of the Police and Criminal Evidence Act 1984. However, there had been no further formal interviews by the Independent Police Complaints Commission. Matters had been dealt with through written questions sent by the Independent Police Complaints Commission to former DCS Cook's solicitor. These were not under caution. In these answers he had maintained that there had been no wrongdoing in the manner Gary Eaton had been treated.⁴⁵⁶

292. Although DCS David Cook's written responses to questions were not made under caution, it is reported in Operation Longhorn that former DCS Cook had adopted the three documents which he had provided during an interview under caution by the Independent Police Complaints Commission on 08 November 2012.

293. The fact that DCS David Cook had denied under caution any wrongdoing in relation to how Gary Eaton had been handled did not preclude the Metropolitan Police from questioning him about matters arising from the investigation of Jonathan Rees's complaints. Former DCS Cook was not interviewed by officers from Operation Megan. DCI Fiona McCormack made a reasoned decision in October 2016 that she would not interview former DCS Cook because *'there was insufficient evidence to interview him'*.⁴⁵⁷

294. The Operation Megan Investigation into these two allegations – that there had been a breach of the sterile corridor and that Gary Eaton had been coached in giving his evidence – concluded the following:

- i. There was no evidence to suggest that Gary Eaton was prompted to provide information by the Abelard Two Investigation.⁴⁵⁸
- ii. Former DCS David Cook should not have maintained the levels of contact which he had with Gary Eaton without keeping formal records of the contacts.⁴⁵⁹

454 Operation Megan Report, MPS109687001, p41, paras 8.5.3.16–8.5.3.18, undated.

455 Operation Megan Report, MPS109687001, p41, para 8.5.3.19, undated.

456 Operation Megan Report, MPS109687001, p43, para 8.5.4.10, undated.

457 Decision 103, Policy Book 3, Operation Megan, MPS109904001, October 2016.

458 Operation Megan Report, MPS109687001, p43, para 8.5.4.12, undated.

459 Operation Megan Report, MPS109687001, p43, para 8.5.4.12, undated.

- iii. However, while ‘[o]n the balance of probabilities DCS Cook’s actions did amount to a breach of the standards of professional behaviour’,⁴⁶⁰ this breach was assessed as being ‘*misconduct only*’.⁴⁶¹
- iv. Former DCS Cook could no longer be subjected to misconduct proceedings following his retirement.⁴⁶²
- v. There was no evidence to suggest that any member of the Abelard Two Investigation team breached the standards of professional behaviour.⁴⁶³
- vi. There was ‘*insufficient evidence to suggest that the criminal threshold has been reached*’.⁴⁶⁴

295. There is a very clear timeline which shows extensive unauthorised contact between DCS David Cook and Gary Eaton, and the development of Gary Eaton’s evidence to the Abelard Two Investigation (see Chapter 8, Abelard Two Investigation, section 6.4). However, apart from this circumstantial evidence there is nothing which is capable of proving beyond a reasonable doubt that Gary Eaton was prompted to provide evidence to the Abelard Two Investigation and Gary Eaton has denied that he was coached in what to say. The Panel has noted that allegations that DS Anthony Moore had attempted to coach him were made and subsequently withdrawn by Gary Eaton. Had Gary Eaton admitted that he had been coached and that he had given fabricated evidence in accordance with such coaching, he would have been admitting criminal behaviour not only by him, but also by the person who had coached him.

296. There was no attempt to gain further information about these issues. Person G23 could have been interviewed, as could the Witness Protection Unit officers and the Criminal Justice Protection Unit officers, in addition to those who were questioned. Furthermore, former DCS David Cook should have been interviewed so that investigators could put to him the allegations which had been made, and so that he could give his account of what happened.

5.2.3 The allegation that Gary Eaton was tipped off by the Abelard Two Investigation team that Defence lawyers had discovered that he had lied about his father being dead

297. Operation Megan investigators reviewed the evidence available in relation to the allegation that Gary Eaton had been ‘tipped off’ that Defence lawyers had discovered that he had lied about his father being dead as alleged by Jonathan Rees.^{465,466}

298. The details of what happened in relation to whether Gary Eaton had lied about his father’s death, and whether he had been ‘tipped off’ that he had lied are to be found in Chapter 8, Abelard Two Investigation, section 6.4.6.

460 Operation Megan Report, MPS109687001, p43, para 8.5.4.12, undated.

461 Operation Megan Report, MPS109687001, p43, para 8.5.4.12, undated.

462 Operation Megan Report, MPS109687001, p43, para 8.5.4.13, undated.

463 Operation Megan Report, MPS109687001, p43, para 8.5.4.14, undated.

464 Operation Megan Report, MPS109687001, p43, para 8.5.4.15, undated.

465 Witness statement of Jonathan Rees, MPS1097130001, p151, para 43, 13 June 2014.

466 Operation Megan Report, MPS109687001, p44, para 8.6, undated.

299. Operation Megan recorded the chronology of events and concluded that Gary Eaton had been:

'given the opportunity to retain credibility by explaining an obvious discrepancy in his account. This does not amount to either a criminal offence or misconduct on behalf of any officer.

'There is evidence that the CPS [Crown Prosecution Service] had been consulted regarding the further interviews and de-briefs of Mr Eaton surrounding his father. No evidence has been found either by Mr Justice Maddison or Operation Megan to show any actions amounting to criminal conduct or that would be subject to disciplinary proceedings.

'AC [John] Yates was informed of the concerns DS [Anthony] Moore had regarding the handling of 'the father' issue and he [(AC John Yates)] subsequently tasked Commander Stuart Osbourne [sic] to investigate the way the matter had been dealt with. Commander Osbourne's findings concluded that the decisions made were appropriate and that there were no misconduct issues arising from the actions taken.'⁴⁶⁷

300. Mr Justice Maddison did not comment on whether there was any action amounting to criminal conduct or that would be subject to disciplinary proceedings. It was therefore inaccurate for the Operation Megan Report to state that *'no evidence has been found'* by Mr Justice Maddison *'to show any actions amounting to criminal conduct or that would be subject to disciplinary proceedings'*. In fact Mr Justice Maddison did consider whether Gary Eaton was *'tipped off'* that he had been found to have lied about his father's death,⁴⁶⁸ and concluded that *'[t]he purpose of the approach to Mr Eaton in my view was in part at least to tip him off that he had been caught out lying about his father'*.⁴⁶⁹

301. The Operation Megan Report concluded that there was *'no evidence to suggest that there was any breach in the standards of professional behaviour by any members of the investigation team, witness protection teams or debrief teams'* in this regard.⁴⁷⁰

302. This conclusion is not justified. There was evidence to suggest that there had been some breaches in the standards of professional behaviour, not least in the various comments made by Mr Justice Maddison. Those comments included the following:

- i. His evaluation of the disclosure problems arising in the context of the 18 crates was that *'a clearer example of a lack of due diligence and expedition is difficult to imagine'*.⁴⁷¹
- ii. In relation to Gary Eaton eventually naming the brothers (Glenn Vian and Garry Vian), he said that he was *'satisfied there was improper prompting of some kind'*.⁴⁷²

⁴⁶⁷ Operation Megan Report, MPS109687001, p47, paras 8.6.3.2–8.6.3.4, undated.

⁴⁶⁸ Document D5586, *'Judges ruling re Eaton and other matters'*, MPS107506001, pp58-62, paras 267-279, undated.

⁴⁶⁹ Document D5586, *'Judges ruling re Eaton and other matters'*, MPS107506001, p60, para 274.5, undated.

⁴⁷⁰ Operation Megan Report, MPS109687001, p47, para 8.6.3.7, undated.

⁴⁷¹ Maddison J judgment, CLA000144001, p22, 03 March 2010.

⁴⁷² Ruling of Maddison J, MPS107506001, p36, para. 167, undated.

- iii. In discussing DCS David Cook's breaches of the sterile corridor during the briefing of Gary Eaton, Mr Justice Maddison said: *'It is clear in my view that DCS Cook seriously understated the frequency of his previous contact with Mr Eaton when he completed these schedules, and he probably did so knowingly. I could readily understand some omissions due to human error and/or lack of time. However, the stark fact is that the schedule in its final form referred to only one-sixth of the days on which contacts were actually made.'*⁴⁷³ He later said, *'DCS Cook was aware of the sterile corridor system and of its purpose but contacted Mr Eaton repeatedly in breach of the system. He continued to do so even after receiving directions and giving undertakings not to do so.'*⁴⁷⁴

5.2.4 The allegation that former DCS David Cook lied in court during a bail application regarding the history of James Ward and did not disclose relevant information about his background

303. Jonathan Rees had alleged in his written statement of complaint that *'[t]here were several bail applications. As usual, the bail applications were farcical in that the information that [former DCS David] COOK was putting up to stop us getting bail was absolutely totally misleading and lies.'* He also said, *'[h]owever, I confirm that my belief that false or misleading information was provided at any of the bail applications relating to the case does not form part of my complaint and I have requested that this is not investigated as part of it'*.⁴⁷⁵ Finally, Jonathan Rees had said that DCS Cook *'said that Glen [sic] shouldn't be released as he would interfere with witnesses and this was one of the main reasons for objecting the bail'*.⁴⁷⁶

304. This was reported by DCI Fiona McCormack as being a complaint that DCS David Cook had *'lied in court during a bail application regarding the history of Mr Ward and did not disclose relevant information about his background'* and that *'DCS Cook lied during a bail application when providing evidence that Mr Glenn Vian threatened [Person W14] with an axe'*.⁴⁷⁷ He said that former DCS Cook had given misleading information to the court during a bail application, as a consequence of which he had been kept on remand in prison.

305. Operation Megan investigators established that former DCS David Cook had not given evidence on oath at any of the bail hearings or the hearings of applications by the Prosecution to extend the custody time limits.⁴⁷⁸

306. Jonathan Rees had stated that when his lawyers had asked whether James Ward had ever been an informant, the prosecution replied in writing that James Ward had never been an informant. He stated that it had later been discovered that James Ward had been an informant and had used at least two pseudonyms (see Chapter 8, Abelard Two Investigation). He also stated that James Ward had provided information to police about where drugs had been hidden in a cemetery in Norwood, which had resulted in him receiving a reduced sentence.⁴⁷⁹

473 Ruling of Maddison J, MPS107506001, p32, para. 156, undated.

474 Ruling of Maddison J, MPS107506001, p34, para. 166(b), undated.

475 Witness statement of Jonathan Rees, MPS1097130001, p152, para 45, 13 June 2014.

476 Witness statement of Jonathan Rees, MPS1097130001, p152, paras 46, 13 June 2014.

477 Operation Megan Report, MPS109687001, p12, para 5.20, undated.

478 Operation Megan Report, MPS109687001, p 51, para 9.5.2, undated.

479 Witness statement of Jonathan Rees, MPS1097130001, p153, para 49, 13 June 2014.

307. This matter was not addressed in the Operation Megan Report other than in the conclusion of the section on this aspect of his complaint it was said that *'[t]he evidence that the prosecution relied on to oppose Mr Glenn Vian's bail application was endorsed by the CPS [Crown Prosecution Service] and ratified by Mr Hilliard QC prior to being presented in court by prosecution counsel. [...] no misleading information was presented during any bail applications.'*⁴⁸⁰

308. Since it was correct that there was no evidence that former DCS David Cook had given evidence during any bail application or custody time limit hearing, it was correct to say that former DCS Cook had not lied in court when giving evidence during such hearings.

There is no evidence that former DCS Cook had known that James Ward had been an informant before he first met James Ward in 2005. The information which he had previously supplied had been given using pseudonyms. Requests for any other pseudonyms used for James Ward, made by T/DCI Noel Beswick during Abelard Two, had received a negative reply. The evidence available shows that T/DCI Beswick had first become aware in March 2010 (see Chapter 8, Abelard Two Investigation) that James Ward had previously provided evidence to the police under pseudonyms.

Notwithstanding this, former DCS Cook had known that James Ward had stated in 2006 that he had provided information to police in 1987 which had resulted in his sentence of seven years being reduced to two years. Jonathan Rees was correct in saying that James Ward had previously provided information to the police.

309. Jonathan Rees also alleged that former DCS David Cook had lied during a bail application when providing evidence from James Ward that Glenn Vian had threatened Person W14 with an axe. Jonathan Rees stated that Person W14 had been identified and visited by a private investigator (a former police detective) who was working for Jonathan Rees's solicitors. Person W14 had told the private investigator that he had previously told the Abelard Two Investigation that he had not been threatened by Glenn Vian with an axe.⁴⁸¹

310. In response to this allegation by Jonathan Rees, the Operation Megan Report stated that *'the investigation team were in possession of information from independent witnesses and covert recording product, all of which implicated Mr Glenn Vian in threatening a male relative with an axe. This information provided sufficient grounds in making an application to oppose Mr Glenn Vian's bail applications.'*⁴⁸² In addition to this, the Abelard Two Investigation had relied on other evidence from James Ward.⁴⁸³

311. The Operation Megan Investigation had a covert recording indicating that a male relative of Glenn Vian had known something about a third party being chased around a field with an axe. The recording did not indicate that a male relative of Glenn Vian had been threatened with an

480 Operation Megan Report, MPS109687001, p52, paras 9.5.7-9.5.8, undated.

481 Witness statement of Jonathan Rees, MPS1097130001, p152, para 46, 13 June 2014.

482 Operation Megan Report, MPS109687001, p51-52, paras 9.5.5-9.5.8, undated.

483 Operation Megan Report, MPS109687001, pp51-52, paras 9.5.3-9.5.7, undated.

axe or chased around a field with an axe. In addition, the recording did not indicate that Glenn Vian had chased anyone around a field with an axe. The recording simply said that an unnamed individual *'had been chased around the field with an axe'*.

312. The material available to the Panel shows that James Ward had made a statement on 09 November 2006 in which he said that a man who, he thought, was Person W14, *'had been mouthing off that Glen [sic] and Gary [sic] were responsible for the Daniel Morgan murder. Glen [sic] and Gary [sic] decided to give him a visit to warn him off.'* James Ward had not stated that Person W14 had been chased across a field. Rather he had said that *'[t]here was a wire fence between them. Glen [sic] started to give [Person W14] a warning about keeping his mouth shut. [Person W14] started to run off across the field. They couldn't chase him because of the fence. Glen [sic] started shouting at [Person W14]. The next thing Glen [sic] produced an axe from his coat. Gary [sic] said Glen [sic] was shouting to [Person W14] to keep his mouth shut or he'd get some of this.'*⁴⁸⁴

313. Abelard Two investigators had visited Person W14 on 12 October 2006 and he had told them that a family member owned a field with horses and could be the person they needed to speak to.⁴⁸⁵ The family member had been visited and had said that Kim Vian, Glenn Vian's wife, was his niece. He also said that he had not been threatened with an axe by Glenn Vian.⁴⁸⁶ A third person, John Peacock, who had been a process server with Southern Investigations at the time of Daniel Morgan's murder, was also visited by T/DCI Noel Beswick and DS Gary Dalby on 12 February 2009. He said that he had visited a farm owned by a male relative of Garry Vian and Glenn Vian who had owned horses. He did not give any information about anyone being threatened with an axe by Glenn Vian.⁴⁸⁷ In total, three people were visited by the Abelard Two Investigation. None of them had said he was threatened by Glenn Vian with an axe. There is no record that any of them were asked whether they knew anyone who had been so threatened.

314. In relation to the information provided by John Peacock on 12 February 2009, DS Gary Dalby reported that, ***'[t]his information corroborates WARD's account of the VIAN's attending a farm with horses owned by a relative to threaten the relative with an axe for talking about the MORGAN murder'*** [bold in original].⁴⁸⁸

315. The information provided by John Peacock did not corroborate James Ward's account as set out by DS Gary Dalby. What the document actually reports was that John Peacock had attended a farm in a known location that ***'was owned by an older male relative of the VIAN's and had 5 or 6 horses there'*** [bold in original].⁴⁸⁹ The information supplied by DS Dalby, as recorded in this document, to the Abelard Two Investigation is therefore incorrect.

484 Witness Statement of James Ward, MPS090079001, p28, 09 November 2006.

485 Message from DS Gary Dalby regarding visiting Person W14 to ascertain if he was threatened by Glenn Vian and Person W14's family information, MPS064237001, p1, 16 November 2006.

486 Action A589, *'Take interview and Take statement of [...] re incident with Vian'*, MPS064499001, 17 November 2006.

487 Message M1343, *'Message to [...] from DS Dalby regarding meeting with John Peacock on 12/02/09'*, MPS068679001, p2, 12 February 2009.

488 Message M1343, *'Message to [...] from DS Dalby regarding meeting with John Peacock on 12/02/09'*, MPS068679001, p2, 12 February 2009.

489 Message M1343, *'Message to [...] from DS Dalby regarding meeting with John Peacock on 12/02/09'*, MPS068679001, p2, 12 February 2009.

5.2.5 The allegation that former DCS David Cook, AC John Yates and other members of the Abelard Two Investigation team allowed Gary Eaton to confess to serious crimes despite being mentally ill and did not conduct any enquiries to corroborate the confessions

316. Operation Megan investigators reviewed interview transcripts and police actions in relation to the debrief and handling of Gary Eaton during the Abelard Two Investigation, and also examined his medical history. They found the following:

- i. When examined by the Force Medical Officer on 06 September 2006, Gary Eaton had said that he had never suffered from any mental illness and had never seen a psychiatrist;⁴⁹⁰ and
- ii. Although the Force Medical Officer had recommended that an appropriate adult⁴⁹¹ be present during any subsequent interviews, he had concluded that Gary Eaton's mental health issues did not affect his communication and understanding abilities, and that he was competent to provide evidence without the need of an appropriate adult.⁴⁹²

The Panel has reviewed the Force Medical Officer's statements in respect of Gary Eaton's debrief.^{493,494,495,496,497,498} Whilst the Force Medical Officer had recommended that Gary Eaton be accompanied by an appropriate adult after his first assessment, he made no mention as to whether an appropriate adult was required after subsequent examinations of Gary Eaton. The Operation Megan Report was therefore incorrect in stating that the Force Medical Officer had concluded that Gary Eaton was competent to provide evidence without the need of an appropriate adult.

- iii. On 08 September 2006, the debrief Senior Investigating Officer had recorded that the Criminal Justice Protection Unit Officers had documented that Gary Eaton would not contribute to the debrief process in the presence of an appropriate adult, and that his solicitor had agreed to the debrief taking place in the absence of an appropriate adult.⁴⁹⁹

490 Operation Megan Report, MPS109687001, p28, para 8.2.3.9, undated.

491 The Police and Criminal Evidence Act 1984 (PACE) Codes of Practice provide for an appropriate adult to be called to the police station whenever a juvenile or mentally vulnerable person has been detained in police custody. Appropriate adults have an important role to play in the custody environment by ensuring that the detained person whom they are assisting understands what is happening to them and why. (Home Office Guidance for Appropriate Adults 2003.)

492 Operation Megan Report, MPS109687001, p22, para 8.2.3.24, undated.

493 Witness statement of doctor attending, MPS079071001, 03 August 2008.

494 Witness statement of doctor attending, MPS003203001, 03 August 2008.

495 Witness statement of doctor attending, MPS003204001, 03 August 2008.

496 Witness statement of doctor attending, MPS003391001, 15 November 2008.

497 Witness statement of doctor attending, MPS003392001, 15 November 2008.

498 Witness statement of doctor attending, MPS003439001, 04 April 2009.

499 Operation Megan Report, MPS109687001, p28, para 8.3.2.13, undated.

- iv. The debrief manager, DS Anthony Moore, had explained that the decision to continue with the debrief without an appropriate adult was also based on minimising the security risk to Gary Eaton were anyone else to be involved in the process, but that no interviews would be held in the absence of Gary Eaton's solicitor. Gary Eaton and his solicitor had agreed to this.⁵⁰⁰
- v. Because Gary Eaton had been a voluntary witness in a debrief process, he had not been in police detention at any time, and therefore he was not required to have an appropriate adult present.⁵⁰¹

317. At the request of Operation Megan, a registered intermediary⁵⁰² assessed Gary Eaton and had confirmed that Gary Eaton had the ability to communicate and give evidence if necessary, and that the use of a registered intermediary would not have improved the quality of any evidence which Gary Eaton might provide.⁵⁰³

318. DCI Fiona McCormack concluded that she was '*satisfied that the investigation team considered Mr Eaton's mental health issues and that steps and that the appropriate action was taken as soon as an appropriate adult was recommended for Mr Eaton*'.⁵⁰⁴ She '*found no evidence of any individual wrongdoing*'⁵⁰⁵ and '*no evidence to suggest that there was any breach of the standards of professional behaviour by any individual in relation to this aspect of the investigation*'.⁵⁰⁶ However, it was noted that '*more expediency*' between the recommendation for an appropriate adult and the obtaining of a full medical history of the witness would be considered best practice, and that the Metropolitan Police policy regarding this had been re-written as a result of the Crown Prosecution Service/Metropolitan Police joint review following the withdrawal of all remaining evidence against the defendants on 11 March 2011.⁵⁰⁷

319. When assessing the allegation that Gary Eaton's confessions to the debrief team regarding his own criminality were not sufficiently investigated, Operation Megan found that each criminal offence was subject to an individual investigation, and analysis showed that '*there was sufficient evidence that he had committed 53 substantive offences between 1986 and 2006*'.⁵⁰⁸ Among these offences were two assertions which contained an admission of involvement in a conspiracy to commit murder in 2006.⁵⁰⁹ This matter was separately investigated, schedules of the offences identified, and the assertions made by Gary Eaton had been disclosed to both prosecution and defence counsel for each defendant.⁵¹⁰ Operation Megan found that there was '*no evidence*' of any '*breach in the standards of professional behaviour*' to substantiate this allegation.⁵¹¹

500 Operation Megan Report, MPS109687001, p29, para 8.3.3.7, undated.

501 Operation Megan Report, MPS109687001, p26, para 8.3.1.12, undated.

502 A registered intermediary is a '*self-employed communication specialist who helps vulnerable witnesses and complainants to give evidence to the police and to the court in criminal trials*'. They are recruited and selected by the Ministry of Justice; <https://www.gov.uk/guidance/ministry-of-justice-witness-intermediary-scheme>.

503 Operation Megan Report, MPS109687001, p22, para 8.2.3.25, undated.

504 Operation Megan Report, MPS109687001, p30, para 8.3.4.8, undated.

505 Operation Megan Report, MPS109687001, p30, para 8.3.4.7, undated.

506 Operation Megan Report, MPS109687001, p30, para 8.3.4.8, undated.

507 Operation Megan Report, MPS109687001, p30, para 8.3.4.9, undated

508 Operation Megan Report, MPS109687001, p32, para 8.4.3.9, undated.

509 Operation Megan Report, MPS109687001, p32, para 8.4.3.11, undated.

510 Operation Megan Report, MPS109687001, p33, para 8.4.3.13, undated.

511 Operation Megan Report, MPS109687001, p33, para 8.4.4.6, undated.

320. The Panel is satisfied that this allegation was properly examined. The Panel is of the view, however, that Gary Eaton's violent and erratic behaviour and his references to having been depressed should have resulted in a psychiatric examination of him before he was allowed to enter into an agreement under the Serious Organised Crime and Police Act 2005. This matter was dealt with in the Crown Prosecution Service/ Metropolitan Police joint review and a recommendation for new practice was made. In the circumstances of the review of Gary Eaton and the way in which matters developed, the fact that he was provided with medical attention and counselling, and the absence of guidance on the matter, the Panel does not consider the omission of such an examination to have been a matter of misconduct on the part of any officer.

5.2.6 Allegations concerning Person J5

321. Jonathan Rees initially made the following allegations concerning Person J5:

- i. that Person J5 had been pressurised by DC Caroline Linfoot and DC Danny Dwyer into providing a witness statement and entering into the debrief process;
- ii. that the Abelard II investigation team had failed to challenge her account despite knowing it to be untrue;
- iii. that Person J5 was mentally ill and therefore not a competent witness; and
- iv. that DCI Noel Beswick had provided Person J5 with a laptop and that she subsequently used that laptop to research information she was providing during debriefs.⁵¹²

322. However, on 14 February 2013, Jonathan Rees was interviewed again. During this interview he retracted his allegations concerning Person J5 although he stated he stood by the allegations. Nevertheless, DCI Fiona McCormack decided to continue to investigate the matters raised.⁵¹³

323. After reviewing the evidence available, DCI Fiona McCormack concluded within the Operation Megan Report that allegations i, ii and iii (see paragraph 321 above) could not be substantiated.^{514,515,516} In relation to allegation iv (see paragraph 321 above), it was concluded that the laptop was provided to Person J5's fiancé by the Witness Protection Unit to facilitate an educational course he was undertaking, and that the investigation team were unaware of this decision.⁵¹⁷ The Operation Megan Investigation also concluded that, upon learning that Person J5 was using the laptop to conduct research, Abelard Two investigators took '*immediate and appropriate action*' which led to her being discontinued as a prosecution witness.⁵¹⁸

512 Operation Megan Report, MPS109687001, p53, para 10.1.1, undated.

513 Operation Megan Report, MPS109687001, p53, paras 10.1.2-10.1.3, undated.

514 Operation Megan Report, MPS109687001, p57, para 10.4.9, undated.

515 Operation Megan Report, MPS109687001, p58, para 10.6.3, undated.

516 Operation Megan Report, MPS109687001, p59, para 10.8.3, undated.

517 Operation Megan Report, MPS109687001, p59, para 10.9.2, undated.

518 Operation Megan Report, MPS109687001, p60, para 10.10.2, undated.

324. Concerning all four allegations regarding Person J5, Operation Megan concluded that there was no evidence of any breach of standard of professional behaviour or criminal conduct.^{519,520,521,522}

5.2.7 The allegation that the Abelard Two Investigation team knew about, but failed to disclose, 18 crates of material

325. Operation Megan investigators undertook a comprehensive review of the timeline and content of disclosure during the Abelard Two Investigation.⁵²³ They concluded that there had been *'no deliberate attempt by members of the investigation or disclosure teams to conceal or withhold relevant information'*,⁵²⁴ but there had been *'organisational failings in the management and storage of material'*.⁵²⁵ The Operation Megan Report further concluded that the failings in the management of material were *'due to the size and complexity of Operation Abelard II'*,⁵²⁶ and referred to the fact that, due to *'failures identified in Operation Abelard II and other large scale investigations, the MPS [Metropolitan Police Service] addressed and instigated organisational learning practices through Operation FileSafe'*.⁵²⁷

326. Operation FileSafe was a review of document handling and record management and examination of all physical records held by the Metropolitan Police. It was completed in 2018.

5.2.8 Allegations regarding police treatment of Margaret Harrison

327. Jonathan Rees initially made a complaint that DC Caroline Linfoot had been *'aggressive and malicious'* in her dealings with his partner, Margaret Harrison.⁵²⁸ However, within his statement of 13 June 2014, he stated he did not wish the matter to be investigated and had disclosed this for information only.⁵²⁹ However, DCI Fiona McCormack decided to investigate this matter for the purposes of *'completeness'*.⁵³⁰ It was reported that *'Mrs Harrison was an important witness during the initial investigation, she had seen Daniel Morgan on the day that he was murdered and was also in a relationship with him at the same time. As such six witness statements were taken from her.'*⁵³¹

328. After reviewing the evidence available, it was concluded that there was *'no corroborating material to support that DC Linfoot was aggressive or malicious in her dealings with Mrs Harrison'*.⁵³²

519 Operation Megan Report, MPS109687001, p57, para 10.4.9, undated.

520 Operation Megan Report, MPS109687001, p58, para 10.6.3, undated.

521 Operation Megan Report, MPS109687001, p59, para 10.8.3, undated.

522 Operation Megan Report, MPS109687001, p60, para 10.10.5, undated.

523 Operation Megan Report, MPS109687001, pp62-67, paras 11.3-11.3.67, undated.

524 Operation Megan Report, MPS109687001, p69, para 11.5.2, undated.

525 Operation Megan Report, MPS109687001, p69, para 11.5.1, undated.

526 Operation Megan Report, MPS109687001, p70, para 11.5.5, undated.

527 Operation Megan Report, MPS109687001, p70, para 11.5.5, undated; *'The purpose of Op FileSafe is to review MPS [Metropolitan Police Service] document handling and record management and complete a thorough assessment of all physical records held across the MPS [Metropolitan Police Service] estate'* (Witness statement of D/Supt Neil Hutchinson to the Undercover Policing Inquiry, para 7, <https://www.ucpi.org.uk/wp-content/uploads/2017/08/Hutchison-WS-R9-8-and-R9-12.pdf>).

528 Operation Megan Report, MPS109687001, p71, para 12.1.2, undated.

529 Witness Statement of Jonathan Rees, MPS1097130001, p150, para 38, 13 June 2014.

530 Operation Megan Report, MPS109687001, p71, para 12.1.3, undated.

531 Operation Megan Report, MPS109687001, p73, para 12.5.1, undated.

532 Operation Megan Report, MPS109687001, p74, para 12.5.9, undated.

5.3 Conclusions of the Operation Megan Investigation

329. Since no criminal offences had been identified by the Operation Megan Investigation, the matter was not referred to the Crown Prosecution Service. DCI Fiona McCormack determined that there was insufficient evidence to interview former DCS David Cook and reported to DAC Fiona Taylor.

330. The Panel acknowledges the conclusions reached by the Operation Megan Investigation and is satisfied, based on evidence examined by the Operation Megan Investigation team, that there was no evidence of any criminal offence in relation to the matters considered in Operation Megan.

6 The 2017 Report by the Independent Police Complaints Commission on alleged unlawful releasing of material from police investigations to the BBC by former DCS David Cook: The *Panorama* complaint 2012-2017

331. When Jonathan Rees's complaint about the BBC *Panorama* Programme had been received in 2012, former DCS David Cook was a senior manager at the Serious Organised Crime Agency. The Independent Police Complaints Commission noted in its report that former DCS Cook retired in July 2013, taking advantage of a managerial early retirement scheme before the Serious Organised Crime Agency was abolished by the Crime and Courts Act 2013, and its functions were transferred to the National Crime Agency in October 2013. The transitional arrangements concerning complaints against former Serious Organised Crime Agency staff allowed the investigation to continue notwithstanding his retirement, but the National Crime Agency would not be required to determine whether disciplinary proceedings should be brought.⁵³³

332. The complaint was initially referred back to the Metropolitan Police for investigation but returned to the Independent Police Complaints Commission in 2015 (see paragraphs 266-272 above).⁵³⁴

333. The Terms of Reference for the Independent Police Complaints Commission investigation were:⁵³⁵

1. *To investigate*

a) *Whether or not the documents screened during the Panorama programme were provided unlawfully*

b) *Whether there is any evidence Mr Cook was responsible for this*

c) *Whether Mr Cook was party to any person, under his supervision, being responsible for this*

⁵³³ 'Investigation into complaint made by William J. Rees', IPC001411001, p4, para 10, 14 December 2016.

⁵³⁴ 'Investigation into complaint made by William J. Rees', IPC001411001, p4, paras 7-8, 14 December 2016.

⁵³⁵ These were approved by the IPCC's Commissioner on 28 July 2015.

2. *'To identify whether any subject of the investigation may have committed a criminal offence and, if appropriate, make early contact with the Director of Public Prosecutions (DPP). On receipt of the final report, the Commission shall determine whether the report should be sent to the DPP.'*
3. *'To identify whether any subject of the investigation, in the investigator's opinion, has a case to answer for misconduct or gross misconduct or no case to answer. In Mr Cook's case whether he would, in the investigators opinion, have had a case to answer had he not retired.'*
4. *'To consider and report on whether there is organisational learning, including:*
 - *whether any change in policy or practice would help to prevent a recurrence of the event, incident or conduct investigated;*
 - *whether the incident highlights any good practice that should be shared.'*⁵³⁶

334. Both the Metropolitan Police and the Independent Police Complaints Commission had asked the BBC for material. The BBC declined to assist in the absence of a court order compelling it to do so, to protect confidential journalistic source(s).⁵³⁷ The Metropolitan Police sought a Production Order to compel the BBC to produce or allow access to the material sought by the Metropolitan Police.⁵³⁸ The BBC challenged the application but subsequently disclosed some materials, albeit re-typed, and did not assist with enquiries to identify the source(s) of the confidential journalistic material which it had received.⁵³⁹ The Independent Police Complaints Commission did not seek a Production Order after taking all relevant matters into account.⁵⁴⁰

335. The Independent Police Complaints Commission identified the documents and video footage of the boat trip by Jonathan Rees shown on *Panorama* as being material which had been on a copy of Jonathan Rees's hard drive, seized from him in February 2007 by the Abelard Two Investigation team.⁵⁴¹ After analysing the materials seized from former DCS David Cook's address in January 2012, the Independent Police Complaints Commission noted that former DCS David Cook provided some materials, if not all, from Jonathan Rees's hard drive to *Panorama*.⁵⁴²

336. The material available to the Independent Police Complaints Commission for the purposes of their investigation included material from Operation Longhorn (see section 4 above), the material seized when former DCS David Cook was arrested and his home was searched in 2012, and emails and documents disclosed by News International, some of which had been redacted by News International lawyers, for reasons of legal professional privilege and to protect journalistic sources. Those emails did not contain all the material which would have been available, as it had not been possible to recover some deleted items.⁵⁴³

536 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p9, para 51, 14 December 2016.

537 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p14, paras 96 and 99, 14 December 2016.

538 Police and Criminal Evidence Act 1984, sch 1, paras 1-4.

539 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p14, paras 96-97, 14 December 2016.

540 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p14, para 99, 14 December 2016.

541 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p8, para 43, 14 December 2016.

542 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p26, paras 203 – 213, 14 December 2016.

543 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p16, para 115, 14 December 2016.

337. The Independent Police Complaints Commission identified a series of emails sent by former DCS David Cook between September 2010 and August 2011 to a variety of journalists including Glen Campbell, a journalist who worked on the *Panorama* programme in question, Michael Sullivan of News International, and Kirsteen Knight of the BBC.⁵⁴⁴ There is no indication, in the Independent Police Complaints Commission report, of whether there was an awareness that, besides working for the BBC, Kirsteen Knight was also the partner of Daniel Morgan's brother, Alastair Morgan, and took notes at all the meetings held between the Metropolitan Police and Alastair Morgan.

338. The Independent Police Complaints Commission Report notes that *'[i]t was apparent, from the tone of the communications, that they were interspersed with face-to-face meetings and telephone calls, the details of which were not obvious.'*⁵⁴⁵

339. The emails which were examined demonstrated that former DCS David Cook had given documents and information to Michael Sullivan.⁵⁴⁶ According to the Independent Police Complaints Commission Report, those between former DCS Cook and Glen Campbell showed the following sequence of events:

- i. On 04 October 2010, Glen Campbell emailed former DCS Cook suggesting it would be *'good to see you and catch up since we last met [...].'*⁵⁴⁷
- ii. Later that evening, former DCS Cook emailed to himself *'a schedule of invoices – a four page document apparently related to work carried out for newspapers in 1998 and 1999 which included work carried out by Jonathan Rees',* and *'several News International Self Billing Invoices in the name of W.J Rees (William Jonathan Rees) from 2005 and 2006, including the invoices which were – with slight alterations – screened on the Panorama programme'*.⁵⁴⁸ He then emailed Glen Campbell offering to meet the *Panorama* producer and seeking an assurance *'about the discretion aspect'*.⁵⁴⁹
- iii. On 06 October 2010 Glen Campbell had emailed former DCS Cook arranging to meet, and former DCS Cook responded saying, *'I have a 4 page document from 1999 from Southern Investigations. It details some of the work they were doing then for newspapers [...] They were being paid a lot of money by 1999 standards for some of the stuff they were doing. If I give you the document, you cannot broadcast its existence but it will give you some good background.'*⁵⁵⁰
- iv. On 09 October 2010, Glen Campbell emailed former DCS Cook: *'Let me know when I can collect the 1999 Southern document [...].'* Former DCS Cook replied saying that he had them electronically and could send them anytime, but he wanted *'some assurances about how they will be used. I cannot afford for them to be blazoned across a tv screen.'*⁵⁵¹

544 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, pp16-22, paras 120-161, 14 December 2016.

545 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p16, para 118, 14 December 2016.

546 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p17, para 126, 14 December 2016.

547 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p17, para 130, 14 December 2016.

548 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, pp17-18, para 130, 14 December 2016.

549 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p18, para 130, 14 December 2016.

550 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p18, paras 131-132, 14 December 2016.

551 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p18, paras 135-136, 14 December 2016.

- v. Some months later there followed a series of Skype messages between former DCS Cook and Glen Campbell, the most significant of which was a message from former DCS Cook to Glen Campbell on 26 February 2011 which said: *'Not sure there is much on it but what would a copy of a certain PI's⁵⁵² hard drive [sic] worth.'*⁵⁵³

340. In addition to this, emails between Kirsteen Knight of the BBC and former DCS David Cook showed the following:

- i. that on an unknown date, Kirsteen Knight had written to former DCS Cook as follows:

*'Powerful people in the BBC are looking at whether they should go for maximum impact on the Rees story. This means saving all the stories about Southern Investigations that various parts of the BBC are digging into and putting the [sic] all out on the same day. To do that they need very strong new material ... So if there is anything you want said or have any suggestions let me know....'*⁵⁵⁴

- ii. On 08 August 2011 former DCS Cook emailed Kirsteen Knight saying,

*'... What sort of material is it that they need, I might be able to point you in the right direction'. Not surprisingly I ma [sic] having a lot of aggravation from my current employer over the phone hacking stuff and the fall out from the Abelard Trial but I will do what I can to help...'*⁵⁵⁵

- iii. On 09 August 2011, Kirsteen Knight is recorded as having sent a lengthy email in which she said:

'What all the BBC teams are desperate for, are the transcripts of the third enquiry that prove Rees was undertaking illegal activities for newspapers. Panorama and Graeme McLagen [sic] have them but they won't share them with anyone else...'
*'... In fact are there any invoices at all that we could have sight of?' [...] 'I won't be surprised or offended if you can't help with any of the above.'*⁵⁵⁶

- iv. On 12 August 2011, former DCS Cook replied saying that, *'anything I can give is only from memory'...* *'I am surprised Graeme McClaggan [sic] cannot assist. I do not know what Graeme has because he was given access before I became involved in the investigation but it must be substantial because of his book and the articles he has written.'* Former DCS Cook concluded the mail by saying *'[i]f it is off the record and does not come back to me, I am happy to sit down and chat through things with someone... that is about as much as I can do'*.⁵⁵⁷

341. Former DCS David Cook was interviewed under caution about these matters on 16 June 2016. He declined to answer any questions and did not provide a written response.⁵⁵⁸

552 The letters PI were interpreted by the Independent Police Complaints Commission as being an abbreviation for Private Investigator.

553 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p21, para 153, 14 December 2016.

554 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p21, para 157, 14 December 2016.

555 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p21, para 158, 14 December 2016.

556 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, p21, para 159, 14 December 2016.

557 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, pp21-22, paras 160-161, 14 December 2016.

558 *'Investigation into complaint made by William.J.Rees'*, IPC001411001, pp11-12, para 71, 14 December 2016.

6.1 The findings of the investigation

342. The Independent Police Complaints Commission concluded that:

- i. the invoices, transcripts and video footage seized from Jonathan Rees's house were provided to the *Panorama* programme;⁵⁵⁹
- ii. '[t]here was no evidence to suggest any member of the investigation team, other than Mr Cook, disclosed material to *Panorama*',⁵⁶⁰ and that 'taking into account CPS [Crown Prosecution Service] guidance it was not considered that there were any grounds to suspect any person who may have received the information from Mr Cook of committing an offence',⁵⁶¹
- iii. '[t]here is evidence that the transcripts may have already been disclosed to Mr McLagan with authority from the MPS [Metropolitan Police Service]. However, there is no evidence of the MPS authorising the disclosure of the invoices or the video images of the boating trip to any person outside the MPS',⁵⁶²
- iv. '[t]here is insufficient evidence for any reasonable tribunal to find that Mr Cook provided the transcripts to *Panorama*, whether by himself, through Mr Sullivan or by any other means',⁵⁶³
- v. the two invoices shown on the *Panorama* programme were identified as having been seized from Jonathan Rees's house in 2007, DCS David Cook had had access to these,⁵⁶⁴ and it was concluded that 'a disciplinary tribunal could conclude that Mr Cook was responsible for disclosing the invoices to *Panorama*, whether by himself or through Mr Sullivan',⁵⁶⁵
- vi. 'there is sufficient evidence for a reasonable tribunal to conclude that Mr Cook provided Glenn [sic] Campbell with a copy of material from Mr Rees's hard drive' which contained the video of the boating trip shown on the *Panorama* programme,⁵⁶⁶
- vii. emails and Skype messages showed 'a willingness, on Mr Cook's part, to provide documents',⁵⁶⁷ and that it is known that former DCS David Cook provided documents to Michael Sullivan, and it can be inferred that he also provided documents to Glen Campbell,⁵⁶⁸ and
- viii. '[i]n considering whether there is a case to answer, whether Mr Cook knew or intended that the material should be broadcast is, in my opinion, irrelevant. The seriousness of any disclosure of information, particularly personal data without authority, is in the loss of control of that information and how it may be used.'⁵⁶⁹

559 'Investigation into complaint made by William.J.Rees', IPC001411001, p28, para 223, 14 December 2016.

560 'Investigation into complaint made by William.J.Rees', IPC001411001, p28, para 225, 14 December 2016.

561 'Investigation into complaint made by William.J.Rees', IPC001411001, p24, para 181, 14 December 2016.

562 'Investigation into complaint made by William.J.Rees', IPC001411001, p28, para 224, 14 December 2016.

563 'Investigation into complaint made by William.J.Rees', IPC001411001, p24, para 189, 14 December 2016.

564 'Investigation into complaint made by William.J.Rees', IPC001411001, p25, para 190, 14 December 2016.

565 'Investigation into complaint made by William.J.Rees', IPC001411001, p25, para 202, 14 December 2016.

566 'Investigation into complaint made by William.J.Rees', IPC001411001, p26, para 213, 14 December 2016.

567 'Investigation into complaint made by William.J.Rees', IPC001411001, p26, para 214, 14 December 2016.

568 'Investigation into complaint made by William.J.Rees', IPC001411001, p26, para 214, 14 December 2016.

569 'Investigation into complaint made by William.J.Rees', IPC001411001, p27, para 217, 14 December 2016.

343. The report produced by a member of staff at the Independent Police Complaints Commission was addressed to the Deputy Chair who then made a decision as to the future handling of the matter. It stated that there was evidence showing unauthorised disclosure of personal data to *Panorama*, which is an offence under section 55 of the Data Protection Act 1998, and of misconduct in public office. Thereafter a decision was required of the Deputy Chair as to whether a criminal offence may have been committed and whether any file should be submitted to the Crown Prosecution Service.

344. In relation to the offence of misconduct in public office, the report stated that *‘the Deputy Chair will no doubt wish to take into account the recent guidance from the CPS [Crown Prosecution Service] [...]. There is no evidence of any payment for making the disclosure. Panorama is a respected current affairs programme and the issues surrounding Mr Rees’s work for News International engage issues in which there is a public interest.’*⁵⁷⁰

345. The report concluded that *‘[i]n deciding whether it is appropriate to refer this report to the CPS [Crown Prosecution Service] the Deputy Chair will no doubt wish to take into account the CPS [Crown Prosecution Service] reasons given in respect of the previous investigation for considering that it was not in the public interest to charge Mr Cook for his disclosures to Mr Sullivan.’*⁵⁷¹

346. The Independent Police Complaints Commission’s Report concluded that *‘there was sufficient evidence upon which a reasonable tribunal could conclude that the officer [former DCS David Cook] had a case to answer for gross misconduct’*.⁵⁷² No separate organisational learning issues were identified.

347. On 03 January 2017, the Deputy Chair of the Independent Police Complaints Commission made her determination, pursuant to Schedule 3 of the Police Reform Act 2002.⁵⁷³

348. Her determination adopted the investigator’s finding that former DCS David Cook had provided material to *Panorama*. However, in relation to offences under the Data Protection Act 1998, she determined that:

*‘[t]here was, and remains, considerable public concern about the use of phone hacking by journalists in pursuit of a story, and in my view there is insufficient evidence to negate a defence that the disclosure by Mr Cook was justified as being in the public interest’; and that ‘[e]ven if there was an indication then, taking into account the availability of this defence, in my opinion, there is no realistic prospect of the CPS [Crown Prosecution Service] bringing charges’.*⁵⁷⁴

349. In relation to the offence of misconduct in public office, the Deputy Chair found the following:

- i. DCS David Cook, as a serving police officer at the time of the disclosure, was in public office.
- ii. DCS Cook wilfully misconducted himself.

570 *‘Investigation into complaint made by William.J.Rees’*, IPC001411001, p28, para 229, 14 December 2016.

571 *‘Investigation into complaint made by William.J.Rees’*, IPC001411001, p28, para 230, 14 December 2016.

572 *‘Investigation into complaint made by William.J.Rees’*, IPC001411001, p29, 14 December 2016.

573 Police Reform Act 2002, sch 3, paras 23(2)(b) and (c).

574 Commission delegate decision regarding early referral to the Director of Public Prosecutions, p8, 03 January 2017.

- iii. With reference to the additional guidance issued to the Crown Prosecution Service on cases involving disclosure of information to journalists (see paragraphs 187-189 above),^{575,576} the disclosure by DCS Cook arguably had a significant effect on one individual, Jonathan Rees, however the material formed only part of the information presented by the programme and this impact had to be weighed against the broader public interest in airing issues of public concern. There was no indication that the information was provided for payment, nor was there any suggestion of a corrupt relationship between DCS Cook and the *Panorama* journalists.

350. She stated:

'In my view as set out above when considering a potential [Data Protection Act] offence, there is a potential public interest argument in favour of the disclosure, which in my view is capable of amounting to a reasonable excuse or justification.

*'There is no evidence that the material was provided in return for payment or that the disclosed material, of itself, damaged the public interest. Taking into account the [Crown Prosecution Service] guidance above, I have determined there is no indication that the offence of Misconduct in Public Office may have been committed. Even if there were an indication, there is, in my opinion, no realistic prospect that the [Crown Prosecution Service] would charge the offence.'*⁵⁷⁷

351. On the basis of the evidence and with the assistance of legal advice, the Deputy Chair of the Independent Police Complaints Commission decided that the report of the Independent Police Complaints Commission investigator *'does not indicate that criminal offences may have been committed [...]*' and that *'even if it did, that there is no realistic prospect of the full code evidential and public interest charging tests being met and so it would be inappropriate for the matters in the report to be considered by the [Director of Public Prosecutions]'*, and *'I have accordingly decided not to refer this investigation to the [Director of Public Prosecutions].'*⁵⁷⁸ The conclusion that *'there is no realistic prospect of the full code evidential and public interest charging tests being met'* is not sustainable in the absence of full consideration of the issues, and of a recognition that former DCS Cook's right to present a public interest defence did not negate the fact that there may have been a public interest in prosecuting former DCS Cook.

352. The determination by the Deputy Chair of the Independent Police Complaints Commission that no criminal offences had been identified relied on the fact that, despite the finding that there was evidence showing unauthorised disclosure of personal data to *Panorama*, conduct which is capable of constituting an offence under section 55 of the Data Protection Act 1998, and of misconduct in a public office, there were defences available to former DCS Cook.

353. No consideration was given in this report by the Independent Police Complaints Commission to the cumulative damage potentially caused by unauthorised disclosure, either to the prosecution which would in all probability have occurred but for the acquittal of the Defendants before the trial was heard, to future prosecutions of various cases, or to the investigative methodologies of the police service.

575 Independent Office for Police Conduct Disclosure on 03 April 2020, AF relevant Doc 36 Guidance doc from Crown Prosecution Service 20 April, *'Additional guidance on cases involving payments made to corrupt public officials by journalists'*, p1, para 1, undated.

576 <https://www.cps.gov.uk/legal-guidance/media-additional-guidance-case-involving-payments-made-corrupt-public-officials>.

577 Commission delegate decision regarding early referral to the Director of Public Prosecutions, pp8-9, 03 January 2017.

578 Commission delegate decision regarding early referral to the Director of Public Prosecutions, p10, 03 January 2017.

354. The Independent Office for Police Conduct (the successor organisation to the Independent Police Complaints Commission) explained that the possible damage caused by the unauthorised disclosures was considered in the Operation Longhorn report (unauthorised disclosure to Michael Sullivan), and that the Deputy Chair of the Independent Police Complaints Commission took into account the Crown Prosecution Service decision which had been made on 11 September 2015 on the Operation Longhorn referral, in which the volume of material disclosed, its sensitivity and the motive for disclosure provided a greater public interest for a prosecution.

355. The decision made by the Specialist Prosecutor in Operation Longhorn (which was endorsed by the Head of the Organised Crime Division at the Crown Prosecution Service, Gregor McGill⁵⁷⁹) had been that he was satisfied, even in the absence of all available evidence, that the public interest did not reach the threshold for a prosecution for offences of misconduct in public office or breach of the Data Protection Act 1998.⁵⁸⁰ In reaching this conclusion, the Specialist Prosecutor noted that:

*'At the time I was asked by the [Independent Police Complaints Commission] to provide a charging advice in this case, I was also made aware of a separate [Metropolitan Police Service] Investigation (Operation Megan) into a complaint by Jonathan Rees that his personal data had been provided to the Panorama television programme and to the media by DC [former DCS David Cook]. I am told that the Operation Megan team propose to deal with any misuse by DC [former DCS David Cook] of the personal data of Jonathan Rees as an internal matter rather than one for prosecution and I consider that to be relevant and indicative of how matters of that nature may have been dealt with at that time.'*⁵⁸¹

356. It is clear that the Specialist Prosecutor in Operation Longhorn, in reaching his decision on 11 September 2015, was relying on the fact that he had been advised that Jonathan Rees's complaint about unauthorised disclosures to *Panorama* was not going to be treated as a matter for prosecution. In the event, the *Panorama* disclosures were investigated by the Independent Police Complaints Commission, not the Metropolitan Police (see paragraph 332 above). That complaint was not finalised until January 2016, some four months after the Specialist Prosecutor reached his conclusions with regard to Operation Longhorn. On 03 January 2017, the Deputy Chair of the Independent Police Complaints Commission then relied on the Specialist Prosecutor's decision that the threshold for prosecution was not met when making her decision.

357. The statutory arrangements under which the Independent Police Complaints Commission was operating⁵⁸² did not enable it to make representations to the National Crime Agency (formerly the Serious Organised Crime Agency) or the Metropolitan Police about possible organisational learning which might derive from the investigation which had been conducted. There was therefore no opportunity for the Independent Police Complaints Commission to alert

579 Endorsement by Head of Division, IPC001410001, pp47-58, 29 September 2015.

580 Crown Prosecution Service Organised Crime Division (Hacking Unit) I.P.C.C. Investigation Operation Longhorn – David Cook, IPC001410001, para 190, p46, 11 September 2015.

581 Crown Prosecution Service Organised Crime Division (Hacking Unit) I.P.C.C. Investigation Operation Longhorn – David Cook, IPC001410001, para 182, p45, 11 September 2015.

582 Police Reform Act 2002 section 26.

these agencies to the damage potentially caused by the unauthorised disclosure, nor to the opportunity for organisational learning about the Metropolitan Police's process for and controls over the disclosure of information to journalists.

RECOMMENDATION

358. Guidance should be issued by the Metropolitan Police to enable officers to determine whether it is appropriate, necessary and lawful to disclose investigative material to journalists. That guidance should include a requirement to record by whom, to whom and when any such evidence was disclosed, who authorised the disclosure, the reasons for the disclosure of the material, and the express conditions upon which the information is disclosed.

7 The civil action in the High Court

359. Following their acquittal, Jonathan Rees, former DS Sidney Fillery, Garry Vian and Glenn Vian (henceforth referred to as 'the Claimants') brought a civil action in the High Court against the Commissioner of Police for the Metropolis seeking damages for malicious prosecution and for misfeasance in public office. James Cook, the fifth Defendant acquitted, was not a party to this action.

360. The Claimants argued that the Commissioner was vicariously liable for the actions of former DCS David Cook. At the heart of the Claimants' case was the argument that by breaching the sterile corridor and corrupting Gary Eaton's evidence, former DCS Cook had committed a criminal act, and that had it not been for former DCS Cook's criminal conduct, the Claimants would not have been prosecuted for the murder of Daniel Morgan, or in the case of former DS Sidney Fillery, for perverting the course of justice.

361. Former DCS David Cook was asked to provide evidence in this case but did not do so. Former DCS Cook told the Panel in interview that when he was asked to provide a witness statement he was already under investigation by the Metropolitan Police (Operation Megan, which ran from 2012-2018, and Operation Edison which ran from 2015-2020) and by the Independent Police Complaints Commission about allegations made about him by Jonathan Rees in 2012 (that investigation concluded in 2017).⁵⁸³ Those investigations, which were ongoing at the time, could have led to criminal proceedings against former DCS Cook had the evidence justified such proceedings. In addition to this, former DCS Cook had recorded, in a note to his solicitor, other reasons including the following:

- i. The Metropolitan Police had offered him '*no real support*' for the difficulties he experienced after the surveillance on him;
- ii. He and his family had suffered substantial damage to their health and general welfare. By giving evidence he would expose himself and his family to further risk;
- iii. Over the years, Jonathan Rees had made threats to him and there had been further concerns about his safety and that of his family;

⁵⁸³ Panel interview with former DCS David Cook, Transcript 6, pp3-5, 26 August 2020.

- iv. To give evidence would be further detrimental to his safety and he could not and would not rely on the Metropolitan Police to support him; and
- v. The Metropolitan Police had known about the civil action for almost four years but had left it until three months before the trial date to contact him.⁵⁸⁴

362. The material available to the Panel indicates that because it had been said that former DCS David Cook was not fit to give evidence, a very lengthy statement was prepared by former T/DCI Noel Beswick, the Deputy Senior Investigating Officer of the Abelard Two Investigation.⁵⁸⁵

363. The Metropolitan Police should have contacted former DCS David Cook earlier to obtain his views on the civil proceedings by Jonathan Rees and others against the Metropolitan Police. He had been the Senior Investigating Officer. However, in light of the information provided by former DCS Cook's solicitor on 07 October 2016 that he was not fit to give evidence, it was reasonable to seek a statement from former T/DCI Noel Beswick.

364. Former DCS David Cook subsequently alleged that the Metropolitan Police should have informed the court that he was under criminal investigation by the Metropolitan Police in relation to his conduct of the Abelard Two Investigation, when explaining that he was unable to give evidence.⁵⁸⁶ He also explained to the Panel that his position of being under criminal investigation compromised his ability to give evidence on behalf of the same organisation in relation to the same issues, matters which he raised with the Metropolitan Police at the time. He told the Panel that when he was informed that he was no longer under investigation, he refused to provide a witness statement because he was denied access to the relevant documentation which he required to perform this task by the Metropolitan Police.

365. Former DCS David Cook's solicitor had told the Metropolitan Police that former DCS Cook was not fit to give evidence because of ill health. Former DCS Cook was being investigated by the Metropolitan Police in relation to unlawful retention and disclosure of material belonging to the Metropolitan Police and other authorities. These matters were not the subject of the civil action and in those circumstances, it was not improper for the Metropolitan Police to explain former DCS Cook's inability to attend and give evidence on the grounds provided to them by former DCS Cook's solicitor.

584 Briefing note from former DCS David Cook to his solicitor provided to the panel by former DCS Cook 19 March 2017.

585 Statement of former T/DCI Noel Beswick, MPS109748001, 20 October 2016.

586 Panel interview with former DCS David Cook, Transcript 6, p4, 26 August 2020.

7.1 The findings of Mr Justice Mitting

366. The trial, which was presided over by Mr Justice Mitting, lasted from 17 January 2017 to 10 February 2017⁵⁸⁷ and involved detailed examination of a large volume of material, spanning the nearly 30-year period since Daniel Morgan's murder.

367. Mr Justice Mitting heard submissions from the Claimants and the Defendant as to whether former DCS David Cook had maliciously prosecuted the Claimants and/or committed misfeasance in public office.

7.1.1 Malicious prosecution

368. The Claimants claimed that former DCS David Cook had maliciously prosecuted them. In a strictly factual sense, former DCS Cook was not the prosecutor. The Crown Prosecution Service was the prosecutor. However, the Claimants argued that because former DCS Cook had contaminated the evidence of Gary Eaton and had deliberately concealed this from the Crown Prosecution Service and Treasury Counsel, the Crown Prosecution Service and Treasury Counsel were unable to exercise independent judgment when deciding whether to charge and prosecute the Claimants. The Claimants claimed that this made former DCS Cook the *de facto* Prosecutor.⁵⁸⁸

369. For each of the Claimants to establish malicious prosecution they had to prove the following five elements:

- i. He was prosecuted by the defendant.
- ii. The prosecution was determined in his favour.
- iii. The prosecution was without reasonable and probable cause.
- iv. It was malicious.
- v. The claimant suffered actionable damage.⁵⁸⁹

370. Mr Justice Mitting held that former DCS David Cook was not to be treated as the Prosecutor (point i) and the Claimants' claims for malicious prosecution therefore failed.⁵⁹⁰

7.1.2 Misfeasance in public office

371. The Claimants also argued that former DCS David Cook's actions constituted misfeasance in public office. Mr Justice Mitting referred to the elements of the tort of misfeasance in public office:⁵⁹¹

- i. The Defendant must be a public officer.
- ii. The exercise of power must be as a public officer.

587 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWCH 273 (QB), MPS109702001, p 1, 17 February 2017.

588 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, pp38-39, paras 146-147.

589 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p32, para 136, 17 February 2017.

590 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p39, para 147, 17 February 2017.

591 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p47, para 180, 17 February 2017.

- iii. Misfeasance in public office may be either *'targeted malice by a public officer, i.e. conduct specifically intended to injure a person or persons. This type of case involves bad faith in the sense of the exercise of public power for an improper or ulterior motive,'* or may occur *'where a public officer acts knowing that he has no power to do the act complained of and that the act will probably injure the plaintiff. It involves bad faith in as much as the public officer does not have an honest belief that his act is lawful.'*⁵⁹²
- iv. The act or omission of the public officer must cause loss to the claimant.

372. Mr Justice Mitting found that by breaching the sterile corridor, designed to protect Gary Eaton's evidence, former DCS David Cook had done an act tending and intended to pervert the course of justice, which is a criminal offence, and that in doing so he had *'contaminated the source of justice'*.⁵⁹³ As Mr Justice Mitting explained:

*'On the facts of this case, I am satisfied that what Maddison J found that Cook did amount [sic] to the crime of doing an act tending and intended to pervert the course of justice. The principal purpose of the sterile corridor system, even though it was non-statutory was as stated: to ensure the integrity of evidence to be given by an assisting offender. By prompting a potentially unreliable witness to implicate Glenn and Garry Vian in the Morgan murder and then to conceal the fact that he had done so from the CPS and prosecuting counsel, Cook did an act which tended to pervert the course of justice.'*⁵⁹⁴

373. Mr Justice Mitting was satisfied that misfeasance in public office had been committed by former DCS David Cook⁵⁹⁵ and that he realised that his conduct would probably injure the Claimants.⁵⁹⁶

374. It was then necessary for Mr Justice Mitting to determine whether or not former DCS David Cook caused loss to the Claimants. Mr Justice Mitting asked himself *'whether or not the relevant claimant would have been charged, detained and sought to be brought to trial as a result of Cook's conduct in relation to Eaton.'*⁵⁹⁷

375. Mr Justice Mitting held that the criminal conduct of former DCS David Cook had not caused Jonathan Rees, Garry Vian or Glenn Vian loss, because they would have been prosecuted in any event. As Mr Justice Mitting explained, *'I am satisfied on the balance of probabilities that prosecuting counsel and the CPS [Crown Prosecution Service] would have decided to prosecute Rees and Glenn and Garry Vian on the basis of the evidence available when they were charged other than that of Eaton.'*⁵⁹⁸ Jonathan Rees, Garry Vian and Glenn Vian's claims therefore failed.⁵⁹⁹

592 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p47, para 180, 17 February 2017.

593 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p50, para 187, 17 February 2017.

594 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p50, para 186, 17 February 2017.

595 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p51, para 189, 17 February 2017.

596 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p51, para 190, 17 February 2017.

597 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p51, para 191, 17 February 2017.

598 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p51, para 192, 17 February 2017.

599 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p52, para 194, 17 February 2017.

7.1.3 Former DS Sidney Fillery

376. Former DS Sidney Fillery was the only Claimant who was (partially) successful in his claim at first instance. He was awarded damages for misfeasance in public office but not for malicious prosecution. Former DS Fillery had not been charged with the murder of Daniel Morgan, but with perverting the course of justice after allegedly threatening Gary Eaton in a public house in 1987. Mr Justice Mitting found that former DS Fillery's case was different from the other Claimants because the only evidence supporting the charge against him was the evidence of Gary Eaton, and that '*but for Cook's conduct in relation to Eaton, Eaton's evidence would never have seen the light of day*'.⁶⁰⁰ As Mr Justice Mitting explained:

*'Different considerations apply in the case of Fillery. In his case, the only evidence on which the prosecution proposed to rely was that of Eaton [...] Maddison J only stayed the case against Fillery because he considered that he should consider a stay first. He considered that, to try Fillery on a single count which depended upon the evidence of a doubtful witness about what was said 22 or 23 years ago was not fair. [...] Although there is nothing to prove that Cook prompted Eaton to accuse Fillery of making the threat against him on which the prosecution depended, the simple fact is that, but for Cook's conduct in relation to Eaton, Eaton's evidence would never have seen the light of day and Fillery would not have been prosecuted. It follows that his claim for damages for misfeasance in public office succeeds in full.'*⁶⁰¹

8 Operation Megan Two

377. Following the comments made by Mr Justice Mitting in February 2017, that former DCS David Cook had done an act tending and intended to pervert the course of justice by breaching the sterile corridor and prompting Gary Eaton to implicate Glenn Vian and Garry Vian in the murder of Daniel Morgan, and concealing the fact that he had done so from the Crown Prosecution Service and Prosecution Counsel, the Metropolitan Police opened a new investigation into the conduct of former DCS Cook on 21 March 2017.⁶⁰²

378. The Metropolitan Police enquired of the Independent Police Complaints Commission whether they wanted to conduct this investigation.⁶⁰³ The Independent Police Complaints Commission declined to do so.

379. The Metropolitan Police appointed D/Supt Fiona McCormack, who had conducted the Operation Megan Investigation, as Senior Investigating Officer.⁶⁰⁴ The investigation, which was called Operation Megan Two, began on 11 April 2017.⁶⁰⁵ The Megan Two Investigation's task was to establish whether there was evidence to show that former DCS David Cook had committed perjury, perverted the course of justice and committed misconduct in public office.

380. A report was sent to the Crown Prosecution Service for decision on 06 December 2017. The Metropolitan Police and the Crown Prosecution Service decided that no access to the papers from this investigation would be given to the Panel until the Crown Prosecution Service had made a decision.⁶⁰⁶ This report was made available to the Panel on 02 July 2019.

600 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p52, para 195, 17 February 2017.

601 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p52, para 195, 17 February 2017.

602 SIO Decision Log, MPS109905001, pp1-7, 21 March 2017.

603 Decision 1, SIO Decision Log, MPS109905001, p5, 21 March 2017.

604 SIO Decision Log, MPS109905001, pp3 and 6, 21 March 2017.

605 SIO Decision Log, MPS109905001, pp3 and 8, 23 March 2017.

606 Decision 19, SIO Decision Log, MPS109905001, p24, 01 November 2017.

381. Operation Megan Two investigators examined the material available from previous investigations, including telephone records, and sought further evidence. In all, 22 key witnesses were identified. Four of those witnesses declined to cooperate with the investigation.⁶⁰⁷ The pre-trial hearings in relation to Gary Eaton ran between 19 October 2009 and 18 December 2009 and the transcripts of those proceedings were examined. Gary Eaton had been interviewed by Operation Megan investigators on 08 and 09 July 2014. He had said that he had never been prompted in any way by DCS David Cook or any member of the Abelard Two Investigation. He declined to be interviewed further.⁶⁰⁸

8.1 DCS David Cook's interactions with Gary Eaton and the development of Gary Eaton's evidence

382. The report stated that significant events in the debriefing of Gary Eaton, during which vital evidence was disclosed, were as follows:

- i. 09 August 2006: Gary Eaton made no mention of being at the murder scene although he did not explicitly state that he was not at the scene.
- ii. 10 August 2006: Gary Eaton stated that a few weeks after the murder he had asked James Cook if he had been involved and had later found out that James Cook had provided a getaway vehicle and driven the murderer away.
- iii. 01 September 2006: Gary Eaton stated that he was at the murder scene and witnessed James Cook driving away and that was how he knew that James Cook was the driver.
- iv. 05 September 2006: Gary Eaton stated that '*the brothers*' were involved.
- v. 12 September 2006: Gary Eaton said that he was called into the toilet at the Golden Lion public house by 'Brother 1' and went into the car park and saw 'Brother 2' and James Cook in the car.
- vi. 14 September 2006: Gary Eaton was asked by his solicitor if he could remember anything about the brothers. Gary Eaton could not.
- vii. 19 October 2006: Gary Eaton first referred to the brothers as Glenn and Scott.⁶⁰⁹

383. The report correctly noted that '*[t]he disclosure of these events coincides with the highest volume of sterile corridor breaches and contact events between Eaton and DCS Cook. It also coincides with the period in which Eaton's management was most challenging and his mental and physical health deteriorate [sic] leading to the involvement of medical practitioners.*'⁶¹⁰

384. Mr Justice Mitting had stated that former DCS David Cook was aware of the sterile corridor system and its purpose, but contacted Gary Eaton repeatedly, in telephone calls, some of which were of substantial length, and continued to do so even after receiving directions and giving undertakings not to do so. He did not make any note of what he said or texted. The timing of the telephone calls was significant, in particular those of 28 and 29 August 2006, three and four days before Gary Eaton said, on 01 September 2006, for the first time that he had been at the pub on the occasion of the murder. When Gary Eaton produced the prepared

607 Operation Megan II Report, MPS109753001, p13, 05 December 2017.

608 Operation Megan II Report, MPS109753001, p13, 05 December 2017.

609 Operation Megan II Report, MPS109753001, p5, 05 December 2017.

610 Operation Megan II Report, MPS109753001, p5, 05 December 2017.

statement mentioning ‘the brothers’ on 05 September 2006, soon after receiving an unrecorded text message from DCS Cook, saying that he needed further reassurance as to the safety of his family before going into further detail, he received that reassurance from DCS Cook, in clear breach of the sterile corridor system. The evolution of his account about the brothers in debriefing interviews on 12 and 13 September 2006, was interposed by a telephone call from DCS Cook to Gary Eaton. There were a large number of unrecorded calls by DCS Cook to Gary Eaton before the latter arrived at his final version of events on 19 October 2006.⁶¹¹

385. The Megan Two Report summarised dates of telephone contact between Gary Eaton and DCS David Cook between 23 August 2006 and 12 September 2006,⁶¹² although it was stated that there was a gap in the billing from Gary Eaton from 23 August 2006 to 19 September 2006, which was a crucial period.⁶¹³ It noted that data were available at a cost of £5,000 in 2006, but ‘[a]t the time this amount was not considered proportionate so the data was not obtained. The officers would not have been aware of the significance of this gap until it became an issue during the *Voir Dire*⁶¹⁴ in 2009. Efforts were then made to retrieve the data but were unsuccessful due to the passage of time.’⁶¹⁵ The Megan Two Report contained details of the Criminal Justice Protection Unit logs articulating the difficulties which they had experienced in managing Gary Eaton as a witness (see Chapter 8, Abelard Two Investigation, section 6.4).⁶¹⁶

386. The report referred in detail to events which occurred on 05 September 2006. The sequence of events was recorded by DS Anthony Moore, who was the debriefing officer, in a typed Schedule of Contact as follows:

‘Debrief takes place then GS [Gary Eaton] taken to covert location for welfare visit by DCS COOK. Also present DS MOORE and Keima PAYTON (SOL).’

These words were followed immediately by the following words:

‘0945 Gary [Eaton] arrives – consultation

With sols 10.15 Sols out DS Moore out fro [sic] Tea/Coffee 10.55 DS Moore returns, coffee Provided & cigarettes. Gary has broken down & Remains alone in bedroom – given time to think & Compose himself 1150 Sols in consultation

12.20 Sols out with note – signed & exhibited Gary does not want to Go further today.

1830 meeting held at covert Location at request of DCS Cook

Via DSU Phillips Keima Payton Also present. Purpose is to reassure Gary that everything is being done to Provide security for him and his Family [...].’⁶¹⁷

387. This note of events gave rise to an understanding that Gary Eaton had been taken to a secure location by DCS David Cook before 9.45 am on 05 September 2006. The first words, ‘Debrief takes place then GS [Gary Eaton] taken to covert location for welfare visit by DCS COOK’, were misunderstood. As examined in Chapter 8, the Abelard Two Investigation, this was a critical misunderstanding.

611 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, pp24-25, para 100, 17 February 2017.

612 Operation Megan II Report, MPS109753001, p6, 05 December 2017.

613 Operation Megan II Report, MPS109753001, p9, 05 December 2017.

614 The pre-trial hearing.

615 Operation Megan II Report, MPS109753001, p9, 05 December 2017.

616 Operation Megan II Report, MPS109753001, pp9-10, 05 December 2017.

617 ‘Schedule of Contact with Gary [Eaton] – Operation Abelard II’, MPS006763001, p9, undated.

388. Former DCS David Cook had been examined, on 08 December 2009, by Richard Christie QC for the Defence, and asked whether he was present when Gary Eaton was debriefed on 05 September 2006, or before the debrief. Former DCS Cook had replied ‘No’ to both questions. When asked whether, ‘*You only saw him later that day?*’ former DCS Cook said ‘Yes.’⁶¹⁸

389. Former DCS David Cook had, however, texted Gary Eaton at 11.25 on 05 September 2006, before Gary Eaton had signed a statement that ‘*The time is 11.57 [...] I wish to disclose that the “brothers” are involved.*’⁶¹⁹ Former DCS Cook said in evidence to the hearing that he did not know why he had texted Gary Eaton at that time. Gary Eaton had declined to provide any further information during his interview.

390. However, DS Anthony Moore’s entry on the Schedule of Contact was construed by Mr Justice Maddison to mean that Gary Eaton had been taken by DCS David Cook for a welfare visit prior to the debrief. Mr Justice Maddison reported that, ‘*Mr Eaton was taken to a covert location by DCS Cook for what was described as a “welfare visit” [...] Mr Eaton then had a consultation with his solicitor.*’ ‘*At 10.15 he was left alone in a bedroom [...]*’⁶²⁰

391. On examination of the contemporaneous documentation the Panel has established the following:

- i. 09.40 am – Gary Eaton arrived for his debrief. He had a consultation with his solicitor.
- ii. 10.15 am – The consultation with the solicitor finished. DS Anthony Moore went out for ‘*tea/coffee*’.
- iii. 10.50 am – DS Moore returned and provided coffee and cigarettes. He recorded ‘*Gary has broken down and remains in bedroom given time to think and compose himself.*’
- iv. 11.50 am – Gary Eaton’s solicitor had a further consultation with him.
- v. 12.20 pm – The solicitor emerged with a handwritten statement signed by Gary Eaton saying that the brothers were involved signed. Gary Eaton declined to be debriefed further that day.
- vi. 6.30 pm – Gary Eaton, in the presence of his solicitor and DS Moore, met DCS Cook.⁶²¹

392. The Megan Two Report concluded that Mr Justice Mitting’s finding, in his judgment on the civil action brought by Jonathan Rees and others, that ‘*before 1015 am Cook took Eaton to a covert location for a welfare visit*’, was incorrect. This understanding by Mr Justice Mitting derived from the statement of Mr Justice Maddison. The only meeting between DCS David Cook and Gary Eaton, accompanied by DS Anthony Moore and Gary Eaton’s solicitor, Keima Payton, occurred at 6.30 pm.

618 Transcript of hearing, p55, 08 December 2009.

619 ‘*Prepared Statement of Gary [Eaton]*’, MPS006779001, p1, 05 September 2006.

620 Ruling of Mr Justice Maddison, MPS109597001, p55, para 78, undated.

621 Operation Megan II Report, MPS109753001, pp5-6, 05 December 2017.

393. Having reached the conclusion which he did, Mr Justice Mitting stated that *'prompting a potentially unreliable witness to implicate Glenn and Garry Vian in the Morgan murder and then to conceal the fact that he had done so from the CPS [Crown Prosecution Service] and prosecuting counsel, Cook did an act which tended to pervert the course of justice'*.⁶²²

394. In reaching this conclusion, Mr Justice Mitting said:

*'I reach that conclusion even though I am not persuaded that Cook intended that Eaton should give false evidence. Although no-one, other than Cook and Eaton can know for certain what he said to him, I believe it to be inconceivable that Cook gave Eaton a detailed account of what he believed had happened, knowing that Eaton had not witnessed it. My strong suspicion – it can be no more than that – is that he encouraged Eaton to say that he was present at the Golden Lion [public house] on 10 March 1987 and did witness the aftermath of the murder because he believed that Eaton had been there, but was reluctant to say so, because of fears for his and his family's safety and that inaccuracies in his account would be exposed. I strongly suspect that in the two lengthy calls on 28 and 29 August 2016 [...] he encouraged Eaton to say that the next debriefing session on 1 September 2006, as he had not done before, that he was present at the scene. I strongly suspect that this was because Eaton had said something to Cook which prompted him to believe that Eaton may have been there. Once he began to tell his story, like Maddison J, I accept that Cook prompted him to name "the brothers" as Scott and Garry. The danger in this was that it encouraged an unstable individual with severe personality and psychiatric problems to say what he thought Cook wanted him to say, whether or not it was true. I am satisfied that something like that is what happened. I do not believe that Eaton was present in the Golden Lion [public house] on 10 March 1987 and so did not see what he claimed to have seen. If he had been allowed to give evidence of that before a jury, the course of justice would unquestionably have been perverted, whatever the outcome of the trial.'*⁶²³

395. The Megan Two Report stated that there being no new witness evidence since Person G23, Gary Eaton's former solicitor, Keima Payton, and former DCS David Cook's former wife, Jacqui Hames, all declined to provide evidence to the Megan Two Investigation, there was no new evidence *'to alter the original findings published'* in the Operation Megan Report.⁶²⁴ Those findings had been that *'DCS Cook should not have maintained the levels of contact that he did with Mr Eaton without keeping formal records of contact'* and that his *'actions did amount to a breach of the standards of professional behaviour and there is a case to answer in respect to duties and responsibilities'*.⁶²⁵ As former DCS Cook had retired, no disciplinary proceedings were possible.

8.2 The issue of whether Gary Eaton had been tipped off that his father was dead

396. The Megan Two Investigation reviewed the notebooks and other notes made by Directorate of Professional Standards Witness Protection Unit officers and other officers and confirmed its earlier conclusion that there had been a miscommunication of information which resulted in a misguided assertion by DS Anthony Moore.

622 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p50, para 186, 17 February 2017.

623 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, pp50-51, para 188, 17 February 2017.

624 Operation Megan II Report, MPS109753001, p7, 05 December 2017.

625 Operation Megan Report, MPS109687001, p43, para 8.5.4.12, undated.

397. Former DCS David Cook was interviewed by the Megan Two Investigation on 11 July 2017 between 1.23 pm and 2.03 pm.⁶²⁶ He produced a 50-page prepared statement⁶²⁷ and answered some of the questions which were put to him.

398. In his prepared statement, former DCS David Cook's responses to questions included:

- i. Denial of any criminal acts⁶²⁸ but admitted that he had made mistakes and he apologised for those mistakes.⁶²⁹
- ii. That he '*never knowingly or intentionally did anything to break the law or to frustrate the interests of justice or to cover up anything [he] had done*'.⁶³⁰
- iii. That he had never concealed his contacts with Gary Eaton and was fully aware that those contacts would be recorded by phone companies.⁶³¹
- iv. That he never intentionally prompted Gary Eaton.⁶³²
- v. That the sterile corridor had no statutory basis nor was there any Association of Chief Police Officers guidance, and at no point was he given training about Serious Organised Crime and Police Act debriefs other than a draft copy of the guidelines which did not cover situation that arose with Gary Eaton.⁶³³
- vi. That he did not tip off Gary Eaton about his father being dead and said that it was he who insisted that Gary Eaton had to be challenged as the revelation of the fact that he had described his father as being dead had an adverse effect on his credibility as a witness.⁶³⁴
- vii. That he had not wanted further contact with Gary Eaton after his initial contact, but that no unit would take responsibility for him immediately (former DCS Cook described this as a '*well-known corporate weakness within the MPS [Metropolitan Police Service]: no-one will grip difficult decisions and things drift and drift*'⁶³⁵ and confirmed that during the initial period his '*role was simply to assist the operational team, supervise and look after his [Gary Eaton's] welfare*'.⁶³⁶
- viii. That he had handed Gary Eaton over to the Criminal Justice Protection Unit on 11 August 2006 and believed that there would be no further contact, however Gary Eaton continued to call on welfare grounds complaining of accommodation, his relationship with Person G23⁶³⁷ and later, after taking a dislike to DS Anthony Moore he complained about him (DS Anthony Moore).⁶³⁸

626 Record of interview with former DCS David Cook, MPS109901001, p1, 11 July 2017.

627 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, 11 July 2017.

628 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p4, para 6, 11 July 2017.

629 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p5, para 12, 11 July 2017.

630 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p5, para 12, 11 July 2017.

631 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p5, para 13, 11 July 2017.

632 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p6, para 15, 11 July 2017.

633 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p6, para 14, 11 July 2017.

634 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, pp6-7, para 17, 11 July 2017.

635 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p17, para 78, 11 July 2017.

636 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p18, para 85, 11 July 2017.

637 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p25, paras 118-119, 11 July 2017.

638 Redacted copy of prepared statement of former DCS David Cook, MPS109752001, p26, para 124, 11 July 2017.

399. The Megan Two Investigation concluded that, although former DCS David Cook underestimated the volume of contact which he had had with Gary Eaton, there was no evidence to disprove former DCS Cook's account in any other area, nor was there any additional evidence to suggest that DCS Cook made attempts to prompt Gary Eaton or provide him with information relating to the inquiry.⁶³⁹

400. The Megan Two Report concluded with an examination of the evidential weaknesses of the case against former DCS David Cook among which were the following facts:

- i. Both Mr Justice Maddison and Mr Justice Mitting regarded Gary Eaton as wholly unreliable.⁶⁴⁰
- ii. Two key witnesses, Person G23 and his solicitor at the time of the debrief, had refused to be interviewed.⁶⁴¹
- iii. Mr Justice Mitting had not heard evidence from former DCS Cook and had not had access to the Operation Megan Investigation papers, including the interview of Gary Eaton on 08 and 09 July 2014. Mr Justice Mitting's conclusion about the events of 05 September 2006 relating to Gary Eaton, were based on the inaccurate assumption that former DCS Cook had been present both in the morning and in the evening of 05 September 2006. It had been shown that, in fact, DCS Cook had only met Gary Eaton once that day at 6.30 pm. Gary Eaton had said that he had ignored the text which he had received from DCS Cook at 11.25 am on 05 September. The prepared statement in which he had implicated '*the brothers*' in the murder had been produced during a debrief. Gary Eaton's health had been '*drastically deteriorating*' at this time, his concerns about the safety of his family had reached a critical level and he was unwilling to continue. He was the '*only reliable witness and as such DCS Cook felt he was entitled to hold the meeting and do everything possible to keep Gary Eaton on board*'.⁶⁴²
- iv. There was no evidence to disprove the assertion, by both former DCS Cook and Gary Eaton, that contact between them had been welfare related.⁶⁴³
- v. Breaching a sterile corridor is not a criminal offence. It is a breach of the Code of Conduct for police officers.⁶⁴⁴
- vi. The report produced by the Covert Operations Security Unit in April 2007 on the debriefs of James Ward and Gary Eaton had emphasised that the shortcomings identified through the debriefing process were substantially, if not wholly, down to the fact that there was no clear corporate guidance and limited resources to secure evidence from such witnesses and that '*given the circumstances DCS Cook should be "applauded"*'.⁶⁴⁵

639 Operation Megan II Report, MPS109753001, p12, 05 December 2017.

640 Operation Megan II Report, MPS109753001, p16, para 1, 05 December 2017.

641 Operation Megan II Report, MPS109753001, p13, 05 December 2017.

642 Operation Megan II Report, MPS109753001, p16, para 2, 05 December 2017.

643 Operation Megan II Report, MPS109753001, p16, para 3, 05 December 2017.

644 Operation Megan II Report, MPS109753001, p16, para 5, 05 December 2017.

645 Operation Megan II Report, MPS109753001, p16, para 6, 05 December 2017.

- vii. DCS Cook had been aware that his initial conversation with Gary Eaton was being recorded, therefore it was highly unlikely that as an experienced Senior Investigating Officer, he would have prompted Gary Eaton.⁶⁴⁶
- viii. Gary Eaton was a very problematic witness and the witness protection contact logs supported DCS Cook's account.⁶⁴⁷
- ix. The accounts from the three strongest prosecution witnesses, DI Anthony Moore and the two debriefers, were unsubstantiated, and no evidence could be found to support the allegations made.⁶⁴⁸

401. The Megan Two Investigation sought advice on charges against former DCS David Cook as follows:

i. Perjury:

No evidence had been identified to suggest that former DCS Cook had wilfully lied or withheld information despite being cross-examined for nine days during the pre-trial hearing. Mr Justice Maddison had concluded that he was satisfied that former DCS Cook had adequately accounted for his actions.

ii. Perverting the course of justice:

There was no new evidence to suggest that former DCS Cook had intentionally contacted Gary Eaton with the purpose of providing him with information or that he did an act intending to pervert the course of justice.

However, the Operation Megan Two report said *'it must be considered that DCS Cooks actions alone constitute an offence. DCS Cook was an experienced SIO [Senior Investigating Officer] who would have been well aware of the sterile corridor and the protocols and risks associated with operating outside these guidelines [...] as the debriefing of Eaton continued it would have become more apparent that he was an unstable witness and that his assertions being made were becoming problematic as his account developed. [...] it could be considered that DCS Cooks actions in maintaining Eaton as a witness and persisting with him up to trial is in itself an attempt to pervert the course of justice as he should have withdrawn him as a witness or at the least cast doubt on his reliability [...] as Eaton undermined the prosecution case based on his unreliability.'*⁶⁴⁹

iii. Misconduct in public office:

The Megan Two Investigation identified no new evidence which would alter the findings of the Operation Megan Investigation. There was no evidence *'to suggest that DCS Cook provided Eaton with information relating to the Daniel Morgan murder or manipulated events in order to assist Eaton in doing so'*.⁶⁵⁰

646 Operation Megan II Report, MPS109753001, pp16-17, para 7, 05 December 2017.

647 Operation Megan II Report, MPS109753001, p17, para 8, 05 December 2017.

648 Operation Megan II Report, MPS109753001, p17, para 9, 05 December 2017.

649 Operation Megan II Report, MPS109753001, p17, 05 December 2017.

650 Operation Megan II Report, MPS109753001, p17, 05 December 2017.

402. Following the submission of this report in December 2017, a decision was made by the Crown Prosecution Service in November 2018 not to prosecute former DCS David Cook. Jonathan Rees, former DS Sidney Fillery and Glenn Vian appealed against this finding. The decision was upheld by a different branch of the Crown Prosecution Service on 17 May 2019. The Panel was notified confidentially on 19 June 2019. On both occasions, Jonathan Rees was provided with a written explanation for these decisions by the relevant Prosecutor. The reviewing lawyer in the Crown Prosecution Service concluded that there was insufficient evidence to prove that former DCS Cook's actions tended and were intended to pervert the course of justice.⁶⁵¹ He also said that he did not consider that former DCS Cook's actions in repeatedly breaching the sterile corridor, contrary to instructions and his own agreement not to do so, was misconduct calculated to injure the public interest so as to call for condemnation and punishment.⁶⁵²

9 The appeal against the decision of Mr Justice Mitting in the civil action, 2018

403. Jonathan Rees, Glenn Vian and Garry Vian, whose claims against the Metropolitan Police Commissioner had failed in the High Court, sought leave to appeal to the Court of Appeal.⁶⁵³ Leave had been denied by Mr Justice Mitting, but was granted by the Court of Appeal on 01 June 2017. Lord Justice McCombe, Lady Justice King and Lord Justice Coulson heard the appeal on 24 and 25 April 2018. The appeal was on points of law. There was no challenge to any of Mr Justice Mitting's factual findings. Judgment was delivered on 05 July 2018.

404. Lord Justice McCombe stated at the beginning of his judgment:

*'I would emphasise at the outset that this judgment is founded entirely upon the primary facts found by the judge. It will be seen, however, that in certain areas I find myself in disagreement either with the judge's legal conclusions or the secondary conclusions which he draws from the primary facts which he found.'*⁶⁵⁴

405. Lord Justice McCombe explained:

*'The salient feature of the present proceedings, however, and the salient reason why Maddison J decided to exclude Eaton's evidence from the appellants' prospective trial, was that the Senior Investigating Officer ("SIO"), Detective Chief Superintendent David Cook ("DCS Cook") was found to have compromised the de-briefing of Eaton by making and receiving an extensive number of unauthorised direct contacts with Eaton in the period leading up to Eaton's making of his statements, in contravention of express procedures for keeping a "sterile corridor" between the debriefing officers and the investigation team. In the course of the debriefing process, Eaton moved from being unwilling to name directly any of the participants in the murder to naming the three appellants and giving his graphic (as it turned out obviously inaccurate) description of the murder scene.'*⁶⁵⁵

651 Victim's Right to Review Letter from the Crown Prosecution Service to Jonathan Rees, Sidney Fillery and Glenn Vian, p26, para 98, 17 May 2019 [Crown Prosecution Service disclosure to DMIP via email on 12 November 2019]

652 Victim's Right to Review Letter from the Crown Prosecution Service to Jonathan Rees, Sidney Fillery and Glenn Vian, p26, para 103, 17 May 2019 [Crown Prosecution Service disclosure to DMIP via email on 12 November 2019]

653 Court of Appeal letter granting permission for appeal, CIV000003001, p1, 01 June 2017.

654 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, pp2-3, para 2.

655 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p4, para 8.

9.1 Malicious prosecution

406. The Court of Appeal overturned Mr Justice Mitting’s finding that former DCS David Cook was not the Prosecutor. Their Lordships found that ‘[t]he decision to prosecute was “overborne and perverted”’ by former DCS David Cook’s misfeasance.⁶⁵⁶ As Lord Justice McCombe explained:

‘It seems to me that the judge’s conclusions [...] fail to take fully into account the position of DCS Cook, as the most senior police officer in the case, presenting a case to the CPS for a prosecution decision. By virtue of the judge’s other express findings, DCS Cook was intending to pervert the course of justice in suborning Eaton and then knowingly presented the fruits of that criminal offence to influence the charging decision. DCS Cook presented Eaton as an eyewitness to the murder scene.’⁶⁵⁷

407. Lord Justice McCombe went further, stating that the ‘malign influence’⁶⁵⁸ of former DCS David Cook tainted the whole investigation:

‘In assessing whether the CPS [Crown Prosecution Service] and Treasury Counsel were able to exercise a truly independent judgment, it is necessary to stand back from the printed word and, postulating the reverse of the facts as they were, to ask what effect it would have had on their judgment if they had been told that the SIO [Senior Investigating Officer] had deliberately presented to them a case in which the evidence of the only supposed eyewitness had been improperly procured by that officer by acts intended by him to pervert the course of justice. The case otherwise was supported only by evidence, not to mince words, of extremely “dodgy” witnesses and some circumstantial material. In my judgment, on this hypothesis, it is inconceivable that, in such circumstances, the CPS would have advised that murder charges be brought, without DCS Cook having been removed from the process entirely and a fresh review of the material having been prepared from which his malign influence had been removed.’⁶⁵⁹

408. Having established that former DCS David Cook was the Prosecutor, the Court of Appeal considered whether former DCS Cook had acted with malice. In the High Court, Mr Justice Mitting had declined to find that former DCS David Cook was malicious because, ‘even if Cook’s methods are open to criticism, his motive was not: it was to bring those he believed to be complicit in the Morgan murder and in covering it up to justice’.⁶⁶⁰ Before the Court of Appeal, Nicholas Bowen QC, Counsel for Jonathan Rees and Glenn Vian, argued that this amounted to ‘a judicial sanction of corruption’.

409. The Court of Appeal held that there was neither subjective nor objective reasonable and probable cause to lay murder charges against the Claimants. As Lord Justice McCombe explained:

‘In my judgment, it is entirely clear that the case presented by DCS Cook to the CPS [Crown Prosecution Service] was not a “proper” one, nor was it “fit to be tried”. It included (and relied strongly upon) evidence, on the judge’s finding, procured by DCS Cook’s own acts which were intended by him to pervert the course of justice. There is

656 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p19, para 58.

657 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p19, para 56.

658 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p19, para 57.

659 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p19, para 57.

660 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p47, para 179, 17 February 2017.

*no evidence that he gave any thought to the question whether there was a fit or proper case to be laid before the court absent that tainted evidence. In such circumstances, I cannot see that DCS Cook could be found to have honestly believed that there was a “proper” case to lay before a court.*⁶⁶¹

410. The Court of Appeal profoundly disagreed with Mr Justice Mitting’s reasoning and held that former DCS David Cook was ‘malicious’ in what he did.⁶⁶² It was the only point on which all three judges felt it necessary to give judgment individually. Lord Justice McCombe stated:

*‘Can it be the law, as assumed by the judge, that because a prosecutor believes a person is guilty of an offence, he prosecutes that person without malice (in the sense of dishonesty), even if the case which he presents to prove guilt is heavily reliant on the evidence of a witness which he has procured by subornation amounting to a criminal intention to pervert justice? In my judgment, that is not the law. Before probing the matter more, I would hold that bringing a prosecution in that manner is not “bringing a criminal to justice” at all.*⁶⁶³

411. Lady Justice King used a Robin Hood analogy to explain why former DCS David Cook’s motives were irrelevant:

*‘To say that DCS Cook, a prosecutor guilty of perverting the course of justice by creating false evidence against the appellants, was, on account of his belief in their guilt, not acting maliciously, is rather like saying that Robin Hood was not guilty of theft. One understands the motivation in each case, but any seeming endorsement of such dishonest behaviour, particularly within the police force, leads as McCombe LJ puts it, to a (serious and unacceptable) “negation of the rule of law”.*⁶⁶⁴

412. Finally, on the same point Lord Justice Coulson observed:

*‘It would be contrary to basic principle to find, as the judge did, that a senior policeman can pervert the course of justice to create false evidence against the appellants, but not be guilty of malice simply because he personally believed them to be guilty of Daniel Morgan’s murder. That would amount to an endorsement of DCS Cook’s criminal conduct and his view that the ends justified the means, which I emphatically reject.*⁶⁶⁵

9.2 Misfeasance in public office

413. Mr Justice Mitting had found for Jonathan Rees, Glenn Vian and Garry Vian on all of the elements of misfeasance in public office, save for causing their loss. As mentioned above, Mr Justice Mitting came to this conclusion because it was his view that ‘prosecuting counsel and the CPS [Crown Prosecution Service] would have decided to prosecute Rees and Glenn and Garry Vian on the basis of the evidence available when they were charged other than that of Eaton’.⁶⁶⁶

661 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p23, para 75.

662 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p26, para 84.

663 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p26, para 81.

664 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p31, para 108.

665 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p31, para 110.

666 Rees & Ors v Commissioner of Police for the Metropolis [2017] EWHC 273 (QB), MPS109702001, p51, para 192, 17 February 2017.

414. The Court of Appeal again disagreed with Mr Justice Mitting and found that former DCS David Cook's actions did cause Jonathan Rees, Glenn Vian and Garry Vian loss. Lord Justice McCombe explained:

*'I find that it is inconceivable that any properly informed prosecutor, or counsel advising him or her, would have countenanced the preferring of charges on the relevant date based, as these were, on the report of an SIO [Senior Investigating Officer] who had procured a significant plank of the proposed Crown case by committing the crime which the judge held that DCS Cook had committed. Such a prosecutor would, I am convinced, have wanted DCS Cook, and any influence deriving from him, to be cleared from the scene and a fresh untainted assessment made of the remaining evidence before considering again whether a prosecution should be brought.'*⁶⁶⁷

415. The Court of Appeal also noted that once Gary Eaton's evidence was removed from the equation, *'the prosecutor would have noted that much of the remaining evidence had previously been rejected as giving sufficient ground for a prosecution and that some of the other evidence later obtained had come from witnesses of highly doubtful credibility.'*⁶⁶⁸

416. The Court of Appeal therefore unanimously allowed the Claimant's appeals for both malicious prosecution and misfeasance in public office.⁶⁶⁹

417. A hearing to assess the damages to be paid was held on 15 and 16 May 2019, presided over by Mrs Justice Cheema-Grubb. Jonathan Rees, Garry Vian and Glenn Vian were awarded damages for their loss on 31 July 2019. Jonathan Rees and Glenn Vian received £155,000⁶⁷⁰ each and Garry Vian, who had been held in prison for a shorter period, received £104,000.⁶⁷¹ These awards included a payment of £18,000 each in exemplary damages, which was awarded to *'highlight and condemn the egregious and shameful behaviour of a senior and experienced officer DCS Cook'*.⁶⁷²

10 Operation Edison 2015-2020

418. In July 2014, the Metropolitan Police became aware that former DCS David Cook had in his possession material belonging to the Metropolitan Police which he should not have had.⁶⁷³

419. There were, at this time, three ongoing investigations into former DCS David Cook:

- i. Operation Longhorn, the investigation by the Independent Police Complaints Commission into the supply of confidential and secret material to the journalist Michael Sullivan (see section 4 above).⁶⁷⁴ As part of this investigation, material had previously been seized during a search of former DCS Cook's home address in January 2012 (see paragraph 130 above).⁶⁷⁵

667 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p29, para 97.

668 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p29, para 98.

669 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, pp30-31, paras 104, 105 and 109.

670 Rees & Ors v Commissioner of Police for the Metropolis [2019] EWHC 2120 (Admin), p12, para 54.

671 Rees & Ors v Commissioner of Police for the Metropolis [2019] EWHC 2120 (Admin), p12, para 55.

672 Rees & Ors v Commissioner of Police for the Metropolis [2019] EWHC 2120 (Admin), p12, para 53.

673 Edison Report, EDN002248001, p2, paras 3-4, June 2019.

674 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, pp3-4, paras 1-4, September 2014.

675 *'Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p5, paras 7-8, September 2014.

- ii. The BBC *Panorama* Investigation, which was then being conducted by the Metropolitan Police, but which was transferred to the Independent Police Complaints Commission on 08 January 2015.⁶⁷⁶ This was an investigation into allegations that former DCS Cook had disclosed material, held by the Abelard Two Investigation into the murder of Daniel Morgan, to the BBC⁶⁷⁷ (see section 6 above).
- iii. Operation Megan, the Metropolitan Police Investigation into some of the allegations made by Jonathan Rees, and criticisms of former DCS Cook made by Mr Justice Maddison at the pre-trial hearings in the case of R v Jonathan Rees and others, which culminated in the acquittal of the five Defendants by March 2011⁶⁷⁸. The Independent Police Complaints Commission had provided Operation Megan with 620 emails and 5,846 pages of documents covering the period between 23 August 2006 and 07 September 2011.⁶⁷⁹ These documents were analysed, and a report was submitted on 31 July 2014.⁶⁸⁰

420. Three months later, on 04 November 2014, the Metropolitan Police obtained a search warrant and Operation Megan investigators searched former DCS David Cook's home address.⁶⁸¹ During this search, 43 exhibits were seized, including a large number of electronic storage devices including laptops, memory sticks and mobile telephones.⁶⁸² Some of this material belonged to members of former DCS Cook's family. The material within these seized exhibits has been described as being 'extensive'.⁶⁸³ The Crown Prosecution Service Investigative Advice (see section 10.5 below) describes it as follows: '*It is estimated that if printed on to A4 paper, the contents would be the height of 2 Eiffel towers.*'⁶⁸⁴

421. The Panel was aware of the search of former DCS David Cook's home and of the fact that a criminal investigation had commenced. However, it was not until November 2016 that it became aware that material seized during the search included some relating to the murder of Daniel Morgan.⁶⁸⁵

422. In August 2017, the Metropolitan Police advised the Panel that the electronic devices had been subjected to forensic examination. Many were assessed as containing personal documentation and data relating to former DCS David Cook and members of his family. However, several were found to contain what was described as 'enormous' and 'massive'⁶⁸⁶ amounts of law enforcement-related information. Two exhibits were assessed to be of particular note: a hard drive concealed in a recess in former DCS Cook's guest bathroom, and a MacBook Pro laptop.⁶⁸⁷ Investigators also gained access to former DCS Cook's Metropolitan Police, Serious Organised Crime Agency and Yahoo email accounts, which contained in excess of 20,000 emails.⁶⁸⁸

676 Operation Megan Report, MPS109687001, p15, para 7.16, undated.

677 'Investigation into complaint made by William J. Rees', IPC001411001, p4, para 1, 14 December 2016.

678 Operation Megan Report, MPS109687001, p1, paras 1.2-1.7, undated.

679 Report of a Detective Constable on Operation Megan, MPS109840001, p1, 31 July 2014.

680 Report of a Detective Constable on Operation Megan, MPS109840001, p19, 31 July 2014.

681 Edison Report, EDN002248001, p1, para 1, June 2019.

682 Witness Statement of a Detective Sergeant, MPS1097130001, pp242-243, 05 November 2014.

683 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, para 1.7, p2, 04 February 2020.

684 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, para 1.7, p2, 04 February 2020.

685 Email from DS Gary Dalby to the Panel, 09 November 2016.

686 Operation Edison material held by the Metropolitan Police Directorate of Professional Standards, PNL000267001, p1, para 1, 10 September 2017.

687 Briefing note on Operation Megan Report, Metropolitan Police Service Directorate of Professionalism, MPS109907001, p1, 26 January 2015.

688 Briefing note on Operation Megan Report, Metropolitan Police Service Directorate of Professionalism, MPS109907001, p1, 26 January 2015.

423. Interrogation of the electronic devices and email accounts owned by former DCS David Cook showed that he had retained copies of material and correspondence relating to many of the investigations he had managed during his time as a Senior Investigating Officer. This material was varied, and included reports, intelligence logs, case papers, research and analysis documents, and email correspondence. The recovered documentation varied in its classification, from open source material which is freely available to the public, to highly sensitive 'Secret' documents.⁶⁸⁹

424. The material seized indicated that former DCS David Cook used several email addresses, and different telephone numbers on occasion.

425. The Metropolitan Police established which databases, of the material seized, could be accessed, as some could not be viewed, and started to identify material which might be classed as legally privileged.

426. The investigation in relation to this matter was transferred to a new investigation called Operation Edison by AC Martin Hewitt in January 2015.⁶⁹⁰

427. In January 2015, after some material subject to legal professional privilege, (such as correspondence between former DCS Cook and his legal advisors), had already been identified, independent legal counsel were appointed to examine the material and remove anything which was subject to legal professional privilege.⁶⁹¹ This process took 13 months.⁶⁹² There followed a period of over two years during which there was some examination of the material recovered, followed by a review of the strategy for the examination of the electronic exhibits which had been recovered. In May 2017, examination of the exhibits resumed.⁶⁹³ The Terms of Reference of the Examination Officer were as follows:

'Phase 1 Triage

1. *Index Mr Cook's exhibits and establish which items do and do not contain law enforcement material.*
 - a. *Compile report for authority to return non-evidential items*
 - b. *Return exhibits that do not require examination.*

Phase 2 Overview

2. *Provide a brief overview of the contents of each exhibit, e.g.*
 - a. *Size of exhibit*
 - b. *Breakdown of the contents, i.e.*
 - i. *500 word docs*
 - ii. *200 images*

689 Briefing note on Operation Megan Report, Metropolitan Police Service Directorate of Professionalism, MPS109907001, p1, 26 January 2015

690 Decisions 99 and 100 SIO Decision Log, MPS109904001, pp5-6, 20 January 2015.

691 Edison Report, EDN002248001, p2, para 5, June 2019.

692 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p2, para 1.9, 04 February 2020.

693 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p2, para 1.10, 04 February 2020.

iii. 1,000 emails.

Phase 3 – Daniel Morgan Murder material to be collated

- 3. Identify which exhibits contain folders and material relevant to DMIP.*
 - a. Isolate those elements*
 - b. Index where possible*
 - c. Compile an update report with attached index*
 - d. Following 2 IPCC investigations DPS Gold Group have directed that these items are not for further investigation*
 - e. Provide DMIP with copy of index*

Phase 4 – Investigate the contents of remaining law enforcement material

- 4. Examine the contents of the exhibits owned by Mr Cook to establish if criminal offences have been committed by his possession or unlawful dissemination of this data.*
 - a. Identify topic or investigation headings*
 - b. Catalogue the material contained within the exhibits*
 - c. Examine emails and other communication to establish what, if anything, has been passed to persons not authorised to possess*
 - d. Compile report for consideration of criminal charges.⁶⁹⁴*

428. A copy of the Examining Officer's Terms of Reference was not received by the Panel until July 2019. The effect of the Terms of Reference was to exclude any consideration of from where former DCS David Cook acquired the materials. Moreover, they precluded the inclusion, in the index for the Panel, of materials relating to the two investigations which had been conducted by the Independent Police Complaints Commission. Items excluded as a consequence of this direction may or may not have been considered by the Independent Police Complaints Commission. They should have been included in the index prepared for the Panel.

429. In September 2017, the Panel was advised that the examination of the exhibits was still ongoing and that the Metropolitan Police had one member of staff working two 12-hour shifts a week examining them.⁶⁹⁵

430. The Panel was granted initial access to some of the schedules of material which had been prepared by the Metropolitan Police on 30 January 2018, and the review of the schedules began. The process through which the Panel's researchers were able to examine the content

⁶⁹⁴ Examination Officer Terms of Reference, May 2017.

⁶⁹⁵ Operation Edison material held by the Metropolitan Police DPS, PNL000267001, p3, para 9, 10 September 2017.

of some of the exhibits was difficult, slow and cumbersome. It was important to the Panel to establish whether there was any material relevant to the murder of Daniel Morgan which had not previously been made available to the Panel. When the Panel was given access to the schedules of exhibits created by the Metropolitan Police, two Panel researchers spent up to three days a week at Metropolitan Police premises working collectively or individually as necessary. The progress was significantly slower than the Panel wanted as the terminal was shared and used by the Examination Officer two days a week and used by Panel researchers for the remaining three days. Only this terminal had the required specific software for searching the relevant databases.

431. During the period from November 2014 to January 2018, the Panel was unable to access material relevant to its work. The Panel is aware of the resource constraints within which the Metropolitan Police operates, nevertheless a delay of over three years in providing access even to the schedules to this material was totally unsatisfactory for the Panel.

432. The material which former DCS David Cook had been able to abstract from confidential and secret policing files was very significant, and there is no evidence of any consideration of how to improve processes designed to ensure the security of such material in the organisations from which former DCS Cook had taken the material.

433. The Panel had to use the Metropolitan Police assessment of the material as a starting point and focussed on nine exhibits identified as holding police-related material.⁶⁹⁶ On 16 February 2018, the mass storage device on which the Edison data was held suffered a hardware failure, causing a cessation of all work. The review was expected to restart on 05 March 2018, but the Metropolitan Police raised concerns that there might be further material subject to Legal Professional Privilege within the exhibits. No further work was able to be done on the Edison material by the Panel's researchers until 27 March 2018.

434. A Panel researcher looking through material found that 81 emails had been marked not for disclosure to the Panel. On enquiry, the Panel was told the material had been mislabelled and was covered by Legal Professional Privilege.

435. The Panel has only had access to limited material from the whole data set, and it is aware that there is much more material available to the Metropolitan Police than it has seen. When Edison documents were identified as relevant by the Panel's researchers, they were notified to DS Gary Dalby who reviewed each document to determine whether it was material subject to Legal Professional Privilege, in which case it was withheld from the Panel, and whether it was 'confidential'. Where material was considered 'confidential', it was subject to limited viewing only at police premises. Other material was made available in tranches for uploading onto the Panel's database. The last tranche was received in February 2019.⁶⁹⁷

696 Witness Statement of a Detective Sergeant, MPS1097130001, pp242-243, 05 November 2014 [ASM/1, ASM/2, ASM/4, ASM/12, ASM/20, ASM/24, ASM/29, ASM/40 and ASM/42].

697 Review of Operation Edison disclosure to DMIP – Tranche 7, EDN002074001, pp1-2, 30 January 2019.

436. Eight electronic devices were assessed by the Operation Edison investigation as containing law enforcement-related material, which originated from both the Metropolitan Police and the Serious Organised Crime Agency.

437. Several of the electronic devices were found to contain files directly relevant to the investigations into the murder of Daniel Morgan. The Metropolitan Police report on the investigation states that, '*[t]here are many thousands of documents and it is likely that most of the documentation relating to several investigations is present. Some email communications relevant to the various enquiries have also been retained.*'⁶⁹⁸

438. Documents relating to the investigation of the murder of Daniel Morgan which were disclosed unlawfully by former DCS David Cook to various people have been identified by the Panel as including:

- i. Many witness statements dating from 1987;⁶⁹⁹
- ii. Details of witnesses and suspects;⁷⁰⁰
- iii. Debrief reports containing intelligence naming individuals;^{701,702}
- iv. Intelligence reports;⁷⁰³
- v. An interim report on Operation Two Bridges;⁷⁰⁴
- vi. A spreadsheet summarising 200 audio probe recordings from Operation Two Bridges;⁷⁰⁵
- vii. Gold Group meeting minutes marked 'Confidential';⁷⁰⁶
- viii. Surveillance logs;⁷⁰⁷
- ix. Extensive quantities of material from the Abelard Two Investigation;⁷⁰⁸
- x. Material relating to other police operations which derived from the investigation of Daniel Morgan's murder;⁷⁰⁹
- xi. More than 50 draft chapters of the book that former DCS was writing about the investigation,⁷¹⁰ some of which contained police material which should not have been divulged;⁷¹¹

698 Edison Report, EDN002248001, p4, para 18, June 2019.

699 Operation Edison Appendix B review of emails and attachments, EDN002279001, p.4, 04 April 2010.

700 Operation Edison Appendix B review of emails and attachments, EDN002279001, p.1, 13 October 2009.

701 Edison Report, EDN002248001, p13, para 65, June 2019.

702 Operation Edison Appendix B review of emails and attachments, EDN002279001, p.6, 04 August 2010.

703 Edison Report, EDN002248001, p14, para 75, June 2019.

704 Edison Report, EDN002248001, p11, para 57, June 2019.

705 Edison Report, EDN002248001, p7, para 38, June 2019.

706 Edison Report, EDN002248001, p6, para 33, June 2019.

707 Edison Report, EDN002248001, p8, para 40, June 2019.

708 Operation Edison Appendix B review of emails and attachments, EDN002279001, various dates.

709 Edison Report, EDN002248001, p4, para 17, June 2019.

710 Operation Edison material held by the Metropolitan Police DPS, PNL000267001, p2, para 5iv, 10 September 2017.

711 Email from former DCS David Cook to Mike Sullivan, EDN002064001, 05 November 2006.

- xii. Emails exchanges with members of the family of Daniel Morgan and others, including journalists, concerning matters relating to the investigation.⁷¹² One hard drive alone was found to contain 15,797 emails;⁷¹³ and
- xiii. A strictly confidential letter to the editor of *The Guardian* newspaper in relation to the activities of two journalists.⁷¹⁴

439. The material disclosed to the Panel confirms that former DCS David Cook was in email contact with a number of journalists including Glen Campbell,⁷¹⁵ Peter Jukes⁷¹⁶ (an independent investigative journalist and an associate of Daniel Morgan's brother, Alastair Morgan, with whom he has produced both a very detailed multi-part podcast and a book on the murder of Daniel Morgan), Laurie Flynn,⁷¹⁷ Michael Sullivan,⁷¹⁸ and Bob Graham.⁷¹⁹ He was also in contact with former AC Robert Quick,⁷²⁰ Alastair Morgan⁷²¹ and Alastair Morgan's solicitor.⁷²²

440. The material also indicates that, in addition to his plan to write a book on the murder of Daniel Morgan and police corruption, former DCS David Cook was very much interested in the issue of corruption involving police officers, private investigators and journalists, particularly after he had been subjected to surveillance over three days by *News of the World* journalists in 2002. During this time, his post had also been interfered with,⁷²³ private information belonging to DCS Cook and his then wife, Jacqui Hames, had been unlawfully obtained from the Metropolitan Police by a private investigator working for the *News of the World*,⁷²⁴ an attempt had been made to acquire other material about DCS Cook from Surrey Police,⁷²⁵ and he had suffered attempts to discredit him (see Chapter 6, Abelard One/Morgan Two). The material available to the Panel indicates that these attempts to discredit former DCS Cook were probably made by former DS Sidney Fillery, who was running Law & Commercial in 2002 at a time when Jonathan Rees was serving a sentence of imprisonment,⁷²⁶ and Alex Marunchak of the *News of the World*.

441. Between July 2011 and November 2012, the Leveson Inquiry into the culture, practice and ethics of the press was conducted. There were also investigations arising from allegations of phone and computer hacking, and various high-profile prosecutions ensued, including those of Rebekah Brooks (to whom former DCS Cook had spoken about the surveillance on him by the *News of the World* in December 2002, (see Chapter 6, Abelard One/Morgan Two) and Andy Coulson of News International, on charges of conspiracy to hack voicemails, conspiracy to pay public officials and conspiracy to pervert the course of justice.⁷²⁷ In all, eight journalists and one private investigator were convicted of criminal offences including:

712 Edison Report, EDN002248001, p5, paras 23-24, June 2019.

713 Operation Edison material held by the Metropolitan Police DPS, PNL000267001, p2, para 5ii, 10 September 2017.

714 Edison Report, EDN002248001, pp6-7, paras 35-38, June 2019.

715 Edison Report, EDN002248001, p4, para 22, June 2019.

716 Edison Report, EDN002248001, p4, para 22, June 2019.

717 Email from former DCS David Cook to Laurie Flynn, EDN001741001, p1, 15 June 2014.

718 Edison Report, EDN002248001, p4, para 22, June 2019.

719 Edison Report, EDN002248001, p4, para 22, June 2019.

720 Edison Report, EDN002248001, p5, para 23, June 2019.

721 Edison Report, EDN002248001, p5, para 23, June 2019.

722 Email from former DCS David Cook to Raju Bhatt, EDN001688001, pp1-2, 07 August 2014.

723 Operation Tuleta Report by DS Gary Dalby, MPS102164001, p4, 02 December 2011.

724 Operation Tuleta Report by DS Gary Dalby, MPS102164001, p3, 02 December 2011.

725 Email from Surrey Police payroll officer, MPS102164001, p52, 08 July 2002.

726 Police National Computer printout in respect of Jonathan Rees, MPS004001001, p3, 14 July 2009.

727 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p3 para 1.14, 04 February 2020.

The Report of the Daniel Morgan Independent Panel

- i. Andy Coulson, former *News of the World* editor;
- ii. Ian Edmondson, former *News of the World* news editor;
- iii. Jules Stenson, former *News of the World* features editor;
- iv. Greg Miskew, former *News of the World* news editor;
- v. Neville Thurlbeck, former *News of the World* news editor and chief reporter;
- vi. James Weatherup, former news editor at the *News of the World*;
- vii. Dan Evans, a journalist at the *News of the World* and at the *Sunday Mirror*;
- viii. Graham Johnson, former *Sunday Mirror* journalist; and
- ix. Glenn Mulcaire, private investigator used by the *News of the World*.

Rebekah Brooks was acquitted.⁷²⁸

442. Former DCS David Cook was interested in contributing to various television programmes on these issues. The evidence shows that he had been collecting police and other criminal investigation material over many years to facilitate both the book which he intended to write and other associated activities.

443. DCI Tony O'Sullivan was appointed as the Senior Investigating Officer of Operation Edison on 03 January 2017, after having served as Investigating Officer on the Operation since 23 January 2015.

444. The Report on Operation Edison does not set out its Terms of Reference. The objectives of the investigation were explained to the Panel as being:

- i. To identify what material former DCS Cook had possession of, and why he had it;
- ii. To identify how he obtained possession of it and from whom;
- iii. To ascertain if he obtained any data from serving police officers or police staff after he had left the Metropolitan Police and/or Serious Organised Crime Agency; and
- iv. To identify any disciplinary or criminal offences committed by former DCS Cook and others.⁷²⁹

445. However, on 10 March 2021, the Panel was provided, a year after requesting it, with the Decision Log for Operation Edison which included an email dated 03 November 2017. It records that the terms of reference agreed on 15 June 2015 were:

- i. *'To lawfully collate all relevant Operation Megan electronic exhibits and prepare for examination.*
- ii. *To examine the electronic exhibits in a systematic manner to identify current or historic evidence of criminal or disciplinary conduct. This will take place at a secure site once any LPP material has been removed in accordance with legal advice.*

728 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p24, para 4.55, 04 February 2020.

729 Operation Edison material held by the Metropolitan Police DPS, PNL000267001, p2, para 6, 10 September 2017.

- iii. *Should examination of the material seized suggest current corruption or other criminal offences involving DC or any law enforcement personnel connected to him, to identify and assess opportunities for a covert investigation led by the Projects Team.*
- iv. *Should examination of the material seized suggest historic corruption or other criminal offences involving DC or any law enforcement personnel connected to him, to identify the most appropriate authority or team to investigate.*
- v. *Liaise with other law enforcement agencies as appropriate.*
- vi. *To identify if sensitive intelligence has been exposed and establish if there is a risk to public safety or the safety of police personnel or other reputational risk to the MPS or other law enforcement partners.*
- vii. *To comply with CPIA legislation and access requests from other investigative units to view or use evidence held by Operation Megan / Edison in a controlled, transparent and documented manner.*¹⁷³⁰

446. DCI Tony O’Sullivan reported to the Crown Prosecution Service only on disclosures made by former DCS David Cook during the period from 10 January 2012 to 04 November 2014, this being the period agreed on 20 January 2017 by the Operation Edison Gold Group led by AC Fiona Taylor.⁷³¹ Operation Edison identified 56 emails described as being relevant. The Metropolitan Police state that every email generated between former DCS Cook and others including journalists Glen Campbell, Peter Jukes, Michael Sullivan, and Bob Graham, former AC Robert Quick, Alastair Morgan, and Alastair Morgan’s solicitor were extracted and provided to the Crown Prosecution Service for review, many pre-dating the 10 January 2012 to 04 November 2014 period.⁷³² The Crown Prosecution Service was also provided with the 620 emails and 5,846 pages of attachments⁷³³ referred to above (see paragraph 278).⁷³⁴ However, in January 2021, DCI Tony O’Sullivan informed the Panel that, due to an oversight brought to his attention by the Panel, it became apparent that the Metropolitan Police had not provided the Crown Prosecution Service with all of DCS David Cook’s email communications with Alastair Morgan and his solicitor, Raju Bhatt. Once this error was realised, the Crown Prosecution Service were provided with this documentation and a further copy of the Edison advice was prepared.

447. DCI Tony O’Sullivan explained to the Panel that the 56 emails were selected as emails containing evidence of material shared without lawful authority and/or conversations relating to the sharing of material, sent to identified recipients. The explanation from DCI Tony O’Sullivan as to why these particular emails were selected, does not explain why nothing was done to investigate apparent dissemination of other material to third parties such as the investigation file in the case of the murder in 1974 of the nanny who was employed to look after Lord and Lady Lucan’s children. Parts of this file were in an email sent by former DCS Cook to a third party in October 2013.⁷³⁵

730 Edison Decision Log EDN002293001 pp1-3, 03 November 2017

731 Letter from DCI Tony O’Sullivan to Daniel Morgan Independent Panel, p2, 04 August 2020.

732 Letter from DCI Tony O’Sullivan to Daniel Morgan Independent Panel, p3, 04 August 2020.

733 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p24, para 5.4, 04 February 2020.

734 ‘Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office’, IPC001370001, p5, para 7, September 2014.

735 Investigative advice of Senior Specialist Prosecutor Michael Gregory, Appendix F EDN002283001, pp16-17.

448. A report to the Crown Prosecution Service was prepared by DCI Tony O’Sullivan. It referred only to the possibility of offences having been committed under the Data Protection Act 1998 and identified only one suspect: former DCS David Cook. In preparing his report, DCI O’Sullivan considered the outcome of two of the other three investigations into former DCS Cook. The third investigation, Operation Megan, was not relevant to the matters under consideration by DCI O’Sullivan:

- i. The Independent Police Complaints Commission’s Operation Longhorn Investigation into former DCS Cook’s unauthorised disclosure of information to Michael Sullivan which had concluded in September 2015, and in which the Specialist Prosecutor had concluded that he was satisfied that he had sufficient information to assess the broad extent of the criminality of former DCS Cook; that it was unlikely that there would be sufficient evidence for a realistic prospect of conviction in relation to an offence of misconduct in public office, and in addition there were potential statutory defences available to former DCS Cook for an offence under the Data Protection Act 1998.⁷³⁶
- ii. The Independent Police Complaints Commission’s investigation of Jonathan Rees’s complaint that former DCS Cook had provided transcripts, invoices and a video belonging to him to BBC’s *Panorama* programme. It had been determined in 2017 that no criminal offences had been identified,⁷³⁷ which was not consistent with the finding of the Independent Police Complaints Commission’s investigator that there was evidence showing unauthorised disclosure of personal data to *Panorama*, which is an offence under section 55 of the Data Protection Act 1998, and of misconduct in a public office. The matter had not been referred to the Director of Public Prosecutions.⁷³⁸

449. Significant criticism is made in this Report of the decisions in both Operation Longhorn and the BBC *Panorama* complaint (see sections 4 and 6 above).

450. The Panel received the Operation Edison Report to the Crown Prosecution Service in July 2019, a month after it had been submitted. The Panel was not given access to the investigation papers or any Gold Group papers from Operation Edison until March 2021 when it received only the Decision Log, a year after it had first been requested and after a number of reminders had been sent. Much of the material examined in Operation Edison related to the murder of Daniel Morgan. The Metropolitan Police did not willingly or voluntarily provide the documentation as it should have done under the Panel’s Terms of Reference.

736 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p34, para 150, 11 September 2015.

737 Commission delegate decision regarding early referral to the Director of Public Prosecutions, p10, 03 January 2017.

738 Commission delegate decision regarding early referral to the Director of Public Prosecutions, p10, 03 January 2017.

451. There is no evidence in the material available to the Panel of any attempt to identify how former DCS David Cook had acquired the material found in his home in 2014, nor of any attempt to ascertain if he had obtained any data from serving police officers or police staff after he had left the Metropolitan Police in 2007, and the Serious Organised Crime Agency in 2013. No witnesses were cited as providing evidence in the Report to the Crown Prosecution Service.

452. Former DCS David Cook was not interviewed. He had previously been questioned on 10 January 2012, under caution, during Operation Longhorn, regarding the offences for which he had been arrested and matters relating to Gary Eaton. It was a ‘no comment’ interview.⁷³⁹ He had subsequently provided responses to a series of questionnaires from the Independent Police Complaints Commission through three prepared statements and had adopted the three statements which he had provided, during an interview under caution with the Independent Police Complaints Commission on 08 November 2012.⁷⁴⁰

453. Former DCS David Cook had been interviewed under caution on 16 June 2016 in relation to the unauthorised disclosures to *Panorama*. He declined to answer any questions and did not provide a written response.⁷⁴¹ He was not interviewed by the Operation Megan Investigation. He had been interviewed by the Megan Two Investigation⁷⁴² on 11 July 2017 for 42 minutes and 12 seconds.⁷⁴³ He produced a 50-page prepared statement⁷⁴⁴ and answered some of the questions which were put to him.

454. Senior Specialist Prosecutor, Michael Gregory, recorded that the Operation Edison Investigation was of the opinion that former DCS David Cook had been asked the relevant questions by the Independent Police Complaints Commission investigators conducting the Operation Longhorn Investigation.⁷⁴⁵ However, DCI Tony O’Sullivan as Senior Investigating Officer of Operation Edison, was required to identify how former DCS Cook obtained possession of material which was significantly greater in volume than the 54 emails and attachments considered during Operation Longhorn, and which contained documents which had not been considered in Operation Longhorn. Former DCS Cook had continued to access and to disclose documents after his arrest in 2012. In addition to this, it was six years since the interview of former DCS Cook in Operation Longhorn and Operation Edison was considering the unauthorised disclosure of documents which had not been available to the Operation Longhorn Investigation.

739 Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office, IPC001370001, paras 7 and 10, p5 and p6, September 2014.

740 Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office, IPC001370001, para 11, p6, September 2014.

741 ‘Investigation into complaint made by William J. Rees’, IPC001411001, pp11-12, para 71, 14 December 2016.

742 This investigation resulted from comments made about former DCS Cook by Mr Justice Mitting, in a civil claim against the Metropolitan Police by Jonathan Rees, former Ds Sidney Fillery, Glenn Vian and Garry Vian at the High Court in February 2017, that former DCS Cook had done an act tending and intended to pervert the course of justice by breaching the sterile corridor and prompting an Assisted Offender, Gary Eaton, to implicate Glenn Vian and Garry Vian in the murder of Daniel Morgan, and concealing the fact that he had done so from the Crown Prosecution Service and Prosecution Counsel.

743 Record of Interview with David Cook, MPS109901001, 11 July 2017.

744 Redacted Copy of Prepared Statement of David Cook, MPS109752001, 11 July 2017.

745 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p3, para 1.15, 04 February 2020.

455. As stated above, the Panel received the Operation Edison Decision on 10 March 2021. It was established that a decision to interview former DCS David Cook had been made on 01 March 2019 by DCI Tony O’Sullivan. Three weeks later, a further decision was made to approach a specialist interviewer to assist with the interview.⁷⁴⁶ However, on 11 June 2019, it was recorded, after a meeting with the interviewer and consultation with Independent Office for Police Conduct, that an interview would be unlikely to result in any evidence, and therefore former DCS Cook would not be interviewed.⁷⁴⁷

456. Former DCS Cook should have been interviewed, and he should have been asked about the issues identified during Operation Edison. His unauthorised disclosure of very sensitive material to a range of people over the period from 2006 had, and has, the potential to undermine any future prosecution of those who murdered Daniel Morgan, and to cause significant risk to many of those identified in the material disclosed.

457. Senior Specialist Prosecutor Michael Gregory was tasked by the Crown Prosecution Service to advise on the Operation Edison Investigation file at the beginning of August 2019, and he met DCI Tony O’Sullivan on 02 September 2019.⁷⁴⁸ Michael Gregory states, that on 16 September 2019, he received the report from DCI O’Sullivan.⁷⁴⁹ Michael Gregory described DCI O’Sullivan’s request for advice as follows:

‘in light of the [Crown Prosecution Service] decision in Operation Longhorn and the [Independent Police Complaints Commission] (as then) decision in the Panorama Investigation, on the material gathered, is the decision for the Investigation likely to be the same as in Operation Longhorn – that it is not in the public interest to prosecute David Cook for any criminal offence in relation to the disclosure of material.’⁷⁵⁰

458. The Operation Edison report stated that DCS David Cook had been seconded to the Serious Organised Crime Agency in 2006, that he later became a permanent employee of the Serious Organised Crime Agency in a senior management role and continued to act as Senior Investigating Officer for the Abelard Two Investigation.⁷⁵¹

459. This information is both incomplete and incorrect. DCS David Cook had been on secondment from April 2003 to HM Customs and Excise and from April 2006 to the Serious Organised Crime Agency. When he left the Metropolitan Police on 07 December 2007, he did not continue to be Senior Investigating Officer, although he described himself as such and was accepted as such by many Metropolitan Police colleagues, including the most senior officers. The arrangement between the Serious Organised Crime Agency and the Metropolitan Police was that former DCS Cook would act as a ‘consultant’ to the investigation but that his powers would be limited (see Chapter 8, The Abelard Two Investigation).

746 Tier 5 interviewer

747 Edison Decision Log EDN002293001

748 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p3, para 1.11, 04 February 2020.

749 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p3, para 1.11, 04 February 2020.

750 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p4, para 1.17, 04 February 2020.

751 Edison Report, EDN002248001, p2, para 8, June 2019.

460. The report stated that the data recovered included:

*'material present that originates from major crime investigations conducted in the mid-1990s during his work with Surrey Police, including many murder enquiries and high profile [sic] investigations, through to his leadership of Operation Morgan II (Daniel Morgan murder enquiry) from 2001-2002, his work with SCD1 Homicide (2003-2005) and the further investigation of Operation Abelard 2 from 2006 until 2011 and beyond.'*⁷⁵²

461. In fact, DCS David Cook worked on 'Operation Morgan' (Abelard One/Morgan Two) from 2002-2003 and was on secondment from April 2003 to HM Customs and Excise as a Senior Liaison Officer and was not working in 'SCD1 Homicide'.

462. The report commented on the fact that former DCS David Cook is '*particularly organised and very proficient in the use of computers as a means to store material and communicate.*'⁷⁵³

463. The report recorded disclosure of material to a range of associates of former DCS David Cook. It identifies three journalists with whom, it states, former DCS Cook had '*a particularly close association*' Glen Campbell, Peter Jukes and Michael Sullivan.⁷⁵⁴ It notes '*to a lesser degree*' that communications were also present with another journalist, Bob Graham.⁷⁵⁵

464. The Operation Edison report set out former DCS David Cook's disclosure of material to a range of third parties, noting to a '*lesser degree*' with a journalist, Bob Graham. However, although communication with Bob Graham was much less frequent than communication with others, it is notable that at least one document comprising 259 pages and prepared for Defence counsel in the Abelard Two prosecution, in relation to a witness, which was marked as 'sensitive' and contained personal data and significant information about named individuals was sent to him in 2010.

465. In addition to this, the report notes that former DCS David Cook was in contact with former AC Robert Quick,⁷⁵⁶ who had commanded the Metropolitan Police anti-corruption unit, and who subsequently became Chief Constable of Surrey Police and later returned to the Metropolitan Police and became an Assistant Commissioner.⁷⁵⁷ Former AC Quick had retired from the Metropolitan Police, after being photographed with a document which was marked 'Secret' when he was going into an official meeting at 10 Downing Street.

466. Former AC Robert Quick has stated that he was not supported by the Metropolitan Police during this very difficult period in his professional life. The Edison report records that he and former DCS David Cook, discussed '*their common grievances*' about lack of support for them

⁷⁵² Edison Report, EDN002248001, para 16, p3, June 2019.

⁷⁵³ Edison Report, EDN002248001, para 15, p3, June 2019.

⁷⁵⁴ Edison Report, EDN002248001, p4, para 22, 3 June 2019.

⁷⁵⁵ Edison Report, EDN002248001, p4, para 22, 3 June 2019.

⁷⁵⁶ Edison Report, EDN002248001, para 23, p5, June 2019.

⁷⁵⁷ Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p21, para 4.48, 04 February 2020.

from the senior staff of the Metropolitan Police.⁷⁵⁸ It states, '*[t]here are indications that restricted/confidential documentation may have been passed to Mr Quick by email as a means of update him on facts relating to Mr Cook's position. Some material related to Mr Quick.*'⁷⁵⁹ The report also stated that one of the documents sent to former AC Quick '*related to intelligence about Mr Quick.*'⁷⁶⁰

467. It is also reported that former DCS David Cook '*had developed a close link with Alistair [sic] MORGAN*' and '*there is extensive communication between them on various subjects.*'⁷⁶¹ The report deals with communication to other private individuals with whom he had no intention to profit in any way or at any time.

468. The report deals in detail with only some of the information which was disclosed to two journalists: Peter Jukes⁷⁶² and Glen Campbell.⁷⁶³

469. Early disclosures were made when former DCS Cook was still employed by the Serious Organised Crime Agency. He retired in July 2013.⁷⁶⁴

470. Former DCS David Cook retained sensitive information on his personal computer, conduct which itself could amount to the offence of misconduct in a public office. The offence would have been committed at the time that the material was stored on his computer. Depending on the information disclosed, he could also have committed an offence under section 8 of the Official Secrets Act 1989.⁷⁶⁵ He could also, whether holding public office or not, be guilty of an offence contrary to section 55 of the Data Protection Act 1998.^{766,767} None of these offences were considered by DCI Tony O'Sullivan in writing his report to the Crown Prosecution Service. In January 2021, DCI O'Sullivan said that his report '*was intended to provide an overview of the new evidence which had been obtained in order to initiate dialogue with the CPS [Crown Prosecution Service] at an early stage and to obtain advice on potential criminal charges in order to focus the enquiry and establish the viability of bringing a prosecution prior to interviewing David Cook and investing considerable resources in preparing a full prosecution file.*'

10.1 Peter Jukes

471. The report records that the earliest emails between former DCS David Cook and Peter Jukes were from December 2012 and involved discussions about public officials providing information in exchange for payments or otherwise.⁷⁶⁸ It was reported that former DCS Cook disclosed information to Peter Jukes including:

- i. Police material relating to an agreement reached between the Metropolitan Police and the Media Standards Committee of News International during the trial of journalists for phone hacking. The agreement involved the supply of journalistic material from News International to the Metropolitan Police. The Report indicates that although former DCS Cook did not have access to the documentation relating to the agreement on

758 Edison Report, EDN002248001, para 23, p5, June 2019.

759 Edison Report, EDN002248001, para24, p5, June 2019.

760 Edison Report, EDN002248001, para 73, p14, June 2019.

761 Edison Report, EDN002248001, para 23, p5, June 2019.

762 Edison Report, EDN002248001, paras 26-45, pp5-9, June 2019.

763 Edison Report, EDN002248001, paras 46-70, pp9-14, June 2019.

764 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p11, para 4.10, 04 February 2020.

765 Safeguarding Information – retaining a document contrary to his official duty.

766 unlawful obtaining of personal data.

767 This was subsequently replaced with section 170 of the Data Protection Act 2018.

768 Edison Report, EDN002248001, para 26, p5, June 2019.

08 August 2013, he was aiming to get this.⁷⁶⁹ By 05 October 2013, former DCS Cook had obtained possession of the documentation ‘*totally on the QT via a very circuitous route and I would not want the person who has control of it to know I have it.*’⁷⁷⁰ An email from former DCS Cook to Peter Jukes read ‘*I am happy to let you read it but you must never quote from it or say you have seen it.*’⁷⁷¹ Many of the documents were protectively marked as ‘confidential’, including numerous Gold Group minutes, advice from Legal Counsel and Metropolitan Police Directorate of Legal Services attendance notes, much of which would have been the subject of legal professional privilege.⁷⁷² The Metropolitan Police concluded that there were no indications that the documents were obtained from a police source.⁷⁷³

However, it is noted that Michael Gregory, the Senior Specialist Prosecutor, concluded that these documents were part of material disclosed to the Defence in the trial of Rebekah Brooks. He concluded, in agreement with the Edison Investigation, that therefore there were no indications that this information was obtained by former DCS David Cook from a police source.⁷⁷⁴ The Panel notes that many of the documents sent by former DCS Cook comprised material sent by the police to the Defence in other trials.

- ii. A copy of a letter sent by Commander Andrew Hayman to the Editor of *The Guardian* newspaper relating to the activities of two journalists who might unintentionally have jeopardised the prosecution of Jonathan Rees and others for perverting the course of justice.⁷⁷⁵ Ultimately, on 14 December 2000, Jonathan Rees, DC Austin Warnes and Simon James were convicted and Jonathan Rees and Simon James were sentenced to six years’ imprisonment (seven years following appeal by the Attorney General); DC Austin Warnes was sentenced to four years (five years following appeal by the Attorney General)⁷⁷⁶ (see Chapter 4, Operation Nigeria/Two Bridges).
- iii. A spreadsheet summarising 200 audio probe recordings from Operation Two Bridges;⁷⁷⁷ which was attached to an email which stated ‘[p]lease treat this with discretion. The exact detail should not be copied but it will give some useful background [...] [p]lease do not get Brown Moses to admit to having the documents [sic].’⁷⁷⁸ Brown Moses was another journalist.

769 Edison Report, EDN002248001, paras 29-30, p6, June 2019.

770 Edison Report, EDN002248001, para 32, p6, June 2019.

771 Edison Report Appendix D1, Email from former DCS David Cook to Peter Jukes, EDN002249001, p30, 05 October 2013.

772 Edison Report, EDN002248001, p6, para 33, June 2019.

773 Edison Report, EDN002248001, p6, para 33, June 2019.

774 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p35, para 5.35, 04 February 2020.

775 Edison Report, EDN002248001, paras 35-36, p7, June 2019.

776 ‘Operation Two Bridges Closing Report’, MPS099294001, pp37-38 and p46, 20 July 2001. –

777 Edison Report, EDN002248001, para 38, p7, June 2019.

778 Edison Report, EDN002248001, para 38, p7, June 2019.

- iv. A series of police documents relating to the surveillance of DCS David Cook by the *News of the World* in 2002. They included information on the vehicles used during the surveillance, and on the occupants of the vehicles.⁷⁷⁹ A separate email from former DCS Cook to Peter Jukes said, '[p]lease confirm receipt of last and agreement on confidentiality'.⁷⁸⁰
- v. Other material not relevant to the investigation of the murder of Daniel Morgan relating to the activities of Mazher Mahmood, an investigative journalist who had on occasion disguised himself as the 'Fake Sheikh'.⁷⁸¹

10.2 Glen Campbell

472. Former DCS David Cook had known the journalist Glen Campbell, since the mid-1990s. In 2010, Glen Campbell began researching the murder of Daniel Morgan and the activities of Jonathan Rees.⁷⁸² Former DCS Cook had communication with Glen Campbell on these matters both before and after the acquittal, in 2011, of the Defendants in the prosecution of Jonathan Rees and Others for the murder of Daniel Morgan.⁷⁸³ Glen Campbell was working for the BBC at this time and former DCS Cook was hoping that he could advise on a programme about phone-hacking as well as the *Panorama* programme which was shown on 14 March 2011. The report states that there is evidence of general communication and information disclosed to Glen Campbell in the form of attachments to emails which included:

- i. material, the disclosure of which was investigated by the Independent Police Complaints Commission (the *Panorama* Investigation).
- ii. information which derived in part from the Abelard One/Morgan Two Investigation, about the business relationship between Jonathan Rees, former DS Sidney Fillery and Alex Marunchak of the *News of the World*.⁷⁸⁴ Rebekah Brooks, the former editor of the *News of the World* and later Chief Executive Officer of News International, had been acquitted of various offences in June 2014 and Glen Campbell was hoping to be involved in the making of a film by the BBC, and also to be a consultant in another production based on the book 'Dial M for Murdoch'. The information suggests former DCS Cook hoped also to contribute to both productions. Discussions occurred about the purchase of computers to facilitate the work for the BBC⁷⁸⁵ and, on 24 July 2014, former DCS Cook wrote to Glen Campbell in relation to material which he had supplied and a discussion which he had had with Glen Campbell. He said:

'Thanks for the discussion.

Without being too obvious on the subject.

I would be content if your colleague 'S' chose to work from whatever location suitable but the contents must not be downloaded onto any machine for security purposes

The content must be used purely for the purpose in which it has been discussed

779 Edison Report, EDN002248001, para 40, p8, June 2019.

780 Edison Report, EDN002248001, para 40, p8, June 2019.

781 Edison Report, EDN002248001, paras 41-44, pp8-9, June 2019.

782 Edison Report, EDN002248001, para 46, p9, June 2019.

783 Edison Report, EDN002248001, para 47, p9, June 2019.

784 Edison Report, EDN002248001, p10, June 2019.

785 Edison Report, EDN002248001, paras 59-60, p11, June 2019.

It must not be shared or used as purchase for other information.

As discussed, this was not my intention initially with regards this but things have changed and a greater public interest issue has I must recognise forced me to re-consider.

I am concerned however that it is not used for the sake of using it and that a specific public interest issue must be both e [sic] driver and the aim, but we have discussed that at length.⁷⁸⁶

He also provided a different email address from that previously used for contact, and also suggested that the 'organisation' might wish to fund a Pay as you Go mobile which he could use, stating 'I simply do not wish to share my personal number which as discussed could lead to problems.' Glen Campbell replied stating, '[g]etting your mobile now..Hope! Send to your house.'⁷⁸⁷

Ultimately the BBC decided that Glen Campbell could not contribute to the 'Dial M for Murdoch' film project whilst working for them. Former DCS Cook provided to Glen Campbell the material in relation to Mazher Mahmood which he had also provided to Peter Jukes. Some of that information derived from material acquired during Operation Two Bridges and subsequently. At this time, the BBC were making the *Panorama* programme 'The Fake Sheikh' based on the activities of Mazher Mahmood.⁷⁸⁸ The evidence shows that police material, including an intelligence document sent by former DCS Cook to Glen Campbell was used in this programme which was broadcast on 12 November 2014.⁷⁸⁹

- iii. On 16 October 2014, former DCS Cook sent Glen Campbell two emails one of which was entitled "Gulp" and was a debrief report from the Abelard Two Investigation containing intelligence details of individuals, and the second, entitled "Double Gulp" contained an intelligence report relating to Jonathan Rees.⁷⁹⁰

473. The Report concludes '[u]nder Operation Megan financial enquiries established that there was no evidence of financial gain in relation to the disclosure of material to any party.'⁷⁹¹

474. The Report is a most unusual prosecution file. There is:

- i. no attempt to present or assess any evidence in respect of any offence;
- ii. no consideration of any specific offence other than reference on the cover page to the Data Protection Act 1998;
- iii. no information to indicate that any attempt was made to interview the suspect, DCS David Cook, but rather a statement that, in the opinion of the reporting officer, this was not necessary;
- iv. no attempt to identify or interview any of those to whom former DCS Cook supplied material;

⁷⁸⁶ Edison Report, EDN002248001, para 61, p12, June 2019.

⁷⁸⁷ Edison Report, EDN002248001, para 61, p12, June 2019.

⁷⁸⁸ Edison Report, EDN002248001, para 68, p13, June 2019.

⁷⁸⁹ Edison Report, EDN002248001, para 70, pp13-14, June 2019.

⁷⁹⁰ Edison Report, EDN002248001, paras 65-66, p13, June 2019.

⁷⁹¹ Edison Report, EDN002248001, para 88, p16, June 2019.

- v. no report of any investigation of Metropolitan Police computer systems to track the passage of emails;
- vi. no reference to the fact that other police officers (DS Gary Dalby and A/DCI Noel Beswick) were sending confidential material to DCS Cook on his personal email account, rather than his Serious Organised Crime Agency account or any other official email account, despite the fact that former DCS Cook had a Metropolitan Police email account as late as December 2010, and a Serious Organised Crime Agency email account until 2013;
- vii. no identification of any witnesses, although DCI Tony O’Sullivan said in January 2021 that those to whom documentation was disclosed were potential witnesses;
- viii. no complete attempt to classify in the Operation Edison Report the information which former DCS Cook distributed, other than the fact that some documents are described in one of the appendices as ‘not restricted’;
- ix. no examination of the circumstances in which former DCS Cook had wrongly disclosed to Alastair Morgan, for example, an email chain in September 2013 in which the informant status of several individuals is discussed, and, in another email to Alastair Morgan, had discussed the informant status of an individual not connected to the Daniel Morgan case;⁷⁹²
- x. no examination of the fact that former DCS Cook was in contact with the solicitor for Alastair Morgan and, for example, that he (DCS Cook) sent to the solicitor an intelligence document dated 03 March 1999 which reveals the informant status of an individual. In another email to the solicitor dated 24 March 2014, a document entitled ‘Briefing Note Sawyer’ was attached.⁷⁹³ This was a police document briefing a senior officer in the Metropolitan Police. At this stage, former DCS Cook was no longer employed by a public authority, but he was in possession of material belonging to the Metropolitan Police which should not have been disclosed;
- xi. it does not deal with all of the communication former DCS Cook had with the journalist Michael Sullivan, which was not dealt with by the Independent Police Complaints Commission during Operation Longhorn. Material identified in the Edison report included a document written by Alastair Morgan in respect of which, on 04 January 2010, former DCS Cook wrote ‘[t]his was a report that Alastair wrote and I came across. It is quite emotive. Naturally he would not be happy if he knew I had it or was sharing it with you’.⁷⁹⁴
- xii. it does not deal with the email on 09 April 2010 to Michael Sullivan in which former DCS Cook emailed from his personal email address, a copy of an ‘MG3 Report to Crown Prosecutor’ requesting a charging decision on an unrelated case in which Person J5, one of the witnesses from the Abelard Two Investigation, was also a witness. Former DCS Cook stated ‘This is the file re the ASDA robbery, it will give you a further flavour of the stuff from [Person J5]. This is us requesting a decision form [sic]

792 Retention and Redaction Op Edison disclosure to DMIP, EDN001055001, p2, 24 May 2018.

793 Retention and Redaction Op Edison disclosure to DMIP, EDN001055001, p1, 24 May 2018.

794 Email from former DCS David Cook to Mike Sullivan, EDN001821001, 4 January 2010.

*the CPS so we will have to wait and see.*⁷⁹⁵ The police did not send this report to the Crown Prosecution Service until 20 April 2010, 11 days after former DCS Cook sent it to Michael Sullivan.

475. In January 2021, DCI Tony O’Sullivan advised the Panel that ‘[...] *disclosure was overlooked by Operation Edison during the examination of the material recovered from David Cook’s devices. It is for this reason that there is no mention made of disclosure in the Operation Edison Report to the CPS [Crown Prosecution Service] and accompanying appendices*’. The Metropolitan Police also wrote to the Panel in January 2021 to say that the disclosure of the documents was overlooked. However, in the same letter, the Metropolitan Police also said that the Operation Edison report was concerned with evidence of former DCS Cook’s unauthorised disclosure of confidential material.

476. The report does not deal with material not directly relating to the investigation of Daniel Morgan’s murder, but relevant to the Panel’s enquiries, which was found among the materials at former DCS David Cook’s home during the searches in 2014, such as:

- i. The report into the death of DC Alan Holmes and documents relating to that report;⁷⁹⁶
- ii. 95 intelligence report documents from Operations Nigeria and Two Bridges;⁷⁹⁷
- iii. A prison intelligence file;⁷⁹⁸
- iv. A document discussing the covert methodology of deployment of probes during the investigation of Daniel Morgan’s murder;⁷⁹⁹
- v. A report, classified ‘Secret’;⁸⁰⁰ and
- vi. Advice from Jonathan Rees QC which was highly confidential and related to an intelligence source.⁸⁰¹

477. In January 2021, DCI Tony O’Sullivan informed the Panel that these documents were not referred to within the report as the report was directed at DCS David Cook’s dissemination, not possession, of law enforcement material. There was no evidence to indicate that these documents were disseminated by DCS Cook, and no evidence to suggest that these documents had been improperly provided to DSC Cook in the first instance. However, this is not consistent with DCI O’Sullivan’s earlier assertion that the Examination Officers Terms of Reference stated at Phase 4: ‘*Examine the contents of the exhibits owned by Mr Cook to establish if criminal offences have been committed by his possession or unlawful dissemination of this data.*’

795 Email from former DCS David Cook to Mike Sullivan, EDN001121001, 9 April 2010.

796 Report re review of Op Edison, EDN000778001, p1, 23 February 2018.

797 Report re review of Op Edison, EDN000778001, p1, 23 February 2018.

798 Report re review of Op Edison, EDN000778001, p1, 23 February 2018.

799 Report re review of Op Edison, EDN000778001, p2, 23 February 2018.

800 Report re review of Op Edison, EDN000778001, p2, 23 February 2018.

801 Report re review of Op Edison, EDN000778001, p2, 23 February 2018.

10.3 Operation Tiberius

478. In its review of the material seized from former DCS David Cook's home on 04 November 2014, the Panel identified an email which former DCS Cook had sent to his personal email address from his Metropolitan Police account on 08 December 2010, to both his Serious Organised Crime Agency email address and a personal email address. Attached to this email was the Operation Tiberius report which was marked 'Secret'.

479. The Operation Tiberius document was a highly confidential report on the Metropolitan Police review into the role of corrupt serving police officers linked to Organised Crime Groups in the East and North East of London. This report contains extensive highly sensitive information, including the names of serving police officers who were assessed by the Metropolitan Police as being corrupt, the organised criminals to whom they were linked, and details of their suspected ongoing criminality. It is known that former DCS David Cook had mentioned his knowledge of the Operation Tiberius report to former Commander Robert Quick in October 2013⁸⁰² and sent one page of the Tiberius Report to Michael O'Sullivan on 14 January 2014.

480. This report was the subject of an 'expose' by Tom Harper at *The Independent* newspaper in January 2014, and of an episode of *Panorama* in 2016.

481. It is quite extraordinary that the Operation Edison investigation apparently did not seek to find out how former DCS Cook had accessed the Operation Tiberius report and who had leaked the document. The Panel was informed by DCI Tony O'Sullivan that '[s]ignificant time and resources were expended by Operation Edison to investigate David Cook's handling of the Operation Tiberius report.' However, this did not include interviewing former DCS Cook about the matter. DCI O'Sullivan told the Panel in January 2021 that the matter had been investigated by Metropolitan Police Operation Yestin.

482. The Panel asked former DCS David Cook how he came to have possession of the Operation Tiberius report. He responded, '[t]his big 'Top Secret' document was found in one of the crates that was delivered to us at [named police premises] along with a whole pile of other stuff.'⁸⁰³ Former DCS Cook said that he read the document and then returned it to someone within the Abelard Two Investigation, who 'made copies' of it and gave him one of the copies.⁸⁰⁴ He then left it 'within the inquiry.'⁸⁰⁵ Former DCS Cook declined to name the person within his investigation to whom he had returned the Operation Tiberius report.

483. Former DCS David Cook was asked why he had simply returned the Operation Tiberius report to his staff and for what purpose he himself had retained a copy. It was put to him that he was a former very senior officer in the Metropolitan Police, he had worked for the Serious Organised Crime Agency, he had been involved in a great deal of sensitive work throughout his career, he had been given a report marked 'Secret', knowing the rules in relation to the handling of sensitive material, and aware that it was circulating among people within his team who had no legitimate right of access to it. In these circumstances, he should have taken steps to ensure that it was immediately protected. He responded saying that the investigation had

802 Operation Edison – Examination of Electronic Exhibits Seized from former DCS David Cook (Material relating to former Commander Robert Quick), EDN002252001, p5.

803 Panel interview with former DCS David Cook, PNL000191001, p18, 26 August 2020.

804 Panel interview with former DCS David Cook, PNL000191001, p19, 26 August 2020.

805 Panel interview with former DCS David Cook, PNL000191001, p19, 26 August 2020.

been very busy and that, *'it wasn't relevant to the Morgan thing. But it was relevant to my whole, you could say interest in the whole corruption aspect, and stuff like that.'*⁸⁰⁶ Despite further questioning on this, former DCS Cook declined to provide any further information.

484. The Metropolitan Police has not disclosed to the Panel the nature of much of the material recovered in 2014, because, it says, this material does not relate to the murder of Daniel Morgan.

485. At the time when he came into possession of the Operation Tiberius report former DCS David Cook was still the 'Consultant Senior Investigating Officer' for the Abelard Two Investigation. He was reporting to AC John Yates. He was also employed as a public servant by the Serious Organised Crime Agency. The fact that he did not take action in 2010 to protect this secret report and its contents from further unauthorised dissemination and to return it to safe custody was a very serious failing by former DCS Cook.

486. The Operation Tiberius document remains available on the internet. The Panel has drawn this to the attention of the Metropolitan Police but has received no response to indicate that any action has been taken as a consequence. The Panel asked whether those whose personal data had been revealed in the Operation Tiberius report which appeared on the internet had been advised of this fact and whether the leaks had been reported to the Office of the Information Commissioner. No such action had been taken by the Metropolitan Police. Following notification that the Panel was proposing to be critical of this in its Report in January 2021, the Metropolitan Police stated to the Panel that in 2015 enquiries were made to explore possible avenues for removing the Operation Tiberius report from the internet, including seeking advice from the Directorate of Legal Services and the Directorate of Media Communications. At the conclusion of these enquiries, it was established that it would not be possible to secure removal of all copies of the report from the internet, due to the report having been posted on a number of different websites, social media platforms and non-UK based servers. In addition to this, the Metropolitan Police stated that the actions of a member of the public in printing, posting and emailing copies of the report made obtaining control of the report impossible.

806 Panel interview with former DCS David Cook, PNL000191001, p21, 26 August 2020.

10.4 Observations

487. The evidence contained within the Operation Edison database clearly shows that former DCS David Cook systematically used personal email addresses not only to conduct sensitive Metropolitan Police business, but also to supply sensitive police information to his friends and contacts who, as members of the public, were not entitled to receive this information.

488. The material available shows that, while former DCS David Cook saw himself as working to prevent corruption in policing and the media, he also hoped to make money publishing a book and being involved in film making and was quite prepared to hand material to unauthorised third parties to further this aim. He articulated his need to make money at various intervals, such as asking Glen Campbell to speak to an individual involved in making a film about News International saying, *'to be honest the money would be helpful just now if it can be rescued.'*⁸⁰⁷ Former DCS Cook repeatedly urged those to whom he supplied material, to protect the material and his identity as the source of the material.

489. It is obvious from the material available that, in some cases, documents belonging to the Metropolitan Police were attached to emails and sent to third parties, including the journalists referred to above. On other occasions the emails disclose that former DCS David Cook arranged to meet someone such as Peter Jukes to provide them with documentation. In those cases, it is not known what the documentation was. However, the Panel has noted that former DCS Cook had no qualms about sending confidential material by email from his private email addresses.

490. Whilst the withdrawal of the charges against the Defendants on 11 March 2011 was caused in part by *'identified disclosure problems which had been of concern throughout the judicial process'*,⁸⁰⁸ the evidence shows that former DCS David Cook was passing information to journalists and other associates both during and after the trial. The scale of the information leaks by former DCS Cook had the potential to disrupt any judicial process in any future trial relating to Daniel Morgan's murder.

807 Edison Report, EDN002248001, p12, para 64, June 2019.

808 Operation Megan Report, MPS109687001, p1, para 1.4, undated.

10.5 The Investigation Advice from the Senior Specialist Prosecutor

491. The Metropolitan Police report was referred to a Senior Specialist Prosecutor at the Crown Prosecution Service at the beginning of September 2019. The Senior Specialist Prosecutor, Michael Gregory, first considered 18 emails sent by former DCS David Cook between 13 October 2009 and 21 June 2013 which had restricted police material attached: 12 to Michael Sullivan; two to Jacqui Hames; one to Bob Graham; one to Peter Jukes; one to Glen Campbell and one to former AC Robert Quick. He stated that it was necessary to consider the offence of misconduct in public office for sending these emails and attachments and disclosure of personal data contrary to section 55 of the Data Protection Act 1998.⁸⁰⁹

492. In reaching his conclusion he took into account:

- i. the emails and materials to and from former DCS David Cook, (56 of which had been identified by DCI Tony O’Sullivan as the ‘*relevant emails*’);
- ii. the schedule prepared by DS Gary Dalby for the purposes of Operation Longhorn which indicated whether or not the material considered in that investigation was in the public domain;
- iii. witness statements from Jacqui Hames, Michael Sullivan, former AC Robert Quick and former Metropolitan Police Commissioner, Sir Ian Blair, to the Leveson Inquiry; and
- iv. materials from the Independent Police Complaints Commission’s Operation Longhorn and the Crown Prosecution Service review of their investigation report and from the *Panorama* investigation.⁸¹⁰

493. The Senior Specialist Prosecutor said, having reviewed all the material which was not contained in the 56 emails referred to in the Operation Edison report, but which he had been sent by DCI Tony O’Sullivan, that he was satisfied that ‘*they, of themselves, do not show criminality over and above that disclosed in the 56 emails*’.⁸¹¹

494. The Senior Specialist Prosecutor referred to emails which had been sent to various people by former DCS David Cook including two emails from former DCS Cook to Alastair Morgan. One sent on 15 October 2013 contained no message but included a number of attachments including a witness statement from the Abelard One/Morgan Two Investigation in which the witness gave evidence about the relationship between Southern Investigations and the *News of the World* and its editor Alex Marunchak, and a ‘Day Book’ containing payments from Alex Marunchak to Southern Investigations. DCS Cook also sent various police documents relating to the surveillance of himself in 2002.⁸¹² In a second email, dated 14 November 2013, he sent Alastair Morgan a copy of an intelligence report which he had submitted in 2006. On 28 March 2014 former DCS Cook sent Alastair Morgan’s solicitor copies of the two documents relating to surveillance on himself which he had sent to Alastair Morgan on 15 October 2013.⁸¹³

495. The Senior Specialist Prosecutor referred to the fact that no full file had been received and listed the following categories of material which would be required to create a full file:

- i. ‘*An account under caution from David Cook.*

809 Investigative Advice 2 from the Senior Specialist Prosecutor Michael Gregory, EDN002277001, p4, para 2.1-2.2, 04 February 2020

810 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, p9 paras 4.1-4.2, 04 February 2020.

811 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p10, para 4.7, 04 February 2020.

812 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp54-55, para 5.106, 04 February 2020.

813 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p56, para 5.110, 04 February 2020.

- ii. *An update on David Cook's medical and psychiatric wellbeing. As part of Operation Longhorn, in 2012 David Cook provided medical records outlining his physical state and mental health.*
- iii. *Victim Impact Statements from any individual whose personal data or information was given to by David Cook.*
- iv. *Unused material schedules. In a case with so many interlinked Operations and Investigations, the MG6 series [of forms] would be an essential ingredient of the full file. In particular, this would require engagement with the IOPC for all material in relation to Operation Longhorn and Panorama investigations and of the digital material found as part of Operation Edison.*
- v. *Evidence about the extent of David Cook's authority and security clearance to work from home and use non secure email whilst employed by SOCA.*
- vi. *Evidence about the extent of information given to Graeme McLagan for his book 'Bent Coppers' and how that access was facilitated.*
- vii. *Evidence about the extent of material disclosed to Jacqui Hames by the Leveson Inquiry in order for her to make her statement.*
- viii. *Evidence of whether the material disclosed to Alistair Morgan/his solicitor had been disclosed to him officially as part of an investigative update by Operation Abelard II.*
- ix. *Evidential forensic reports on the contents of media exhibits seized from David Cook as part of Operation Edison.*
- x. *Evidence to support the security classifications placed on documents and evidence to support the timing and extent of their disclosure.*
- xi. *T/DI Dalby, the Disclosure Officer for Abelard II has assisted greatly in identifying whether documents/information disclosed by David Cook in Operation Edison were discussed in Court during Operation Abelard II hearings and/or are in the public domain (using the Information Commissioners definition of 'public domain' as a guiding principle). On my reading of the Leveson Inquiry a review of whether any of the disclosed information was provided by senior MPS officers to the Inquiry needs to be conducted.*
- xii. *Clarification as to whether the content of witness statements disclosed by David Cook (e.g. [...]), who may have given evidence during Daniel Morgan's inquest was covered in the media and the accessibility of such.*
- xiii. *T/DI Dalby indicates that there are various bloggers who have obtained copies of MPS documents and published them online. A search would need to be conducted.*
- xiv. *Statement from a suitable person to outline MPS role as "data controller", setting out the purposes for which and the manner in which any personal data is (as in 2010-2014) processed by MPS.⁸¹⁴*

814 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp57-58, para 6.3, 04 February 2020.

496. He said that it was probable that some of this material did not exist and reliance would have to be placed on best memory witness statements. The remaining work would be considerable and would require significant resources in terms of personnel and time.⁸¹⁵

497. The Senior Specialist Prosecutor was satisfied that the emails disclosed personal data or the information contained personal data. He described the defence under section 55(2) of the Data Protection Act 1998 which provides that the prohibition in disclosing personal data does not apply if: *'in the particular circumstances the obtaining, disclosing or procuring was justified as being in the public interest.'*⁸¹⁶

498. The Senior Specialist Prosecutor referred to the decision of the Prosecutor in the Operation Longhorn Investigation who concluded that former DCS David Cook's proposed book was capable of raising or contributing to an important matter of public debate and that the public interest served was medium to high.⁸¹⁷

499. In reflecting on former DCS David Cook's motivation, the Senior Specialist Prosecutor referred to the material which former DCS Cook had in his possession, saying that, *'[h]e had a huge volume of material covering many investigations not related to the death of Daniel Morgan. The overwhelming focus of his disclosures was on the discreet issue of the press relationship with private investigators and their role in using unlawful methods to obtain citizens [sic] private information/ their role in creating stories. It is an indication of this focus in my view that David Cook disclosed the same documents to an [sic] number of his contacts.'*⁸¹⁸

500. He continued, *'[a]s a broad overview, the disclosure of information covering these headings in 2012-2014, when there was a real national focus on the conduct of journalists and those who worked for them, was capable of raising or contributing to an important matter of public debate about serious impropriety, significant unethical conduct and significant incompetence. Given that the issues were still current in the public domain, the likely public interest served by this information in my view was medium to high.'*⁸¹⁹

501. The Senior Specialist Prosecutor quoted the Director of Public Prosecutions' Guidelines on Assessing the Public Interest in cases involving the Media which state, *'[w]hen considering cases affecting the media in which freedom of expression and the right to receive and impart information are in issue, prosecutors should specifically go on to consider: Whether the public interest served by the conduct in question outweighs the overall criminality?'*⁸²⁰

502. He said that,

'[i]n considering the public interest factors outweighs the overall criminality prosecutors should follow the approach set out below. It is a three stage process: (1) assessing the public interest served by the conduct in question; (2) assessing the overall criminality; and (3) weighing these two considerations.

'Whilst of course the public interest factors in prosecuting David Cook for disclosure in relation to each journalist would have to be considered individual (sic), it is possible to

815 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p58, paras 6.3-6.5, 04 February 2020.

816 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p60, para 6.11, 04 February 2020.

817 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p61, para 6.15, 04 February 2020.

818 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp61-62, para 6.18, 04 February 2020.

819 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p62, para 6.19, 04 February 2020.

820 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p62, para 6.21, 04 February 2020.

make some general observations that are relevant to all. In assessing overall criminality, the following factors (not exclusively) should be considered:

- **‘Whether the conduct was part of a repeated or routine pattern of behaviour or likely to continue.** David Cook stated in 2012, in his prepared statements as part of Operation Longhorn, that he had not given DPA 1998 considerations any thought. Following his Operation Longhorn arrest in 2012, he can have been left in no doubt of those provisions. Despite being under investigation for Operation Longhorn, he continued to disclose material to journalists.
- **Whether there was any element of corruption in the conduct in question.** In my view it cannot be established that David Cook’s disclosures were motivated in whole/part by financial reward. There is no evidence that he gained financially.
- **Whether the conduct in question included the use of threats, harassment or intimidation.** This element is not present in any of the disclosure.
- **The impact on any course of justice, for example whether a criminal investigation or proceedings may have been put in jeopardy.** There is no evidence that any criminal investigations were or may have been put in jeopardy.
- **The motivation of the suspect insofar as it can be ascertained (examples might range from malice or financial gain at one extreme to a belief that the conduct would be in the public interest at the other, taking into account the information available to the suspect at the time).** On the information available, David Cook was of extreme belief that his disclosures were in the public interest. The email exchanges reveal that was also the view of the journalists Peter Jukes and Glen Campbell for the disclosure to them.
- **Whether the public interest in question could equally well have been served by some lawful means having regard to all the circumstances in the particular case.** Of course this would only apply if the disclosure was not considered to be in the public interest.’ (Bold in original)⁸²¹

821 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp62-63, paras 6.22-6.23, 04 February 2020.

503. In drawing these conclusions, the Senior Specialist Prosecutor did not take account of the fact that it is clear from the emails that former DCS David Cook very much hoped to make money from his book and any consequential media or other opportunities. He gives no explanation for his statement that, *'[t]here is no evidence that any criminal investigations were or may have been put in jeopardy.'*⁸²² Many of the documents disclosed by former DCS Cook related to unsolved crimes, including the murder of Daniel Morgan. Placing these documents into the public domain risked compromising any future trial of these cases. The Panel does not accept the statement that the test of *'[w]hether the public interest in question could equally well have been served by some lawful means having regard to all the circumstances in the particular case'* would *'only apply if the disclosure was not considered to be in the public interest.'*⁸²³ The Guidelines to which the Senior Specialist Prosecutor referred specifically state that the Prosecutor must weigh the public interest as assessed against the criminality as assessed.

504. The Senior Specialist Prosecutor then considered the public interest stage of the Full Code Test in the Code for Crown Prosecutors (2018 version). He set out the following general considerations:

- a. How serious is the offence committed;
- b. An assessment of former DCS David Cook's age and maturity at the time of the offence;
- c. The impact on the community;
- d. Whether prosecution was a proportionate response.⁸²⁴

505. In considering whether prosecution was a proportionate response, he stated, *'[r]elevant factors in considering whether a prosecution is a proportionate response, particularly in relation to an offence under s. 55 DPA 1998, the penalty for which is a fine, are (not exclusively):*

- i. *Operation Edison started in November 2014. The email communication which is the subject of this advice is now somewhat historic in nature. The oldest is over 11 years old and the newest is approaching 5 ½ years ago.*
- ii. *I have set out above the considerable amount of further work required to provide a full file. This clearly has a considerable cost and resource implications should the police complete the necessary work to complete a Full File. This is particularly relevant given what I have said above about the evidential challenges in relation to the evidential stage of the Full Code Test.*
- iii. *Although I have no evidence about the impact that any prosecution might have on David Cook's mental health it is nonetheless a matter to be considered when determining the proportionality of a prosecution.*

822 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p63, para 6.23, 04 February 2020.

823 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p63, para 6.23, 04 February 2020.

824 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp63-64, para 6.26, 04 February 2020.

- iv. *The mental health of David Cook would be relevant to any sentence likely to be imposed. This has a cost and resource implication.*⁸²⁵

506. He then said, '[t]aking into account the public interest factors a – d above, a prosecution is very unlikely to be a proportionate or appropriate response in the public interest'.⁸²⁶

507. In considering the public interest stage, and reaching this conclusion, the Senior Specialist Prosecutor should have given much greater weight to possible damage to a victim. There were many victims whose personal data had been disclosed in breach of the Data Protection Act 1998 by former DCS David Cook, even during the period from 10 January 2012 to 04 November 2014. Some of the information disclosed was extremely sensitive, and in the case of information relating to the identity of a possible informant, it was information which might lead to a risk of injury or a risk to the life of an individual.

508. The Senior Specialist Prosecutor considered the information disclosed by former DCS David Cook to Michael Sullivan of *The Sun* newspaper. He said '[t]aking into account:

- i. *A decision has previously been made by the CPS (Operation Longhorn) under 4.2 of the Code for Crown Prosecutors. Having been asked by the IPCC for a charging decision and prior to reviewing all the evidence (a full file), the reviewing lawyer concluded that the public interest did not require a prosecution of David Cook for the offences of misconduct in a public office and/or s. 55 DPA 1998.*
- ii. *The time period of emails considered as part of Operation Edison falls within the same period as considered by Operation Longhorn.*
- iii. *The material disclosed by David Cook to Mike Sullivan in Operation Edison, was like Operation Longhorn motivated David Cook and Mike Sullivan to publish a book [sic] on the Daniel Morgan police enquiry. Any such book would have sought MPS approval before publishing.*
- iv. *Email from IOPC LI on Operation Longhorn to Operation Edison on 10.06.19 which states, '... in my opinion, what they have found that falls within our parameters would not have altered anything ...'*

*A charging decision in relation to the material disclosed to Mike Sullivan would reach the same conclusion as those reached in Operation Longhorn.*⁸²⁷

825 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp64-65, para 6.27, 04 February 2020.

826 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p65, para 6.28, 04 February 2021.

827 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p65, para 6.29, 04 February 2020.

509. The Panel has expressed its opinion on the flaws in the decision-making of the Prosecutor in Operation Longhorn (see sections 4.3-4.9 above). The time periods covered by Operation Longhorn and Operation Edison were not the same. In addition to this, the Metropolitan Police had become aware in 2014 that former DCS David Cook had possession of the full Operation Tiberius report – a secret Metropolitan Police report, not just the single page which former DCS Cook had sent to Michael Sullivan. The Panel has not seen the complete database of material seized by the Metropolitan Police and does not know whether it was disseminated by former DCS Cook. However, this was a matter which should have resulted in an investigation. The Senior Specialist Prosecutor was also aware that former DCS Cook had sent Michael Sullivan a report into the debrief of Person F11, which was not in the public domain and which was not considered in Operation Longhorn.⁸²⁸

510. The Senior Specialist Prosecutor considered the evidence in respect of former DCS David Cook's disclosures to his former wife, Jacqui Hames. He stated that at the time of the disclosure former DCS Cook was in public office because he was employed by the Serious Organised Crime Agency. He said:

'Having considered the matter carefully, I see little prospect of there being sufficient evidence to establish that this conduct was to such a degree as to amount to an abuse of the public's trust in David Cook:

- *The 14 documents disclosed had a common theme. They related to the surveillance/potential criminal activity against them (David Cook and Jacqui Hames) in 2002 and the NoTW [News of the World] working with Southern Investigations.*
- *The purpose was to enable Jacqui Hames to be in a position to request and ensure she had that information (albeit I am sure it would have been redacted) from MPS in her action against NI.*
- *A degree of redaction had been conducted by David Cook of personal information – i.e. redacting the statement of [...] to remove [their]name.*

*I therefore see little prospect of being able to satisfy the evidential stage of the Code of Crown prosecutors against David Cook for the offence of misconduct in a public office.'*⁸²⁹

511. It would have been possible for Jacqui Hames to have sought disclosure of this material from the Metropolitan Police. It was not necessary for former DCS David Cook to have provided the documentation to her.

828 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp26-27, para 5.10, 04 February 2020.

829 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p66, paras 6.33-6.34, 04 February 2020.

512. In relation to the offence of breach of section 55 of the Data Protection Act 1998, the Senior Specialist Prosecutor said that the documents supplied did contain personal data. He then said:

*'It can be readily foreseen that David Cook is likely to argue that the disclosure of this information, in the particular circumstances was in the public interest (s.55 (2) (d) DPA 1998. I see considerable force in the provision of these documents to secure disclosure in civil proceedings as being in the public interest. On the face of it, difficult to argue that as they appear to show his very conduct that NI [News International] later accepted civil liability for, that it was not in the public interest to disclose the material.'*⁸³⁰

513. It is not clear what the Senior Specialist Prosecutor is saying in this statement.

514. The Senior Specialist Prosecutor considered former DCS David Cook's disclosure to Bob Graham and concluded that *'a charging decision in relation to the material disclosed to Bob Graham would reach the same conclusion as those reached in Operation Longhorn/Panorama review.'*⁸³¹ However, the document disclosed to Bob Graham was a 259 page briefing prepared for Defence counsel in the Abelard Two prosecution in relation to Person J5, which detailed her confessions to criminality and her accounts of the criminality of others. It had a security marking of 'Sensitive'.⁸³² This document contained a huge amount of material about a large number of people. The Panel acknowledges that the dissemination of this report to Mike Sullivan had been considered in Operation Longhorn. This was another dissemination to another individual and, as such, warranted separate consideration within Operation Edison.

515. The Specialist Prosecutor considered the situation with regard to Peter Jukes and the disclosures to him. He concluded that prior to 26 March 2013 former DCS David Cook and Peter Jukes had not met. The relevance of this is not obvious. He concluded that:

'In 2012-2014, when there was a real national focus on the conduct of journalists and those who worked for them, this information was capable of raising or contributing to an important matter of public debate about serious impropriety, significant unethical conduct and significant incompetence. Given that the issues were still current in the public domain, the likely public interest served by this information in my view was medium to high. Therefore [sic] see little prospect of being able to satisfy the evidential stage of the Code of Crown prosecutors against David Cook for the offence breaching s55 DPA 1998.'

*'Even if, on an analysis of a full file of evidence I was satisfied that there was sufficient evidence, it is very unlikely that it would be in the public interest to prosecute.'*⁸³³

830 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p66, para 6.36, 04 February 2020.

831 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p67, para 6.38, 04 February 2020.

832 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, pp30-31, para 5.20, 04 February 2020.

833 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p69, paras 6.47-6.48, 04 February 2020.

516. Although it is known that former DCS David Cook had previously sent other police documents prepared for Defence lawyers to third parties, it was the opinion of the Specialist Prosecutor and Crown Prosecution Service that the material came to former DCS Cook from a Defence source during litigation.

517. The Senior Specialist Prosecutor then considered the disclosures by former DCS David Cook to Glen Campbell. He came to the same conclusion in respect of Glen Campbell as Peter Jukes.⁸³⁴

518. The Senior Specialist Prosecutor did not provide any positive investigative advice in relation to any of the people to whom former DCS David Cook had disclosed material. He concluded that, even where there were indications that a criminal offence had been committed, it would not be in the public interest to prosecute former DCS Cook.

519. Having received this advice from the Crown Prosecution Service, the Metropolitan Police decided in April 2020 that there would be no further investigation of the abstraction of police and Serious Organised Crime Agency material by former DCS David Cook, or of the unauthorised dissemination of some of that material, including large volumes of material forming part of the investigation of Daniel Morgan's murder.

10.6 Conclusions

520. The Panel received the Report from the Crown Prosecution Service on 04 June 2020. It was marked 'Secret' and the Panel Chair and Counsel to the Panel had to travel to London during the COVID-19 Lockdown⁸³⁵ to inspect the documentation. The Panel Chair and Counsel asked for the security classification, which they regarded as unjustified, to be reduced so that the material could be made immediately available to all the Panel and its staff. This was done.

521. A decision had been made in January 2017 to limit the time span for the Operation Edison investigation to cover the period from 10 January 2012 to 04 November 2014.⁸³⁶ The deliberations and the decisions of the Gold Group which was formed for Operation Edison should have informed DCI Tony O'Sullivan's investigation. The members of the Gold Group should have been aware of the extent of the abstraction and dissemination of confidential police material by former DCS David Cook if they were to fulfil their role properly. It is not known whether they were fully informed.

522. In July 2020, the Panel wrote to the Metropolitan Police asking how the time span of the investigation was determined and how the emails which were considered in the Report were selected for examination. It was pointed out to the Metropolitan Police that there had been unlawful disclosure of material relating to activity during the period from the mid-1990s, when former DCS David Cook worked in Surrey Police, until his retirement from the Serious Organised Crime Agency in June 2013.⁸³⁷

834 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p70, paras 6.53-6.54, 04 February 2020.

835 This was a period during which travel and meetings were greatly restricted to limit the spread of the Coronavirus and vast numbers of people, including the Panel, and its staff worked from home.

836 Letter from DCI Tony O'Sullivan to the Daniel Morgan Independent Panel, p2, 04 August 2020.

837 Letter from the Daniel Morgan Independent Panel to the Metropolitan Police, 16 July 2020.

523. On 04 August 2020, DCI Tony O’Sullivan responded on behalf of the Metropolitan Police saying that the decision to limit the time span of the investigation was made because Operation Longhorn had dealt with the period before 10 January 2012.⁸³⁸ In response to the question about how the emails considered in the Report were chosen, he said that *‘the investigation identified material shared by Cook prior to this point, which may have amounted to an offence of misconduct in a public office, for completeness those emails were provided to the CPS and are dealt with in the CPS Advice file.’*⁸³⁹

524. Despite the acknowledgment by DCI Tony O’Sullivan that former DCS David Cook’s conduct may have amounted to misconduct in public office, there is no statement to this effect in his report to the Crown Prosecution Service. The words *‘misconduct in public office’* do not appear anywhere in the Operation Edison report. As a consequence, these matters were not drawn to the attention of the Crown Prosecution Service. The only potential criminal offence alluded to in the report is contained in a reference to the *‘Data Protection Act’*.⁸⁴⁰ The Panel cannot accept that an officer of DCI O’Sullivan’s rank and experience would have been unaware of the evidence indicating misconduct in public office by former DCS Cook. DCI O’Sullivan’s response to the Panel’s request for information indicated that he did recognise the existence of such evidence, yet he did not refer to it in his report to the Crown Prosecution Service.

525. The Senior Specialist Prosecutor did identify some elements which might constitute the offence of misconduct in public office as described above but did not recommend any further action for the reasons described above.

526. The Senior Investigating Officer, DCI Tony O’Sullivan prepared a very brief, incomplete report on the facts surrounding the materials seized by the Metropolitan Police in 2014. It was subsequently described as an interim report, although when the Panel had enquired about the status of the Operation Edison report, it had been told by the Metropolitan Police that it was a full report.

527. From the material available, it is clear that the Metropolitan Police did not ensure that a full investigation was conducted of the possible offences which may have been committed by former DCS David Cook in the abstraction and unauthorised dissemination of materials, despite the fact that former DCS Cook was under investigation by the Metropolitan Police from 04 November 2014 until the decision was made by the Metropolitan Police to terminate the investigation in April 2020.

838 Letter from DCI Tony O’Sullivan to the Daniel Morgan Independent Panel, p2, 04 August 2020.

839 Letter from DCI Tony O’Sullivan to the Daniel Morgan Independent Panel, p2, 04 August 2020.

840 Edison Report, EDN002248001, p1, June 2019.

528. It is clear from the investigative advice of the Senior Specialist Prosecutor, Michael Gregory that the report submitted to him was an interim report. No full investigation was required by Michael Gregory. However, only a limited amount of the material which had been abstracted, and in some cases disseminated, by former DCS David Cook was drawn to Michael Gregory's attention. His conclusion was not based, therefore, on an understanding of all the material which had been disclosed without authorisation by former DCS Cook.

529. During Operation Longhorn, only 46 emails, of over 500 emails and attachments, which had been recovered during the search of former DCS David Cook's home in January 2012, were considered as '*relevant*.' They were chosen, it was stated, '*as they represent potentially the most serious examples of unauthorised or inappropriate disclosure by David Cook to Mike Sullivan*'.⁸⁴¹ The Panel has indicated above the fact that there were other emails which involved very serious examples of unauthorised disclosure of material, some of it classed as 'Secret'. The Head of the Organised Crime Division at the Crown Prosecution Service, Gregor McGill, stated in reaching his conclusions that, '*[t]here appears to be some 550 e mails [sic] – but some 46 have been identified as being e mails [sic] where either the documents or the information in the e mail [sic] itself should not have been shared by Dave Cook with a journalist*'.⁸⁴² His understanding, therefore, was that only 46 of the emails were relevant to his decision and he made his decision on the basis only of these 46 emails.

530. During Operation Edison, only 56 emails of the total materials recovered by the Metropolitan Police during their search of former DCS David Cook's house in November 2014, which took three years to analyse prior to investigation, were considered relevant and presented to the Crown Prosecution Service for consideration. The Senior Specialist Prosecutor, Michael Gregory stated that he had reviewed the emails sent to the various individuals described in the Operation Edison report and '*I am satisfied that they, of themselves, do not show criminality over and above that disclosed in the 56 emails [...]*'.⁸⁴³ This is incorrect, as there is evidence in the other emails of other unidentified confidential material having been disclosed.

531. The Terms of Reference established for Operation Edison required that the investigation seek to establish whether any offences had been committed by any other officers. The Senior Specialist Prosecutor should have advised the Metropolitan Police that further investigation was required to ascertain how former DCS David Cook had obtained the material which he wrongfully held, and whether he had obtained any data from serving police officers or police staff between 2006 and 2014.

532. The Crown Prosecution Service advices, in both Operation Longhorn and Operation Edison, refer to the fact that Commander Simon Foy issued an informal warning in 2011 when he became aware that former DCS Cook had disclosed one email to Michael Sullivan.

841 '*Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p14, para 51, September 2014.

842 Endorsement by Head of Division, IPC001410001, p52, 29 September 2015.

843 Investigative Advice 2 from the Senior Specialist Prosecutor, Michael Gregory, EDN002277001, p10, para 4.7, 04 February 2020.

533. The conclusions of the Senior Specialist Prosecutor in Operation Edison, to the extent that they related to the disclosure to Michael Sullivan, derived from the findings in Operation Longhorn. These findings, in turn, derived from the informal warning issued to former DCS David Cook on 26 May 2011.⁸⁴⁴ That email had included confidential information sent between the solicitor for Daniel Morgan's family and AC John Yates (see paragraph 124-126 above).⁸⁴⁵ This way of handling the unauthorised disclosure of one email by former DCS Cook was interpreted by the Independent Police Complaints Commission and the Crown Prosecution Service as relevant and was influential in the decision which was made in Operation Longhorn. That decision was that, although criminal conduct had been identified, it would not be in the public interest to prosecute. The decision in Operation Longhorn has been severely criticised by the Panel. The decision in Operation Edison was reliant on the decision in Operation Longhorn, given that both Operations considered material disclosed by former DCS Cook to Michael Sullivan during the same period and for the same purpose – the publishing of a book. However, the unauthorised disclosure evident in the material seized by the Metropolitan Police from former DCS Cook's home in November 2014 was made to multiple journalists and others. Given the volume and nature of the information disclosed by former DCS Cook, and recovered in Operation Edison, the public interest required a proper investigation into all aspects of the unauthorised disclosures, and a decision based on such a proper investigation. This did not happen.

534. The way in which the '*relevant*' material was selected during both the Operation Longhorn and Operation Edison Investigations, meant that the unauthorised disclosure of some highly sensitive and secret material which was not specifically related to the investigation of the murder of Daniel Morgan was excluded from or not considered properly during both investigations.

535. Former DCS David Cook was under investigation from January 2012 to April 2020. It is understood that he had concerns about his health and security from 2002. He was afforded some assistance, and there is evidence that senior officers in the Metropolitan Police were concerned about him in later years, when he was under investigation, and took steps to ensure that he had the assistance of his staff association and of its Occupational Health Department, as did the Serious Organised Crime Agency. Notwithstanding that, it is noted that former DCS Cook, in answering questions about his mental health when he was being vetted in 2009 stated that he had no health problems.

536. The Panel has stated previously its view that former DCS David Cook should not have been allowed to remain involved in the Abelard Two Investigation for a number of reasons, including some of the ways in which he had conducted himself as Senior Investigating Officer. However, while the state of his health was discussed in both Operation Longhorn and Operation

⁸⁴⁴ *Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*, IPC001370001, p8, paras 22-24, September 2014.

⁸⁴⁵ *Investigation into the actions of Mr David Cook unauthorised disclosure of documents to a journalist whilst he held a public office*, IPC001370001, pp8-9, para 23, September 2014.

Edison, there is no evidence that it was taken into consideration in an appropriate manner in the absence of any medical report or records. Finally, the evidence indicates that, despite his health problems, former DCS Cook was resolute, persistent and determined in acquiring information which he thought might be useful to him both in writing the book which he intended to write with Michael Sullivan about the murder of Daniel Morgan and in revealing what he perceived as corruption between the police, organised crime and private investigators and the media. He produced some 57 chapters of his proposed book during the period before 2014, some of which contained material which should never have been disclosed to those outside the relevant police inquiries. He shared these chapters with Michael Sullivan.

537. During the period from 2012 to 2020, the circumstances surrounding the abstraction and dissemination of material by former DCS David Cook was not fully investigated. Had proper investigation occurred and had the Prosecutors employed by the Crown Prosecution Service discharged their duties fully, it is possible that there would have been compelling arguments as to why it would not have been in the public interest to prosecute former DCS Cook. However, it is also the case that bringing proceedings against former DCS Cook would have resulted in an obligation on the Metropolitan Police to engage in what might have been among the most extensive disclosure processes of any criminal prosecution in this country, given the extent of the materials which he had abstracted and disseminated without authorisation. The revelation of the extent to which it was possible for one officer to misconduct himself would have been revealed. This would have caused embarrassment to the Metropolitan Police.

538. Former DCS David Cook has been shown to have acted wrongly over many years. He did so, he said, because he wanted to bring the murderers of Daniel Morgan to justice and if he could not do that, he wanted to write a book, to reveal the evidence of corruption within alliances between elements of policing, private investigation and the media and to make money. However, former DCS Cook should have been very clear that his duty was to act within the law and to follow proper procedures.

539. The Panel does not accept that this was a mere accident or omission. As a consequence of the legal constraints under which the Panel rightly operated, it has not been possible to disclose the extent of the content of some of the material which it has seen. However, the Panel is of the view that the Metropolitan Police were aware of parts, at least, of this situation when the Panel was appointed by the Home Secretary in 2013, and that as more understanding emerged, the imperative was in part to protect the reputation of the police, rather than to expend resources dealing with the totality of the issues emerging.

540. Any serving officer, with access to sensitive information, has the opportunity to remove it and use it for unlawful purposes. The failure of the Metropolitan Police to prevent DCS David Cook from removing materials over such an protracted time period causes concern as to the extent to which such behaviour may be continuing within the police service unchecked.

Chapter 10: Corruption: Venality to lack of candour

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1 Introduction

1. It is now more than three decades since Daniel Morgan was murdered with axe blows to the head in a dark car park behind a public house in Sydenham, South East London, on 10 March 1987. His body was discovered by a member of the public within a short time of his killing. The police were called immediately, and an investigation began that would prove to be the first of several murder investigations and other police operations arising from, or linked to the murder, or those associated with it, none of which has succeeded in bringing to justice the person or persons responsible for Daniel Morgan's murder.

2. Allegations of police corruption arose soon after the murder, and the case became notorious because of this. In 2013, the Home Secretary, Theresa May MP, appointed the Independent Panel to conduct '*a full and effective review of corruption as it affected the handling of this case and of the treatment of the family by the police and other parts of the criminal justice system*'.¹

¹ Terms of Reference, para 2. The full text of the Panel's Terms of Reference can be found in Annex A.

The Report of the Daniel Morgan Independent Panel

3. The role of corruption was a key focus of the Panel's Terms of Reference. This is because the suggestion that police corruption played a role in Daniel Morgan's murder has, from the outset, been a recurring theme around successive investigations. It has been suggested either that the police were involved in the killing, or that police officers were somehow able to frustrate successive police investigations thereby preventing those responsible for Daniel Morgan's murder from being brought to justice.
4. This chapter discusses some general and thematic concepts of corruption and explores the indications and evidence in the data available to the Panel as to the role of police corruption in relation to the murder of Daniel Morgan and its investigation.
5. When successive investigations failed to identify the perpetrator(s) of the murder or expose the role of police corruption in the murder or the murder investigations, the family of Daniel Morgan, frustrated by the lack of progress, mounted a formidable campaign without which the Panel would almost certainly not have been appointed.
6. This is the background to the Panel's analysis of the different manifestations of police corruption which have been alleged during the course of the investigations into Daniel Morgan's murder, from 1987 to the present day.
7. In this chapter, the Panel will extend the discussion of the evidence arising from the investigations into Daniel Morgan's murder beyond what is generally understood by police corruption as a form of venality: that is, dishonest behaviour for personal, usually pecuniary, advantage (everything from police officers 'moonlighting' to the selling of confidential information). The Panel has identified defensive behaviour on behalf of the Metropolitan Police, in the form of statements by the Metropolitan Police made to Daniel Morgan's family or to the media. These statements gave unwarranted assurances regarding the rigour of police investigations and reflected a lack of candour, through a lack of transparency as well as prevarication and obfuscation regarding investigative shortcomings, of which senior officers were aware. The effect of the statements was corrosive for the trust of members of Daniel Morgan's family and ultimately that of the public.
8. Public trust in the integrity of the police is essential for effective policing, as is organisational learning from identified failings and wrongdoing. It is for this reason that the Panel discusses both venal behaviour by individuals and lack of candour on the part of the Metropolitan Police, which can be seen as falling within a range of behaviour that amounts to corruption of differing degrees of seriousness and harm.
9. As more than three decades have passed without resolution of the case, so, gradually, the Metropolitan Police has moved from stating that the investigation had been thorough and had met the standards of the time, to acknowledging that police corruption and professional shortcomings had been a factor in the original investigation. However, they have done so without stating clearly what that corruption comprised. Nobody has ever been convicted of a criminal offence arising from corrupt activity relating to the Morgan One Investigation, the first investigation into the murder.

10. In 2011, the Metropolitan Police stated that '[t]he MPS [Metropolitan Police Service] has accepted that police corruption in the original investigation was a **significant factor** [emphasis added] in this failure'.² When asked for specific details of what that corruption was which prevented those responsible from being brought to justice, how and when this corruption had been investigated and what they were doing to prevent such corruption occurring again, no clear answer emerged. In December 2020, in response to these questions the Metropolitan Police referred to various anti-corruption initiatives, such as:

- an Information Code of Conduct detailing the personal responsibility and duty of confidentiality owed by all officers and staff members;
- a declarable association policy which requires all police officers and staff to disclose any family connections, friendships or other associations with criminals or those who pose a risk of corruption; and
- an Integrity Assurance Unit which provides guidance on declared associations in accordance with force policy and is capable of running integrity checks on officers, staff and potential recruits.

11. However, in the absence of a Metropolitan Police definition of what was meant by the statements made about the Morgan One Investigation, it cannot be said that these specific initiatives would have prevented the undefined corruption which was said to be such 'a *significant factor*'.

12. To address this lack of clarity, the Panel has sought to establish what the Metropolitan Police has meant when it has referred to corruption during the 34 years since the murder of Daniel Morgan.

2 Terms of Reference and definition of corruption

2.1 The Panel's Terms of Reference

13. The Terms of Reference, as drawn up by the Home Office, the Metropolitan Police and members of Daniel Morgan's family, set out the complex questions to be addressed by the Panel, namely:

'The purpose and remit of the Independent Panel is to shine a light on the circumstances of Daniel Morgan's murder, its background and the handling of the case over the whole period since March 1987. In doing so, the Panel will seek to address the questions arising, including those relating to:

- *police involvement in the murder;*
- *the role played by police corruption in protecting those responsible for the murder from being brought to justice and the failure to confront that corruption; and*
- *the incidence of connections between private investigators, police officers and journalists at the News of the World and other parts of the media and alleged corruption involved in the linkages between them.*³

² Letter from Acting Commissioner Tim Godwin to Alastair Morgan, MPS094332001, p16, 30 March 2011.

³ Terms of Reference, para 3.

14. Any involvement by police officers in the murder, whether in planning, organising or carrying out the murder, would constitute both criminal behaviour and police corruption. Moreover, were the planning of the murder to include arrangements beforehand to ensure the failure to identify those responsible and bring them to justice, this would also constitute involvement in the murder.

15. The Terms of Reference give a vague formulation of the second issue: the role played by police corruption in protecting those responsible. There are two possible interpretations of this. It could mean that,

- i. one or more police officers became aware after the murder of who was responsible and protected them; or
- ii. one or more police officers who were not aware of who was responsible for the murder committed corrupt acts for their own reasons, and in so doing compromised the investigation with the result that there was no evidence capable of proving who was responsible for the murder and of bringing them to justice.

16. Under either of these interpretations, this would constitute the offence of doing an act tending to and intended to pervert the course of justice and would be an example of police corruption. Under either interpretation, the failure to confront any identified corruption needs to be addressed by the Metropolitan Police.⁴

17. The Terms of Reference have been interpreted as requiring the Panel to examine:

- i. whether or not there was any police involvement in the murder itself;
- ii. whether there was any police corruption affecting the investigation of the murder and making it impossible to bring whoever was responsible to justice; and
- iii. in the context of the murder and its investigation, what was the incidence of connections among private investigators, police officers and the media, and whether or not there was, as alleged, corruption in the linkages.

18. The Panel has carried out its enquiries without making any assumptions, seeking to understand exactly what is meant by the Metropolitan Police's acknowledgment of its '*failure to confront the role played by police corruption in protecting those responsible for the murder from being brought to justice*' referred to in Article 1 of the Panel's Terms of Reference. It has done this by examining all the documentation now available and the information it has gathered, and by asking the Metropolitan Police precisely what they meant.

2.2 The Panel's definition of corruption

19. The Panel's Terms of Reference do not include a definition of corruption. The Panel has therefore developed its own definition, drawing upon the definitions of corruption and corrupt behaviour used by relevant bodies. Such bodies include the Independent Police Complaints Commission and its successor organisation, the Independent Office for Police Conduct, the National Police Chiefs Council, the College of Policing and the Metropolitan Police.

⁴ After the Panel's Terms of Reference were agreed, in 2015, a new criminal offence, '*corrupt or other improper exercise of police powers and privileges*', was introduced under section 26 of the Criminal Justice and Courts Act 2015.

20. To inform its analysis, the Panel has drawn upon the report of the mid-Staffordshire NHS Foundation Trust Public Inquiry,⁵ the report by Mark Ellison QC on his review concerning the Stephen Lawrence investigation,⁶ the report of the Hillsborough Independent Panel and the subsequent report by the Right Reverend James Jones KCB,⁷ the report of the Gosport Independent Panel,^{8,9} and the work of the public inquiry into the Grenfell Tower fire.¹⁰ These inquiries and reports provide important insights into serious failures of a variety of public services, including but not limited to the police, and address the complex issues of accountability and corruption.

21. The generic definition of corruption is *'dishonest or fraudulent conduct by those in power, typically involving bribery'*.¹¹ This definition suggests that for dishonest conduct to amount to corruption the person acting corruptly must be someone in power or exercising powers. This definition would apply to police forces, prison, probation and healthcare services, or other organisations serving the public. In these settings, 'corruption' may denote the misuse of authority in terms of deviance from the law, professional norms, ethical standards or public expectations.¹²

22. In common parlance 'corruption' is also used to refer to the venal behaviour of persons who do not hold positions of power, but who do have something to sell, or who act as corrupters in that they bribe persons exercising powers to commit corrupt acts: it follows that people within and outside the police may be involved in 'corrupt behaviour'.

23. The Panel's Terms of Reference require it to consider, primarily, wider questions relating to corruption. It is asked to address:

- i. *'police involvement in the murder'*.¹³ By any reasonable person's definition, if police officers commit or assist in planning a murder, it is not only the most serious crime of taking a person's life, but it is also the gravest breach of the duties of a police officer.
- ii. *'the role played by police corruption in protecting those responsible for the murder from being brought to justice and the failure to confront that corruption'*.¹⁴ The 'corruption' is not explained further, but the Terms of Reference refer to the fact that *'in March 2011 the Metropolitan Police acknowledged "the repeated failure of the MPS [Metropolitan Police Service] to confront the role played by police corruption in protecting those responsible for the murder from being brought to justice"'*.¹⁵

5 Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, Sir Robert Francis QC (The Francis Report), 2013.

6 The Stephen Lawrence Independent Review, 06 March 2014.

7 The Report of the Hillsborough Independent Panel, September 2012; the report by the Right Reverend James Jones KBE, 'The Patronising Disposition of Unaccountable Power', November 2017.

8 The Panel was set up to address concerns about the care of patients in Gosport War Memorial Hospital and the subsequent investigations into their deaths.

9 The Report of the Gosport Independent Panel, 2018.

10 Phase 1 Report, The Grenfell Tower Inquiry, 30 October 2019.

11 Oxford English Dictionary.

12 Downes, D. and Rock. P. 2007, *Understanding Deviance*, 5th edn. Oxford University Press.

13 Terms of Reference, para 3.

14 Terms of Reference, para 3.

15 Terms of Reference, para 1.

- iii. *'the incidence of connections between private investigators, police officers and [...] the media and alleged corruption involved in the linkages between them'*.¹⁶ To do this, the Panel has adopted an expansive approach to 'corruption', including the conduct of the police and the behaviour of other individuals linked to the police or involved in corrupt activity with them.

24. The Independent Police Complaints Commission report on corruption in the police service in England and Wales in 2012 identified *'the need for a clear definition, understood by both the public and police'*.¹⁷

25. The Panel has adopted a broad definition of corruption for the purposes of its work. The definition below is based on the key elements of dishonesty and benefit, and allows for the involvement of a variety of actors and a variety of forms of benefit:

The improper behaviour by action or omission:

- i. **by a person or persons in a position of power or exercising powers, such as police officers;**
- ii. **acting individually or collectively;**
- iii. **with or without the involvement of other actors who are not in a position of power or exercising powers;**

for direct or indirect benefit :

- iv. **of the individual(s) involved; or**
- v. **for a cause or organisation valued by them; or**
- vi. **for the benefit or detriment of others;**

such that a reasonable person would not expect the powers to be exercised for the purpose of achieving that benefit or detriment.

The Panel has used this definition to consider the conduct of the police officers involved in the investigations of the murder of Daniel Morgan.

26. The Panel includes in its wider definition of corruption some instances of failures on the part of senior officers/managers, acting as representatives of their organisations. The documentation reveals the following wide range of actions and omissions by senior postholders on behalf of their organisations; many of these actions and omissions have been identified in the reports of other independent panels and inquiries:

- i. **failing to identify corruption;**
- ii. **failing to confront corruption;**
- iii. **failing to manage investigations and ensure proper oversight;**
- iv. **failing to take a fresh look at past mistakes and failures;**

¹⁶ Terms of Reference, para 3.

¹⁷ Corruption in the Police Service in England and Wales, Dame Anne Owers, p4, May 2012.

- v. **failing to learn from past mistakes and failures;**
- vi. **failing to admit past mistakes and failures promptly and specifically;**
- vii. **giving unjustified assurances;**
- viii. **failing to make a voluntarily commitment to candour; and**
- ix. **failing to be open and transparent.**

27. These failings do not all automatically fall within the definition of corruption. Some may result from professional incompetence or poor management. However, when the failures cannot reasonably be explained as genuine error and indicate dishonesty for the benefit of the organisation, in the Panel's view they amount to institutional corruption. A lack of candour on the part of the Metropolitan Police in respect of its failings is shown by a lack of transparency, as well as prevarication and obfuscation.

3 Context

28. Before dealing in more detail with the role played by police corruption, it is important to summarise the key features of the general context in which the murder of Daniel Morgan occurred.

3.1 Private investigators and the police

29. Daniel Morgan was a private investigator running a firm called Southern Investigations. Both he and his partner, Jonathan Rees, had close working relationships with the police and both, particularly Jonathan Rees, spent a great deal of their time in the company of the police. Their police contacts would have been professionally useful to them given that they were engaged in privately contracted activities akin to policing. The firm accepted commissions of a security-related nature from a variety of clients. They safeguarded and recovered property, carried out surveillance, enforced County Court judgments and collected debts. Such work would have brought them into contact with both clients and subjects potentially known to the police, and about whom police intelligence and cooperation would have been valuable.

30. In the 1980s, as is the case today, there were a number of former police officers who worked as private investigators. Neither Daniel Morgan nor Jonathan Rees had been police officers. Former DS Sidney Fillery became Jonathan Rees's business partner in June 1989.¹⁸

31. Concerns about the integrity of some persons working in the important and burgeoning private security industry led the Home Affairs Committee of the House of Commons to recommend in 1995 that a licensing system be introduced to ensure that personnel were fit and proper.¹⁹

32. The Private Security Industry Act 2001 provided for the creation of the Security Industry Authority to carry out various functions in relation to licensing and approvals for those working in the private security industry. The purpose of the Act was to regulate the private security industry

¹⁸ Report on the trading activities of Southern Investigations, MPS061738001, p2, undated.

¹⁹ Home Affairs Select Committee, First Report, *The Private Security Industry*, HC 17-1 (1994-5) London: HMSO.

effectively, prevent crime, raise standards and recognise quality service. The Act created the criminal offence of using unlicensed security operatives in the regulated industry sector and provided for the entry of premises for inspection by the Security Industry Authority.

33. Schedule 2 to the 2001 Act lists those activities liable to control under the Act. ‘*Private Investigations*’, alongside ‘*manned guarding*’ and ‘*vehicle immobilisation*’, is one of the listed activities. Paragraph 4 of Schedule 2 defines what sort of investigation is included and what is excluded. This paragraph was brought into force on 01 February 2004.²⁰ In practice, only so-called ‘*door operatives*’ and ‘*vehicle immobilisation contractors (and employees)*’ are currently required to obtain an operating licence. The Security Industry Authority does not as yet require private investigators to obtain a licence to operate.

34. This lacuna in the regulatory framework for what is an important branch of the private security industry continues to exist despite reports from the Serious Organised Crime Agency,²¹ Her Majesty’s Inspectorate of Constabulary²² and, for the second time, a House of Commons Select Committee expressing continued concerns about the integrity of some private investigators and the need for active regulation.²³

35. In 2013, the Government responded to the recommendations of the Home Affairs Select Committee as follows:

‘The Government can confirm its intention to regulate the activities of private investigators by requiring them to be licensed by the Security Industry Authority. It will then become a criminal offence to undertake private investigations without a licence, which could then only be issued following satisfactory criminality and identity checks, and competency-based training. Furthermore it will become a criminal offence to breach the conditions of a licence for private investigation as per section 9(4) of the Private Security Industry Act 2001 (PSIA).

‘It is the Government’s intention that the regulation of the private investigations sector will be rolled out from the autumn of 2014.’²⁴

36. In 2016, the Home Office asked a senior official to undertake a review of the Security Industry Authority and its role. Following consultation, the review report was published in 2018, and it found that there was a case for regulation of private investigators. It recommended that private investigators should be treated as businesses and subject to the revised Approved Contractor Scheme system of standards overseen by the Authority. The review said that the statutory body, the Security Industry Authority, would need to work with the private investigation industry to develop a suitable set of standards and an implementation timetable. It said the Private Security Industry Act 2001 may need to be reviewed and legislation introduced to ensure that regulation of the private investigation industry was implemented.²⁵ The Home Office Minister, Nick Hurd MP, later wrote to advise the Security Industry Authority in February 2019

20 The Private Security Industry Act 2001 (Commencement No. 2) Order 2003.

21 Serious Organised Crime Agency, ‘*Private Investigators: The Rogue Element of the Private Investigation Industry and others: Unlawfully Trading in Personnel Data*’, January 2008.

22 Her Majesty’s Inspectorate of Constabulary, ‘*Without Fear or Favour: A Review of Police Relationships*’, December 2011

23 Home Affairs Select Committee (HASC), Fourth Report, HC 100, *Private Investigators*, 06 July 2012.

24 The Government response to the Fourth Report of the Home Affairs Committee Session 2012-13 HC 100, *Private Investigators*, Opening Statement, July 2013.

25 Home Office, ‘*Security Industry Authority Review 2016/17*’, 07 June 2018.

about the review's recommendations and indicated that there was no substantive case for extending the current regime, and therefore no need for significant legislative change such as business licensing.²⁶

RECOMMENDATION

37. The Government should act on its stated intention in 2013 to require licensing measures, introduce legislation to ensure the creation and use of standards, and implement the recommendation in the 2016 review concerning the regulation of private investigators.

38. The Government response to the 2012 Home Affairs Select Committee report also recommended that the Home Secretary exercise her power to strengthen the penalties available for offences relating to the unlawful obtaining, disclosure and selling of personal data. This has not been done. Section 55 of the Data Protection Act 1998 has now been repealed and replaced with section 170 of the Data Protection Act 2018. The new provisions are broadly the same as those replaced, although the 2018 Act creates an additional offence of retaining data (which may have been lawfully obtained) without the consent of the data controller.

39. In conducting its enquiries, the Panel has encountered significant volumes of evidence indicating that Southern Investigations (later, Law & Commercial) was heavily involved in such activities from 1989.

40. This, the Panel considers, was an important opportunity missed to introduce legislation to provide for custodial sentences. Offences of this nature are still only punishable by financial penalties.

RECOMMENDATION

41. Given the potential seriousness of such offences, it is recommended that the Government take an early opportunity to amend the Data Protection Act 2018 to provide for sentences of imprisonment for offenders.

3.2 Organised crime and police connections

42. It is not part of the Panel's remit to examine corruption within the Metropolitan Police generally during the period in question but rather to focus on addressing specific issues related to it and to Daniel Morgan's murder. However, in interviews carried out with former police officers and others throughout the course of the Panel's work, the subject was inevitably discussed. A number of former officers related their experiences of corruption, especially within

²⁶ Security Industry Authority (2019-2020), 'Raising Standards, Protecting the Public, SIA Corporate Plan', p9; at www.sia.homeoffice.gov.uk/Documents/corporate-plans/sia-corporate-plan-2019-20.pdf,

the Criminal Investigation Department (CID) in the 1980s and 1990s, and it may be useful to set out some of what they said, including examples of specific instances of corrupt activity, to provide context and background.

43. The Senior Investigating Officer of the last investigation into the murder (the Abelard Two Investigation), DCS David Cook, joined the Metropolitan Police in 1979 and served in the Criminal Investigation Department (CID) throughout the 1980s and 1990s until he left to join Surrey Police in September 1996. Former DCS Cook told the Panel that, in his view, the Metropolitan Police was '*institutionally corrupt*'. He stated that corruption was often '*brushed under the carpet*' and was confronted only as long as doing so would not impact negatively on the officer who had to make the decisions about dealing with it.²⁷

44. Former DCS David Cook related two examples of when he was personally affected by corrupt officers:

- i. When serving as a Detective Constable in the Central Drugs Squad, he recruited an informant who passed information about the smuggling of heroin. During the first operation undertaken as a result of what the informant had said, six kilograms of heroin was seized. Consequent to the seizure and in anticipation of future operations, an experienced Detective Sergeant was appointed to help manage the informant. Sometime later, then DC (later DCS) Cook, went on leave and in his absence another operation involving the informant was established. This necessitated the installation of a listening device in a flat rented especially for the purpose of the operation. A reward was due to be paid to the informant. On his return from leave, DC Cook was told by the informant that the Detective Sergeant had approached him to tell him that from now on, he (the Detective Sergeant) would be the sole handler and that he wanted a share of the reward. DC Cook reported the informant's allegation to senior officers, as a consequence of which the Detective Sergeant was simply transferred. Former DCS Cook told the Panel that he was then '*blackballed*' by colleagues for reporting the matter. Some while later, the Detective Sergeant was promoted to Detective Inspector but then dismissed from the Metropolitan Police, following unrelated allegations of corrupt behaviour.²⁸
- ii. Former DCS Cook told the Panel that, subsequently, while serving at Heathrow Airport, his team recovered a large number of stolen laptops, for which a reward had been offered. Such rewards are not payable to the police but can be paid to police informants. A Detective Inspector approached him and suggested that he '*invent*' an informant, claim the reward on the '*informant's*' behalf and then share the proceeds with the Detective Inspector. Former DCS Cook said that the Detective Inspector told him that if he reported the approach to senior officers, he could '*kiss his CID career goodbye*'.²⁹

45. The failure to deal properly with officers against whom allegations were made was also related by another retired police officer, who was formerly a Detective Chief Inspector. The retired officer told the Panel that when he was a Detective Constable in South East London in the 1980s, he recruited, as an informant, a man aged in his early 20s, who was the son of a member of a local organised crime family. Sometime later, the officer's divisional Detective Chief Inspector was playing golf with the informant's father and told the man that his son was passing

²⁷ Panel interview with former DCS David Cook, pp1-2, 04 June 2015.

²⁸ Panel interview with former DCS David Cook, p1, 04 June 2015.

²⁹ Panel interview with former DCS David Cook, pp1-2, 04 June 2015.

information to the police. As a result of this, the informant was beaten by his father and ceased to be an informant. When he found out what had happened, the officer went to see his Detective Chief Superintendent and asked for a transfer. The Detective Chief Superintendent said that the Detective Chief Inspector was *'a daft so and so'* and arranged for the officer's transfer. No action was taken against the Detective Chief Inspector.³⁰

46. A former Detective Sergeant told the Panel that, during the time he was a member of an Area Major Incident Pool in North London, he recruited informants who provided information concerning drug trafficking linked to a car-ringing gang. He said that he submitted intelligence logs which were then forwarded to the South East Regional Crime Squad, which had an interest in the case. He also periodically submitted 'reward reports', requesting payment for his informant. It became clear that these reports were going missing, and he believed that they were being intercepted by a Detective Inspector on the Regional Crime Squad, who was then substituting his own informant for the rewards. The former Detective Sergeant complained about this to his Detective Chief Superintendent, who responded that this was a very serious allegation about which the Detective Sergeant should think long and hard. However, he agreed to set up a meeting with the Regional Crime Squad Detective Inspector's senior officer.³¹

47. When the meeting took place, the Detective Sergeant found that he had been *'ambushed'*. When he arrived at his Detective Chief Superintendent's office, he saw that not only was his senior officer and the Regional Crime Squad Detective Inspector's senior officer present, but the Detective Inspector himself was also there. He said that this led to *'a lot of table banging'*, during which he accused the Detective Inspector of being corrupt. A few days later, he received a telephone call from another Detective Inspector on the Regional Crime Squad, who told him he was passing on a message from the Detective Inspector to the effect that *'if I wasn't careful, I would have a kilo of cocaine planted in the boot of my car'*.³²

48. Subsequently, the Detective Sergeant discovered that he was under surveillance by Customs Officers. He was then told that he was under investigation on suspicion of drug importation and money laundering. Fortunately, he was able to demonstrate his innocence and measures were put in place to protect him. It appears that no action was taken against the officer from the Regional Crime Squad.³³

49. Another former Detective Constable (who had himself been convicted of a serious crime, for which he received a prison sentence) told the Panel of a practice in the Flying Squad: *'If you got posted to their squad the first morning you would find a brown envelope on your desk with money in it. If you didn't accept it then the result was that by lunchtime you were posted back to your old position.'*^{34,35}

50. A former Detective Chief Inspector in the Metropolitan Police Fraud Squad told a member of the Panel that in the 1980s it was the practice in at least one police division in South London for 10 per cent of detectives' overtime and expenses payments to be paid each month to the divisional Detective Superintendent. A refusal to pay would result in future overtime and expenses claims not being authorised.³⁶

30 Panel interview with the former Detective Chief Inspector, pp1-2, 11 February 2020.

31 Panel interview with a former Detective Sergeant who was a member of an Area Major Incident Pool in north London, p2, 22 October 2019.

32 Panel interview with a former Detective Sergeant who was a member of an Area Major Incident Pool in north London, p2, 22 October 2019.

33 Panel interview with a former Detective Sergeant who was a member of an Area Major Incident Pool in north London, pp2-3, 22 October 2019.

34 Panel interview with a former Detective Constable who related information about an alleged Flying Squad practice, 12 June 2018.

35 Email from the Detective Constable to the Panel, 31 May 2018.

36 Conversation with a former Detective Chief Inspector in the Metropolitan Police Fraud Squad, 2014.

51. The Panel also read several unsigned and undated draft statements of former DC Duncan Hanrahan, who had played a role in the Morgan One Investigation (see Chapter 1, The Morgan One Investigation). These were part of a series of statements prepared from his intensive debriefing, following his conviction for a number of offences, including attempting to bribe a Detective Chief Inspector in the Metropolitan Police Directorate of Professional Standards.³⁷ Judging by the context, the statements were taken towards the end of 1999/early 2000.³⁸

52. In one of the statements, former DC Duncan Hanrahan recounted that, while serving on the Divisional Crime Squad at Rochester Row Police Station, he learned of the system known as 'Giving a Life'. This was a practice whereby criminals involved in street crime (burglary, robbery, theft and pickpocketing) would pay local police officers in order to operate in a particular area without fear of arrest. Former DC Hanrahan related an incident where he and a colleague arrested a man who became very violent and attempted to escape. The man later explained his actions by saying that, the day before, he had paid a British Transport Police Officer to be allowed to operate freely in the area.³⁹

53. The above accounts cover a range of circumstances involving officers of both high and low rank. The Panel has taken no steps to verify them but has no reason to doubt their veracity. If true, they are a vivid illustration of the culture and atmosphere embedded in parts of the police service at the time of Daniel Morgan's murder and in its aftermath.

54. **It is accepted that new law and policy has been introduced over the years in an attempt to prevent such corrupt activities. Nevertheless, this evidence is cited to enhance public understanding of the ways in which corruption has occurred in the past and may indeed continue to occur unless there is rigorous control of the ways in which policing is delivered.**

3.3 Media interest in the murder and police corruption

55. The nature of Daniel Morgan's murder was unusual – in a dark car park behind a South East London public house, with an axe apparently prepared for the purpose (the handle wound with tape, providing a good grip and possibly reducing the likelihood of leaving fingerprints) and wielded with such force that it was embedded in Daniel Morgan's head. Axe murders, premeditated or otherwise, are unusual.⁴⁰ A large sum of money in Daniel Morgan's jacket pocket was not taken, indicating that the motive was not robbery.

56. These circumstances alone were sufficient to attract considerable media attention. The police appealed for information through the BBC's *Crimewatch* programme. The depiction by the BBC of Daniel Morgan and some aspects of his private detective work served to emphasise the close relations between the police and some of the work of his firm.

57. The hypothesis that the police might somehow have been involved in the murder, or in undermining the first investigation, was boosted when, at the Inquest into the death of Daniel Morgan in 1988, Kevin Lennon, a former bookkeeper at Southern Investigations, gave

³⁷ The Guardian, 'Jail for Met Officer in Web of Corruption', Duncan Campbell, 20 March 1999; <https://www.theguardian.com/uk/1999/mar/20/duncancampbell>.

³⁸ Unsigned and undated draft statements of former DC Duncan Hanrahan, accessed by the Panel on 05 July 2018.

³⁹ Unsigned and undated, 89 page-long, draft statement of former DC Duncan Hanrahan, accessed by the Panel on 05 July 2018.

⁴⁰ National Injuries Database Full Search Report, National Crime Agency, 13 September 2019.

evidence reflecting what he had earlier stated to the police in September 1987 as a reluctant witness: namely, that Jonathan Rees had told Kevin Lennon of his wish to have Daniel Morgan murdered and that his '*mates at Catford nick*'⁴¹ would arrange it^{42,43,44} (see section 4.1.2 and also Chapter 1, The Morgan One Investigation).

58. Whatever the evidential strength or weakness of the different hypotheses suggesting corrupt police involvement in Daniel Morgan's murder and/or its investigation, they fell on fertile ground in the public domain, generating and attracting a great deal of publicity in the print media. They did so to some extent because there had been, in 1978, well-publicised evidence of police corruption in the Metropolitan Police, particularly within its detective units. Sir Robert Mark, Commissioner of the Metropolitan Police from 1972 to 1977, wrote in 1978 that the Criminal Investigation Department (CID) in the capital was '*the most routinely corrupt organisation in London*'.⁴⁵

59. Sir Robert Mark famously battled, with limited success, to bring the detective branch of the Metropolitan Police under control. A series of scandals and prosecutions demonstrated that some members of the specialised Criminal Investigation Department (CID) detective squads colluded with organised crime and jointly engaged in the very crimes they were created to combat.^{46,47} In the late 1970s, a significant number of detectives were convicted of serious criminal offences and sentenced to imprisonment. Hundreds of Metropolitan Police officers were dismissed or required to resign.⁴⁸

60. Operation Countryman, an anti-corruption investigation ordered by the then Home Secretary, was conducted between 1978 and 1982 and focused particularly on the Metropolitan Police Flying Squad. Although eight police officers were prosecuted, none were convicted. Its investigations appear not to have been well received by Acting Commissioner of the Metropolitan Police, Patrick Kavanagh, who assessed the operation in 1982, referring to its lead officer as indulging in '*imagined conspiracies of obstruction*', despite clear evidence that suspected officers were warned of being under investigation before they were interviewed. Acting Commissioner Kavanagh was dismissive of any idea of institutional corruption and considered that the whole climate had changed: '*In my view there is no cause for alarm about the probity of the Metropolitan Police and there is not a substantial measure of corruption.*'⁴⁹

61. The Police and Criminal Evidence Act 1984 introduced procedures which closely regulated the arrest, detention and interview of suspects and were designed in part to deal with corrupt police activities including obstruction, the fabrication of evidence and ill-treatment of suspects.

3.4 Police use of informants

62. The Panel has seen evidence that several people with whom Daniel Morgan associated or worked, and who featured in the initial investigation into his murder either as witnesses or as persons of interest or suspects, were at the time, or had previously been, police informants. Some of these informants were, or had previously been, handled by members of

41 Witness Kevin Lennon, examined by the Coroner, Inquest Day One, INT000001001, p38, 11 April 1988.

42 Witness Kevin Lennon, examined by the Coroner, Inquest Day One, INT000001001, pp15-42, 11 April 1988.

43 Witness statement of Kevin Lennon, MPS038476001, 02 September 1987.

44 Witness statement of Kevin Lennon, MPS032255001, 15 September 1987.

45 Mark. Sir R. (1978) *In the Office of Constable: An Autobiography*, London: Collins, p130.

46 Hobbs D. (1988) *Doing the Business: Entrepreneurship, the Working Class and Detectives in the East End of London*, Oxford: OUP

47 Mark. Sir R. (1978) *In the Office of Constable*, London: Collins, p248.

48 Hobbs D. (1988) *Doing the Business: Entrepreneurship, the Working Class and Detectives in the East End of London*, Oxford: OUP.

49 Acting Commissioner P. Kavanagh, '*The Integrity of the Metropolitan Police*', pp10, 12, 13 and 18, 19 August 1982.

the investigation team, without the senior officer being aware of the status of the informants and of these relationships. It appears that analogous situations occurred in some of the later investigations into the murder of Daniel Morgan.

63. Informants are usually persons who have been, or are themselves, involved in criminal activity, or who are closely linked to such people. They know about the activities of other criminals and for various reasons (financial reward, leniency from the police in charging or from the courts in sentencing, revenge, the wish to make a clean start, etc.) are willing to divulge information about the crimes with which they, and the criminals with whom they associate, are familiar.

64. Recorded crime is largely known to the police because members of the public choose to tell the police about it, and many crimes are solved because members of the public tell the police who the perpetrator is. But there are categories of crime, such as serious organised crime, drug dealing, crime in areas where there is intimidation and a culture of not talking to the police, that are significantly under-reported and the perpetrators difficult to gather evidence against. It is in these categories that informants are of particular value and even vital for effective policing.

65. Cultivating informants has therefore always been part of the stock in trade of police detectives. However, it is an operational practice which, because it is of necessity governed by principles of secrecy, and implicitly involves trading with criminals or those close to criminals, is recognised to involve high risk of both injustice and police corruption.⁵⁰ There can be a fine line between the police knowing about crime and colluding with or engaging in crime.⁵¹ For these reasons, there are now strict rules concerning how informants are dealt with and handled.

66. At the time of Daniel Morgan's murder, the rules were not codified but were contained in a mixture of case law and Home Office circulars,^{52,53} supplemented by individual forces' own rules. The use of informants by the Metropolitan Police was governed by 'General Orders and Regulations',⁵⁴ complemented by the 'Informant Handling and Development Guidelines'.⁵⁵ The procedures set out in the latter document were initially introduced as a three-month 'experiment' in November 1984⁵⁶ but subsequently adopted with amendments and were the precursor of the current national and statutory-based procedures, as set down in Part II of the Regulation of Investigatory Powers Act 2000 and the Code of Practice issued pursuant to Section 71 of that Act. The Code of Practice provides guidance on the use of 'Covert Human Intelligence Sources',⁵⁷ which is the term now used to describe informants, although this Report will continue to refer to them as 'informants'.

50 Maguire M. (2003) 'Criminal investigation and crime control' in Newburn T. (ed) Handbook of Policing, Willan Publishing: Cullompton.

51 Maguire M. and John T, (1995), *Intelligence, Surveillance and Informants: Integrated Approaches*, Crime Prevention and Detection Series, Paper 64, London: Home Office.

52 E.g. *R -v- McEvilly & Lee* (1974 Cr. App. R 150).

53 Home Office Circular No. 97/1969, 'Informants who take part in crime'.

54 Metropolitan Police General Orders and Regulations, Section 20, MPS107540001, pp104-108, paras 61-69, 1982.

55 Informant Handling and Development Guidelines, 2nd Edition, MPS107530001, pp31-38, October 1985.

56 Informant Handling and Development Guidelines, MPS107530001 p8, para 14, November 1984. The latest version supplied to the Panel is the 1985 '2nd Edition'. However, the relevant section of 'General Orders and Regulations' supplied, which refers to but does not quote the Guidelines, contains amendments to December 1988 and refers to the '3rd Edition'. It is not known whether any material changes had been made to the procedures set out in the 2nd Edition, nor the date on which the 3rd Edition was issued.

57 Covert Human Intelligence Sources, Revised Code of Practice, August 2018.

67. In 1985, the Metropolitan Police relied on a broad definition of an informant that took into account factors such as the person's offending history, access and ability to provide information.⁵⁸ The guidelines, General Orders, Home Office Circulars and case law also referred to two types of informant, '*participating*' and '*resident*', as follows:

- i. A '*participating informant*' was an informant who participated in criminal activity but to a lesser degree than those on whom he/she informed. Such participation would be with the authorisation and under the supervision of the police, in consultation with the Crown Prosecution Service. There is now no distinction between a simple informant and a participating informant – under the provisions of the Regulation of Investigatory Powers Act 2000, they are both simply 'Covert Human Intelligence Sources'.
- ii. A '*resident informant*' was an informant, usually in custody awaiting trial or someone already sentenced, who provided information about serious crime in return for a reduced sentence. Colloquially they were sometimes referred to as '*supergrasses*'. They are now termed '*assisting offenders*' and their use is governed by statutory provisions contained in Part II of the Serious Organised Crime and Police Act 2005.

68. Participating and resident informants feature at one or more stages of the various investigations into Daniel Morgan's murder, and the Panel has identified concerns with the use of informants in all these categories. Because of the paramount need to maintain the anonymity of informants, in order to protect them from reprisals, it is not possible in this Report to set out in detail all of the Panel's concerns. To the extent it is proper to do so, some are outlined in this chapter and in other parts of this Report.

69. The guidelines introduced by the Metropolitan Police were intended to reform and strengthen the hitherto loose and inconsistently enforced rules contained in Home Office circulars and case law. It is clear that the guidelines were designed to, and did, undermine the cultural and operational autonomy that detectives had previously enjoyed.

70. The common practice was for detectives to regard informants as their '*personal property*' and jealously to guard their identities. The guidelines emphasised the principle that the '*informant is a servant of the Force not the "property" of an individual officer*'.⁵⁹

71. The guidelines also addressed other defects in the system, for example by the introduction of the role of 'controller', carried out by a senior officer, and by the adoption of a formal system of evaluation of both the reliability of the informant and the accuracy of the information provided.^{60,61} There had previously been little strategic control of informants' activities, and records were largely held only locally. Management of the system lacked effective central control and co-ordination, with little 'quality control'. One of the (several) adverse consequences of this situation was that someone could act as informant for more than one police officer – or indeed, more than one law enforcement agency – using more than one pseudonym, without anyone knowing, something which was demonstrated during investigation of the murder of Daniel Morgan (see Chapter 8, The Abelard Two Investigation). One witness, who had previously provided information under two pseudonyms, had to be excluded by the Prosecution because intelligence previously received from that informant was in direct contradiction to some of the information which he had provided to the Abelard Two Investigation.

58 Informant Handling and Development Guidelines, 2nd Edition, MPS107530001, p35, para 7, October 1985.

59 Informant Handling and Development Guidelines, 2nd Edition, MPS107530001, p34, para 6a, October 1985.

60 Informant Handling and Development Guidelines, 2nd Edition, MPS107530001, p36, para 10, October 1985.

61 Informant Handling and Development Guidelines, 2nd Edition, Appendix F, MPS107530001, pp49- 50, October 1985.

72. There was a recognition in the guidelines that not every officer would adapt to the new policy:

'The new tenets involved are fundamental to the success of the scheme, the protection of those involved and the reputation of the Force. It is realised that sceptical officers cannot be coerced to accept the scheme. It is therefore recommended that ONLY those who can readily see its merits be involved. Any officer who finds the principles difficult to accept or understand must be excluded totally and informed that any sources of information he has must either be introduced to a co-operative officer or discontinued altogether.' [emphasis in original]⁶²

73. While the Panel is not able to say with certainty that there was a negative impact on the Morgan One Investigation, the fact that the Senior Investigating Officer did not know who was an informant and who was a handler, and what their histories were, had a potentially adverse effect on decisions relating to suspects and how much credence to give to the evidence of witnesses. There is some concern as to whether the informant status of at least one person improperly influenced the police so that enquiries relating to them were not handled effectively.

74. Some examples of the potential for corruption and criminality in the former, less closely managed system prior to the introduction of guidelines, especially in relation to the payment of rewards to informants, are given elsewhere in this chapter (see paragraphs 43-52 above).

75. Even after the adoption of guidelines, practice was not wholly compliant with the theoretical governance provided for by the new rules. As one senior officer, DAC Roy Clark, who had responsibility for anti-corruption activities within the Metropolitan Police, wrote long after Daniel Morgan's murder, there was reportedly little effective management of informant handlers combined with considerable pressure that they get results.⁶³

76. There are also some issues concerning the security of informants and of the information they provide. In 2009, a person with whom the Panel has met, wrote to the Metropolitan Police, informing them that he had been handed transcripts of covert recordings made by police at the home of a witness in the Abelard Two Investigation. It was alleged that at the same time he was handed the names of six informants or witnesses in the case. A copy of the letter was given to the Panel. Both the transcripts and the names were passed to the Metropolitan Police by the person, but these have not been seen by the Panel. The Panel has not sought to verify the accuracy of the allegations, but it is not clear what action, if any, the Metropolitan Police took to do so.

77. During the course of a later investigation into complaints made by an informant who had provided information to the Abelard Two Investigation, the Metropolitan Police admitted to the Independent Police Complaints Commission that it had 'lost' the original of an important sensitive document, signed by the informant and his handler and the handler's senior officer. A copy of the document had not been retained. This was a serious matter, as there was a dispute as to what actions the informant had been authorised to carry out.

62 Informant Handling and Development Guidelines, 2nd Edition, MPS107530001, p33, para 5, October 1985.

63 Clark R. (2000) 'Informers and Corruption' in Billingsby R., Nemitz T. and Bean P. (eds), *Informers, Policing, Police and Practice*, Cullompton: Willan, pp38-49.

78. While the present rules concerning the management of informants are a vast improvement on the earlier arrangements, there remains the potential and opportunity for abuse. Compliance is regulated by the Investigatory Powers Commissioner. Any police force or law enforcement agency that takes its responsibilities to prevent and detect corrupt activity seriously will keep their operation under constant review and put in place measures to monitor compliance.

RECOMMENDATION

79. The Panel is concerned that the policies and procedures relating to the use of informants by law enforcement agencies still allow scope for corrupt practices, and it recommends that the Investigatory Powers Commissioner takes this into consideration during inspections.

4 Analysis of the role of corruption

80. This section of the chapter provides examples of corruption related to the murder of Daniel Morgan and its investigation over time. Some of the examples demonstrate multiple types of unacceptable behaviour that might be said to amount to corruption.

4.1 Part 1: Police involvement in the murder

81. Police involvement in murder, conspiracy to murder, planning or organising a murder or aiding and abetting a murder constitute serious crime and represent extreme breaches of the duty owed by every police officer. Likewise, police involvement in ensuring that an investigation of a murder would not succeed in bringing any person responsible for the murder to justice also constitutes a criminal offence, a most serious breach of the duty owed by police officers and is a form of police corruption. It is possible for a police officer to be involved in both the planning and/or execution of a murder, and in undermining subsequent investigation.

4.1.1 The April 1987 arrests

82. Three serving police officers, DS Sidney Fillery,⁶⁴ DC Alan Purvis⁶⁵ and DC Peter Foley,⁶⁶ were arrested in connection with the murder of Daniel Morgan. All were questioned and subsequently released without charge.^{67,68,69}

⁶⁴ Custody record for DS Sidney Fillery, MPS014836001, p9, 03 April 1987.

⁶⁵ Custody record of DC Alan Purvis, MPS014834001, p2, 03 April 1987.

⁶⁶ Custody record of DC Peter Foley, MPS014835001, p1, 03 April 1987.

⁶⁷ Custody record for DS Sidney Fillery, MPS014836001, p5, 03 April 1987.

⁶⁸ Custody record for DC Alan Purvis, MPS015895001, p3, 03 April 1987.

⁶⁹ Custody record of DC Peter Foley, MPS014835001, p6, 03 April 1987.

83. The three police officers were implicated through their involvement in providing security for Southern Investigations at Belmont Car Auctions and the related civil court action, the origin of which was the alleged robbery from Jonathan Rees of £18,280.62 in takings from Belmont Car Auctions. In his report dated 22 January 1988, D/Supt Douglas Campbell based his decision to arrest the suspects on a number of suspected motives, including the possibility that Daniel Morgan had threatened to expose the police officers' involvement with Belmont Car Auctions⁷⁰ (see Chapter 1, The Morgan One Investigation).

84. A major focus of the Morgan One and Hampshire/Police Complaints Authority investigations was on police officers 'moonlighting' at the Belmont Car Auctions and the suspected corrupt actions of DS Sidney Fillery while working on the Morgan One Investigation during its first days. However, what was not seriously considered was the possibility that both represented the 'tip of an iceberg' of extensive *local* police corruption which, as a result of developments connected to the Belmont Car Auctions saga, now threatened the integrity of Daniel Morgan's business and livelihood and thus was a matter about which Daniel Morgan felt he had to do something. There was evidence that he had been going to report police corruption (see section 4.1.3 below).

85. The corollary of this possibility is that local officers involved in lucrative corrupt practices – 'moonlighting', selling confidential information, assisting criminals with inside police information (practices that will be illustrated below) – saw both their police careers and pensions under threat, and future, potentially lucrative, options, put at risk by Daniel Morgan's plan to reveal what he knew. The evidence supporting this theory as to why Daniel Morgan was murdered was never seriously investigated, despite the fact that in the years following Daniel Morgan's murder, several of the police officers connected to Daniel Morgan's circles and business were investigated for and convicted of serious crime.

86. D/Supt Douglas Campbell saw the police officers' 'moonlighting' as a serious matter which could have led to dismissal and substantial loss of pay and pension (see Chapter 1, The Morgan One Investigation). The Panel agrees that the 'moonlighting' was a serious matter: it constituted police corruption. The Panel does not agree that it was likely to lead to dismissal. D/Supt Campbell reported his suspicions to the Professional Standards Unit in April 1987, and an Investigating Officer, DCI Roy Sutherland, was appointed. He was replaced in September 1987 by DCI Ernest Anderson, who was replaced by D/Supt Alec Button on 27 June 1988.⁷¹ The report of the disciplinary investigation was completed on 07 October 1988.⁷²

87. DS Sidney Fillery had been on sick leave since 08 September 1987 and had received a medical discharge on 20 March 1988.⁷³ At this distance in time, it is impossible to determine why, when his unacceptable behaviour was known about in March 1987, the disciplinary investigation of DS Fillery by the Metropolitan Police was not completed before he retired on medical grounds in March 1988. Allowing officers under disciplinary process to retire before the conclusion of such process was not uncommon in police forces generally at that time.

88. The two junior officers, DC Alan Purvis and DC Peter Foley, received '*strong words of advice*' from their senior officer,⁷⁴ in contrast to the more serious sanctions envisaged by D/Supt Douglas Campbell.

70 Report by D/Supt Douglas Campbell, MPS016002001, pp25 and 47, 22 January 1988.

71 Report by D/Supt Alec Button, MPS015801001, 07 October 1988.

72 Report by D/Supt Alec Button, MPS015801001, 07 October 1988.

73 Sickness records of former DS Sidney Fillery, MPS005107001, p5, 10 November 1988.

74 Report by D/Supt Alec Button, MPS015801001, p42, 07 October 1988.

89. At the Inquest held in April 1988, the Coroner ‘exonerated’ DC Peter Foley and DC Alan Purvis, on the basis that there was nothing to connect them to the murder.⁷⁵ The Coroner did not exonerate former DS Sidney Fillery. However, it was not within the power of the Coroner to exonerate anyone, and he should not have made these comments.

90. In 1990, DC Alan Purvis and DC Peter Foley launched a civil action against the Metropolitan Police in respect of their treatment as suspects for Daniel Morgan’s murder. During the proceedings, a statement was read out in court which explained that the Metropolitan Police recognised that their arrests should not have taken place.⁷⁶ They were awarded damages of £25,000 each.⁷⁷

4.1.2 Allegations by Kevin Lennon

91. Kevin Lennon, former bookkeeper at Southern Investigations, was a reluctant witness in 1987, when, having been secretly recorded by former DCI Laurence Bucknole,⁷⁸ he was interviewed about the murder of Daniel Morgan. He only provided his evidence when faced with the recording of his account.

92. Kevin Lennon made statements to the Morgan One Investigation alleging that Jonathan Rees had repeatedly asked him to arrange Daniel Morgan’s murder⁷⁹ and that in August or September 1986 Jonathan Rees had said: ‘*I’ve the perfect solution for Daniel’s murder; my mates at Catford Nick are going to arrange it.*’⁸⁰ According to Kevin Lennon, Jonathan Rees said that, because the murder would take place in the Catford Crime Squad catchment area, those same officers would be involved in the subsequent murder investigation and thus be in a position to suppress information linking the murder with Jonathan Rees or themselves (see Chapter 1, The Morgan One Investigation).

93. The Morgan One Investigation considered Kevin Lennon’s credibility as a witness, in light of minor discrepancies in his statements and his forthcoming prosecution on unrelated fraud charges, which raised the question as to whether he was offering information to the police to gain a reduced sentence. Kevin Lennon’s evidence was not fully investigated.⁸¹

94. Kevin Lennon confirmed his evidence in testimony at the Inquest in April 1988 (see Chapter 2, The Inquest).

95. In 1989 in his final report on the Hampshire/Police Complaints Authority Investigation, DCS Alan Wheeler wrote: ‘*[w]hilst I consider LENNON has discredited his own testimony his evidence cannot be ignored but my investigation has failed to corroborate his account*’⁸² (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). In 1996, DCS Wheeler made a statement in connection with the civil action brought against Hampshire Constabulary by Jonathan Rees and others. DCS Wheeler said that after considering all the contextual information about Kevin Lennon’s offences and motives, ‘*I could not find anything wrong with LENNON’s evidence. It stood up as the truth.*’⁸³

75 Coroner’s summing up, Inquest Day Eight, INT000008001, p130, 25 April 1988.

76 Statement in open court, DC Purvis and DC Foley civil action, MPS105400001, p7, 17 May 1990.

77 Letter to Russell Jones & Walker, MPS035776001, p1, 29 April 1994.

78 Report by D/Supt Douglas Campbell, MPS022269001, p31, 22 January 1988.

79 Witness statement of Kevin Lennon, MPS010528001, pp14-18 15 September 1987.

80 Witness statement of Kevin Lennon, MPS010528001, p22, 15 September 1987.

81 Kevin Lennon died on 07 February 2018.

82 Final Report of DCS Alan Wheeler to the Police Complaints Authority, p82, MPS060685001, 04 September 1989.

83 Witness statement of former DCS Alan Wheeler, HAM000315001, p7, 24 July 1996.

96. In February 2010, former DCS Alan Wheeler and former DCI Paul Blaker (from the Hampshire/Police Complaints Authority Investigation) told officers from the Abelard Two Investigation that, in their view, Kevin Lennon was telling the truth about Jonathan Rees and his (Jonathan Rees's) requests to find someone to murder Daniel Morgan. They said that *'their concerns for his credibility centred around the fact that he was charged with Fraud'*.⁸⁴

97. The Abelard Two Investigation considered Kevin Lennon's evidence, investigated it further, interviewed him and cited his evidence in the report to the Crown Prosecution Service. Kevin Lennon agreed to give evidence, although he did not wish to do so in open court. He was one of the nine witnesses whom the Prosecution intended to use in the trial. The Prosecution's case collapsed when three of the witnesses (not including Kevin Lennon) were either withdrawn by the Prosecution or their evidence was ruled as inadmissible by Mr Justice Maddison. Kevin Lennon's evidence, on its own, would not have been a sufficient basis for a prosecution.

4.1.3 Allegations that Daniel Morgan planned to reveal police corruption

98. It was alleged that Daniel Morgan had planned to reveal police corruption possibly by telling another police force about it and that he was murdered to prevent him disclosing police corruption. Individuals linked with organised crime and allegedly to corrupt police officers were associated with a Range Rover recovered from Malta by Daniel Morgan in February 1987. An officer from West Yorkshire Police told the Morgan One Investigation the day after the murder that he had been in contact with Daniel Morgan and wished to take a statement from him. West Yorkshire Police were investigating individuals suspected of committing major fraud and one of those individuals had removed the Range Rover which had been recovered by Daniel Morgan.⁸⁵ That individual was on bail in London at that time (he had answered his bail in London at 5.30 pm on the day of Daniel Morgan's murder). There was some investigation of the allegation by the Morgan One Investigation and by the Hampshire/Police Complaints Authority Investigation, but there remained outstanding lines of enquiry at the end of both investigations.

99. Another alleged scenario was that Daniel Morgan was planning to expose police corruption through the media. In May 1987, the Morgan One Investigation was informed that Daniel Morgan had information about illegal police activities that he had been attempting to sell to newspapers.⁸⁶ In the course of investigating this line of enquiry, statements were obtained from Bryan Madagan, a business associate of Daniel Morgan, who said, on 22 May 1987, that Daniel Morgan had told him that a Sunday newspaper had offered him *'a sum in the region of £250,000 for an expose on his business – client relationship with regard [...] to how he obtained his information'*.⁸⁷ In a subsequent message to DC Kinley Davies on 09 June 1987, Bryan Madagan said that Daniel Morgan had sold stories to various papers.⁸⁸

100. Sylvia Jones, a *Daily Mirror* reporter, stated at the time of the murder that Daniel Morgan *'used to deal with the press a lot'*⁸⁹ and had in the past attempted, apparently without success in her case, to sell stories to journalists.⁹⁰ Another *Daily Mirror* reporter, Anton Antonowicz, said that Daniel Morgan was *'always on the make for money for stories [sic]'*.⁹¹

84 Message M1661, MPS001498001, p2, 04 February 2010.

85 Message M71, MPS012131001, 11 March 1987.

86 Witness statement of Anthony Pearce, MPS010463001, 21 May 1987.

87 Witness statement of Bryan Madagan, MPS010404001, 22 May 1987.

88 Message M295, MPS012355001, 09 June 1987.

89 Message M53 Morgan One Investigation, MPS012112001, 12 March 1987.

90 Message M53 Morgan One Investigation, MPS012112001, 12 March 1987.

91 Action A1529, MPS014644001, p2, 04 February 1988.

101. In August 1987, DC Kinley Davies reported to the Morgan One Investigation that information had been received some months previously from Peter Wilkins (a retired Detective Constable who worked with Southern Investigations) that Daniel Morgan had been preparing an exposé of police corruption for which he had been offered £250,000 and had been in contact with an *'investigative journalist from a Fleet St "Sunday"'*.⁹² In a statement given to the Morgan One Investigation subsequently, former DC Peter Wilkins denied knowledge of the matter.⁹³

102. The efforts by the Morgan One Investigation to explore this possibility were inadequate, relying mainly on questions asked by the Metropolitan Police senior information officer of his media contacts, who did not work for the Sunday newspapers (see Chapter 1, The Morgan One Investigation). The investigation team did not pursue this line of enquiry about the Sunday newspapers fully and did not focus on the type of newspapers alleged to have been involved. The Hampshire/Police Complaints Authority Investigation also examined this matter, but nothing was found.

103. In April 1988, D/Supt Douglas Campbell testified at the Inquest that he had examined the possibility that Daniel Morgan had intended to sell a story of police corruption and said: *'I could find no evidence at all.'*⁹⁴

104. Had Daniel Morgan been in contact with the media about police corruption, it is likely that any newspaper or journalist he had contacted would have reported this after his murder. This did not happen. It is unlikely that Daniel Morgan had given details about police corruption to any member of the media before his murder. However, it is possible that Daniel Morgan had talked about such a plan with people whom he knew.

105. Another possible scenario suggested in the media was that Daniel Morgan's murder was linked to the death of DC Alan Holmes, known by his nickname 'Taffy'. He was a serving police officer until his death by suicide on 28 July 1987. Separate allegations were made, by Jonathan Rees and by former PC Derek Haslam, who was close to Jonathan Rees and had, at one stage, acted as his driver after a Christmas party when Jonathan Rees could not drive himself,⁹⁵ that Daniel Morgan and DC Holmes were associates, and that they wanted to sell information regarding police corruption (see Chapter 1, The Morgan One Investigation).

106. D/Supt Douglas Campbell and DCS David Banks, who was making enquiries into allegations against Commander Ray Adams and the role of DC Alan Holmes in alerting Commander Adams to the police investigation of him, both confirmed that no link between Daniel Morgan's murder and DC Holmes' suicide had been found (see Chapter 1, The Morgan One Investigation).

107. The Panel has looked extensively at the suggestion that Daniel Morgan was working with DC Alan Holmes to expose police corruption. The Panel has found evidence that the story of a link between Daniel Morgan and DC Holmes was told by Jonathan Rees to several individuals. The Panel has not been able to identify any persons other than Jonathan Rees, former PC Derek Haslam and David Bray, who have said they had direct knowledge that Daniel Morgan and DC Holmes knew each other.

⁹² Message M423, MPS012483001, 06 August 1987.

⁹³ Witness statement of former DC Peter Wilkins, MPS034134001, p1, 14 December 1987.

⁹⁴ Witness D/Supt Douglas Campbell, cross-examined by June Tweedie, Inquest Day Five, Inquest day five, INT000005001, p63, 15 April 1988.

⁹⁵ Witness Statement of PC Derek Haslam, MPS010635001, pp7-8, 16 November 1987.

108. In June 2016, the Panel interviewed former PC Derek Haslam. He said that DC Alan Holmes had told him that he had a story involving police corruption that Daniel Morgan was negotiating to sell to the press for £250,000 on their behalf.⁹⁶ There is no evidence in the papers available to the Panel that former PC Haslam had told any of the previous investigations that DC Holmes had told him this; rather former PC Haslam had repeatedly said that he had been told this by Jonathan Rees.

109. In 2017, David Bray, who had worked with Daniel Morgan, contacted the Panel expressing a wish to speak about his knowledge of the case. Among the matters discussed during the course of two interviews and a lengthy telephone conversation, was the question of the relationship between Daniel Morgan and DC Alan Holmes. David Bray asserted that in early 1987 he had been present at two meetings between Daniel Morgan and the police officer⁹⁷ (see Chapter 1, The Morgan One Investigation). David Bray did not mention this in any of the 13 statements he had made over the years to police officers investigating the murder.

110. The Morgan One Investigation did follow up many lines of enquiry related to the issue of possible police involvement in the murder, but it did not rigorously or systematically pursue all the complexities of a murder case that included allegations of police corruption.

D/Supt Douglas Campbell's worries about police corruption caused him to ask the Professional Standards Unit to take over the murder investigation. His request was denied.

The Hampshire/Police Complaints Authority Investigation did not follow up all the lines of enquiry related to police corruption rigorously and systematically, even though this was the focus of its Terms of Reference, and some significant work by the Hampshire/Police Complaints Authority Investigation team on this aspect was not included in DCS Alan Wheeler's final report to the Police Complaints Authority.

Subsequent investigations uncovered information indicating corruption at the time of the murder, but due at least in part to the passage of time, investigating these lines of enquiry proved unfruitful.

The Panel has not seen evidence that Daniel Morgan was killed to prevent him exposing corruption. Having considered the available documentary evidence, the Panel cannot conclude there was police involvement in the murder.

4.2 Part 2: The role of corruption in the murder investigations

111. The Panel's Terms of Reference leave open the question as to whether corruption affecting the investigation had the unintended consequence of preventing convictions of any persons for the murder, or whether it was inspired by a general aim to prevent any convictions for the murder or by a specific aim to protect a particular individual or group known to be responsible for the murder. This reflects an ambiguity also present in the acknowledgements and admissions made over the years by the Metropolitan Police.

⁹⁶ Panel interview with former PC Derek Haslam, pp51-52, 01 June 2016.

⁹⁷ Panel interview with David Bray, p1, 28 November 2017.

4.2.1 DS Sidney Fillery's role and relationship with Jonathan Rees

112. The Metropolitan Police admissions about the role of police corruption in relation to the investigation of the murder of Daniel Morgan centre on DS Sidney Fillery, but there has been no clear explanation as to precisely how corruption on his part prevented the police from solving the murder and bringing the culprits to justice.

113. The relationship between Daniel Morgan, Jonathan Rees and police officers including DS Sidney Fillery was strong and mutually beneficial. Jonathan Rees and Daniel Morgan both socialised very regularly in various public houses with police officers and attended at least one police Christmas party, and they worked closely with police officers.

114. Jonathan Rees's relationship with DS Sidney Fillery was particularly close:

- i. At various times, Jonathan Rees passed information he thought might be helpful to the police, to DS Sidney Fillery and DCI Laurence Bucknole.
- ii. On behalf of the solicitor Michael Goodridge, Jonathan Rees at times represented clients who had been arrested.⁹⁸ This involved further visits to the police station.
- iii. In the three days after the murder, DS Fillery was repeatedly in Southern Investigations with Jonathan Rees. His diary shows that he was there twice on 11 March 1987, once at 11.00 am, and later at 4.30 pm 'to Thornton High St re information'.⁹⁹ He was there again on 12 March 1987 having been to the Golden Lion public house at 1.30 pm for 'drinks for others' and, 'seeking info then Thornton High St' at 5.00 pm, he had a meal at a café, and then went to Southern Investigations.¹⁰⁰ On 13 March 1987, he went to Southern Investigations at 11.00 am, possibly to collect information which was allegedly subsequently placed in the boot of his car, and then to court.¹⁰¹
- iv. Some police officers stated that they had thought Jonathan Rees was a police officer, such was the frequency of his presence in the police station.¹⁰²
- v. DS Fillery took Jonathan Rees with him on police business, such as the visit to a witness who wished to provide information to the murder investigation.¹⁰³
- vi. When Jonathan Rees was arrested for murder in 1987, a police file and a police property bag, relating to one of DS Fillery's cases, was found in the boot of Jonathan Rees's car (see Chapter 1, The Morgan One Investigation). Jonathan Rees said that the items had been left there by DS Fillery when they had been at court together.¹⁰⁴

115. At the request of D/Supt Douglas Campbell, a document was prepared for the Morgan One Investigation by DS Sidney Fillery, which illustrated his close relationship with Jonathan Rees. It contained the following information:

'(1) I first met REES whilst attached to the R.C.S. (C.O. Squad) in 1982 or 1983. I met him at "PR", with our D.I. at the request of D.C.I. Bucknall.

98 Witness statement of Michael Goodridge, MPS010250001, pp1-2, 14 March 1987.

99 Copy of duty sheets of DS Sidney Fillery 090387-150387, MPS025677001, p2, undated.

100 Copy of duty sheets of DS Sidney Fillery 090387-150387, MPS025677001, p2, undated.

101 Copy of duty sheets of DS Sidney Fillery 090387-150387, MPS025677001, p3, undated.

102 Witness statement of PC Derek Haslam, MPS010631001, p2, 10 April 1987.

103 Witness statement of a business associate, MPS000394001, pp2-3, 01 May 1987.

104 Witness Statement of D/Supt Douglas Campbell, MPS010913001, p2, 06 April 1987.

'(2) We became involved in a long and fairly complicated enquiry with REES, involving a massive, organised, theft by employees. We met REES regularly and at some stage met MORGAN.

'(3) I became aware that REES has several friends within the Force, especially on "Z" District. From conversation I think some can be described as close friends. (In case of difficulty a talk to Laurie Bucknall ex-D.C.I. [sic]).

'(4) I have kept in regular contact with REES (he always uses the name John or Jonathan, never William) since.

Mostly because I was eventually transferred from the R.C.S. to South London and thus stayed in his "catchment" area.

'(5) I see him on average once a week although it often goes longer than that before we "coincide".

'(6) Invariably we meet in a pub on Catford Division's ground. We have been in most of the pubs together. Often we were with other officers.

'(7) From conversations with him it is obvious he knows many officers in and around the M.P.D. especially "Z" District.

'(8) Although I strongly suspect that he has a facility to obtain N.I.B. checks etc. he [sic] has never approached me (REES or MORGAN) to that effect.

'(9) I was often treated as a sort of "technical adviser" by REES, i.e. when he had a crime he was investigating he would discuss his ideas with me and I would advise him on the possible repercussions or evidential practicality of such action.

'(10) REES has been involved several times with other officers by catching criminals "off duty" and giving evidence. To his credit he has been commended a couple of times for these actions.'¹⁰⁵

116. There is no further information about this document, but it clearly articulated Jonathan Rees's very close relationship with police officers.

117. Former D/Supt Douglas Campbell told the Panel in July 2016 about the reasons why he sought to arrange surveillance on Jonathan Rees by an outside police force, saying that:

'[m]y reasoning behind the request for an outside Force to carry out surveillance on Rees was that I strongly suspected that the investigation was being hampered by his Police "friends" of which he appeared to have many and which I am sure increased once I had caused the three officers to be arrested. I wanted to find out who he was associating with including police officers, criminals and other individuals.

'It was my judgement that it would need an outside Force for the surveillance to be successful.'¹⁰⁶

¹⁰⁵ 'NOTES OF SID FILLERY'S RELATIONSHIP WITH REES', MPS011583001, pp2-3, undated.

¹⁰⁶ Email from former D/Supt Douglas Campbell to Panel member, Michael Kellest, 13 July 2016.

118. Former D/Supt Douglas Campbell also responded to questions about his request for an outside police force to take over the investigation, saying that:

'[m]y contacts with Commander Fry were normally carried out through Detective Chief Superintendent Shrubsole, my immediate senior officer. I would have discussed my request with Mr Shrubsole and asked him to seek Mr Fry's approval. I do not recall any discussion direct with Mr Fry and I certainly was not told why he refused the request. I do consider that it may have been because he refused my initial request for an outside Force to take over the murder investigation when it was suspected that Police Officers were involved, as discussed at my meeting with him and Commander Merton just prior to the officers being arrested.

'If in both instances he had agreed he would have had to seek approval with senior management at Scotland Yard. You will have noted that the decision to call in Hampshire Police was taken by Assistant Commissioner John Smith who I am sure would have sought the approval of the Commissioner Sir Peter Imbert.

*'Obviously to this day it bugs me as to why this action was never taken.'*¹⁰⁷

4.2.1.1 Metropolitan Police 'précis' of DS Sidney Fillery's suspected corrupt practice

119. In answer to the Panel's queries as to what was meant by the Metropolitan Police's references to police corruption as 'a debilitating factor'¹⁰⁸ in the original murder investigation, the Metropolitan Police provided the Panel with a *précis* about 'Fillery's suspected corrupt practice',^{109,110} containing the following ten points:¹¹¹

- (1) *'Came off the Clapton murder that day and must have told REES at the meeting on 9th March 1987[.]*
- (2) *'3 meetings with REES in run up to 10th March 1987[.]*
- (3) *'Meeting with REES, [DC Michael] Crofts, [PC Derek] Haslam, [Paul] Goodridge at Prince of Wales PH, Thornton Heath on 13th March 1987.*
- (4) *'Presence/working at Belmont car auctions.*
- (5) *'[Peter] Newby gave Belmont car auctions FILLERY file which subsequently appeared very slim/missing.*
- (6) *'[Kevin] LENNON told REES officers from Catford Crime Squad would organise MORGAN's death.*
- (7) *'Fillery took Morgan's place as predicted by LENNON[.]*
- (8) *'Evidence of officer [Police Officer N21] corrupt practices in Fillery's crime squad.*
- (9) *'Statement of REES, taken by FILLERY is generally of a poor quality but also lacks any detail in relation to the two known motives. Belmont Car auctions and Margaret*

¹⁰⁷ Email from former D/Supt Douglas Campbell to Panel member, Michael Kellett, 13 July 2016.

¹⁰⁸ Metropolitan Police Authority briefing note, MPS109561001, p6, 29 March 2011.

¹⁰⁹ Letter from DLS to the Panel's solicitors, Fieldfisher, 21 March 2018.

¹¹⁰ Précis of Evidence of Conspiracy against Sidney Fillery, MPS109910001, undated. Sent to the Panel 21 March 2018

¹¹¹ The *précis* comprised bullet points, but the Panel has numbered them for ease of reference.

Harrison. FILLERY was careful to avoid mentioning HARRISON but did mention two other women with whom MORGAN had affairs. He also allowed Rees to detail an event which he knew to be a lie as he was there at the time.

(10) '[Person X8] states Fillery had a network of corrupt police contacts within the criminal underworld.'

120. The Panel has been told by the Metropolitan Police that the *précis* was drafted by DS Gary Dalby on 23 January 2013 as a briefing for Home Office officials on 30 January 2013, in the context of discussions about setting up the Daniel Morgan Independent Panel. DS Dalby told the Panel that he had originally created it as a 'personal aide mémoire'.¹¹² The briefing had been subsequently amended on a number of occasions. Former DS Dalby told the Panel in November 2020 that '*the précis was never intended to be shown to anyone*'.

121. The Panel asked DS Gary Dalby to clarify the reference to three meetings referred to in point 2 above. He responded: '*I suspect the meetings I was referring to were at the Royal Courts of Justice on 5th March 1987, then later that day at either the Dolphin or Golden Lion. The third would be 09/03/1987 at the Golden Lion.*'¹¹³

122. The *précis* is imprecise and on occasion incorrect. For example, Metropolitan Police documents clearly show that Kevin Lennon did not tell Jonathan Rees that officers from the Catford Crime Squad would organise the murder (see the *précis*, point 6). The documents show the opposite: Kevin Lennon alleged that Jonathan Rees had told him that officers from the Catford Crime Squad would organise the murder.

123. While it is accepted that '*the précis was never intended to be shown to anyone*', this was the only response made to the Panel by the Metropolitan Police in answer to its query about what was meant by the Metropolitan Police's references to police corruption as '*a debilitating factor*' in the original murder investigation.

124. In addition to the matters listed in the Metropolitan Police *précis*, the Panel has identified other alleged behaviour by DS Sidney Fillery that could amount to corruption. For example, in 1988 PC Timothy Grattan-Kane provided information to the Hampshire/Police Complaints Authority Investigation about former DS Fillery's alleged dishonest use of members of his squad to run police checks, each fictitiously recorded as '*drugs enquiry*',¹¹⁴ and other dishonest activities for personal benefit, such as keeping British Gas stamps which had been seized during police searches (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). PC Grattan-Kane further reported that police officers executed County Court civil warrants during police time, on behalf of Southern Investigations, for which services they were paid.¹¹⁵ In November 2020, former DS Fillery advised the Panel that he did not know PC Grattan-Kane and denies ever being questioned about these matters.

¹¹² Email from DS Gary Dalby to the Panel, 03 June 2020.

¹¹³ Email from DS Gary Dalby to the Panel, 03 June 2020.

¹¹⁴ Report of a Detective Sergeant, MPS022376001, 12 September 1988.

¹¹⁵ Report of the Detective Sergeant, MPS022376001, p2, 12 September 1988.

125. These allegations, which had been reported by PC Timothy Grattan-Kane, about DS Sidney Fillery were considered by DS Dennis Stephens, who recommended eight investigative actions, two of which were dealt with:¹¹⁶

- i. To interview PC Laurence Hart and another officer, who had passed the information to PC Timothy Grattan-Kane. Both officers were interviewed and provided written statements. However, these written statements did not deal with the matters referred to by PC Grattan-Kane, and there is no evidence that they were asked about the allegations.^{117,118}
- ii. To interview PC Grattan-Kane's Detective Sergeant, to whom he had referred during the conversation. The Detective Sergeant was never interviewed and the action to see him was later marked as 'NFA' (No Further Action) on the directions of DCS Alan Wheeler, although no reason was recorded for this.¹¹⁹

126. No further enquiries were made, and the Hampshire/Police Complaints Authority Investigation did not refer the allegations to the Metropolitan Police.

127. Although these allegations did not fall within the remit of the Hampshire/Police Complaints Authority Investigation, they were allegations of corrupt activity which should have been reported to the Metropolitan Police.

128. Another example concerns Jonathan Rees and DS Sidney Fillery going together to meet a witness, and DS Fillery subsequently withholding information from the Morgan One Investigation. Jonathan Rees had received a telephone call from a business associate from whom Daniel Morgan and Jonathan Rees had previously rented office space, who had said that Daniel Morgan had been having an affair with a married woman. On 12 March 1987, DS Fillery went with Jonathan Rees to see the business associate who provided further information.¹²⁰ DS Fillery passed some, but not all, of the information to the Morgan One Investigation. He did not provide the identity of the person supplying the information.¹²¹

129. DS Sidney Fillery should have reported receipt of the information from Jonathan Rees, should have conducted his subsequent enquiries with another police officer, not with Jonathan Rees, and should have provided the business associate's details so that further enquiries could be made. This conduct on the part of DS Fillery was improper.

130. There is no evidence that any further action was taken on this matter. Neither Jonathan Rees nor DS Sidney Fillery were questioned about it. This was a serious omission for which no adequate explanation was given. This matter should have been referred for immediate investigation, as it indicated misconduct by DS Fillery.

¹¹⁶ Report by DS Dennis Stephens, MPS023075001, 12 September 1988.

¹¹⁷ Witness statement of a Police Constable, MPS018202001, 17 October 1988.

¹¹⁸ Witness statement of PC Laurence Hart, MPS018109001, 19 April 1989.

¹¹⁹ Action A487, MPS031884001, 12 December 1988.

¹²⁰ Witness statement of the business associate, MPS000394001, pp2-3, 01 May 1987.

¹²¹ Message M26, MPS012085001, 12 March 1987.

131. The Panel provides an analysis below of two examples, drawn from the Metropolitan Police *précis* discussed above, illustrating how the original investigation appears to have been compromised by DS Sidney Fillery's conduct.

4.2.1.2 Jonathan Rees's first statement

132. When asked to take Jonathan Rees's statement, DS Sidney Fillery did not declare how close a friend and work associate of Jonathan Rees he was, that he acted as a *'technical advisor'*¹²² to Jonathan Rees, nor that he had gone to the Dolphin public house, where Jonathan Rees and Daniel Morgan were drinking on the night before the murder, at about 9.00 pm and invited them to join him and his colleagues at the Golden Lion public house. DS Fillery should have declared this at once and asked to be removed from the investigation, and he should have had no further dealings with the investigation (see Chapter 1, The Morgan One Investigation).

133. DS Sidney Fillery recorded in the statement Jonathan Rees made to him on 11 March 1987 that Jonathan Rees and Daniel Morgan had been in the Golden Lion public house on 09 March 1987 from about 7.30 pm.¹²³ He knew that this was untrue.

134. In his statement, Jonathan Rees made no mention of DS Sidney Fillery being one of the police officers with whom he and Daniel Morgan had been drinking with during the evening before the murder, in the Golden Lion public house. This was a place they did not usually frequent, at which Daniel Morgan was not known, and which was where Daniel Morgan's body was found in the car park the following night (see Chapter 1, The Morgan One Investigation).

135. There was also no reference in Jonathan Rees's statement to the on-going civil action by Belmont Car Auctions against Southern Investigations, to recover £18,280 belonging to Belmont Car Auctions which had allegedly been stolen from Jonathan Rees in 1986. DS Sidney Fillery and at least two other police officers had attended Belmont Car Auctions with Jonathan Rees, allegedly as security officers (this later gave rise to disciplinary investigation of all three serving police officers for 'moonlighting').

136. The civil action had placed a financial burden on Jonathan Rees and Daniel Morgan and, according to Jonathan Rees, they were at the Golden Lion public house on the night of the murder to discuss how to raise a loan of £10,000. The money was required to be deposited at court to enable Southern Investigations to continue to fight the civil action. DS Sidney Fillery knew of this because he had discussed it with Jonathan Rees and Daniel Morgan on 05 or 06 March 1987.

137. Jonathan Rees referred to a number of women with whom he alleged that Daniel Morgan had had affairs. He did not mention Margaret Harrison.

138. DS Sidney Fillery was an experienced, trained detective. It is implausible that the omissions described above were the result of factors other than a deliberate decision to withhold information from the investigation.

¹²² 'NOTES OF SID FILLERY'S RELATIONSHIP WITH REES', MPS011583001, p3, undated.

¹²³ Witness statement of Jonathan Rees, MPS021752001, p5, 11 March 1987.

139. Once the Senior Investigating Officer, D/Supt Douglas Campbell, became aware of the true extent of the relationship between Jonathan Rees and DS Sidney Fillery, that relationship became an increasingly important line of enquiry in the first murder investigation (see Chapter 1, the Morgan One Investigation).

140. In 2008, during the Abelard Two Investigation, Jonathan Rees, barrister, noted in his advice in relation to charging former DS Sidney Fillery that *'there are pieces of evidence which raise suspicions that he set out to frustrate the investigation into the murder'*.¹²⁴ He considered in particular whether the witness statement taken by former DS Sidney Fillery from Jonathan Rees on 11 March 1987 was adequate, and also whether former DS Sidney Fillery should be charged with misfeasance in public office because he had not notified his superiors of his relationship with Jonathan Rees for 48 hours, he had not provided them with an honest account of his relationship with Daniel Morgan, Jonathan Rees and Southern Investigations, and he had not, while still a police officer, told investigating officers of his suspicions about who had murdered Daniel Morgan.¹²⁵

141. Counsel concluded that there was insufficient evidence to charge former DS Sidney Fillery (see Chapter 8, the Abelard Two Investigation).

4.2.2 The Southern Investigations Belmont Car Auctions file

142. The Metropolitan Police *précis* referred to the *'slim/missing'*¹²⁶ Southern Investigations file on the Belmont Car Auctions.

143. Peter Newby, the Southern Investigations Office Manager, told the Morgan One Investigation that he had been asked for the Southern Investigations file on the Belmont Car Auctions case by DS Sidney Fillery and had given it to him on 11 March 1987 when DS Fillery attended the office to search Daniel Morgan's desk.¹²⁷ The material seized from Southern Investigations that morning was placed in a black plastic bag, taken to Catford Police Station and left in an unlocked office.¹²⁸ The contents of that plastic bag were later recorded in Jonathan Rees's statement which was taken by DS Fillery.¹²⁹ There is no reference to the file in the statement or in the Morgan One Investigation Exhibits Book. The file could not be found and, ultimately, Jonathan Rees denied that there had ever been such a file. DS Fillery consistently denied having received the file. The Morgan One Investigation did not believe him or Jonathan Rees (see Chapter 1, The Morgan One Investigation).

144. The Hampshire/Police Complaints Authority Investigation was later told that DS Sidney Fillery had conducted a second search at Southern Investigations (the existence of which was previously unknown) and had taken files recovered from Daniel Morgan's desk away in his vehicle (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). This matter was not mentioned in DCS Alan Wheeler's report to the Police Complaints Authority. This was a significant failing particularly given the Terms of Reference of the Hampshire/Police Complaints Authority Investigation and the importance of the allegation that DS Fillery was responsible for the disappearance of the Belmont Car Auctions file.

¹²⁴ Counsel's Advice by Jonathan Rees, MPS109700001, p99, 15 April 2008.

¹²⁵ The Panel has seen nothing to inform this final ground for bringing a charge for misfeasance in public office.

¹²⁶ *Precis of Evidence of Conspiracy against Sidney Fillery*, MPS109910001, undated. Sent to the Panel 21 March 2018.

¹²⁷ Witness statement of Peter Newby, MPS010345001, pp4-5, 30 March 1987.

¹²⁸ Witness statement of PC Stephen Thorogood, MPS015791001, p2-3, 19 May 1987

¹²⁹ Witness statement of Jonathan Rees, MPS021752001, pp10-11, 11 March 1987.

145. In 2002, Peter Newby told the Abelard One/Morgan Two Investigation that about a year after he had handed the Belmont Car Auctions file to DS Sidney Fillery 'on the morning of the murder', he had been shown the file.¹³⁰ He had been 'astonished to see that the majority of the file was missing' and told the Abelard One/Morgan Two Investigation that he believed he had told DS Christopher Horne, a Morgan One Investigation team member, that he would not make a statement without access to the full file.¹³¹ When asked about this in May 2003, former DS Horne said that his memory was poor and he could not recall specific details. No statement was taken from him.¹³²

146. Peter Newby's statement in 2002 appears to be the basis for the description of the Belmont Car Auctions file as 'slim/missing' in the Metropolitan Police *précis*.

147. The Panel is satisfied that there was in existence a file relating to Belmont Car Auctions. Peter Newby had identified the file number and had said that Jonathan Rees had given it to DS Sidney Fillery. That file could not be found when the police sought it on 30 March 1987.

148. DS Sidney Fillery was involved in the original investigation for only the first few critical days. By 15 March 1987, D/Supt Douglas Campbell believed that DS Fillery was keeping Jonathan Rees informed about the investigation and that was why he was removed. On 16 March 1987, he and all other officers who formed part of Catford Crime Squad were returned to other normal duties.¹³³

149. The documentation shows that DS Sidney Fillery was suspected of corruption by senior officers in the Morgan One Investigation. Initially there were suspicions about DS Fillery and his role in compromising the original investigation, both while he was briefly on the team during the first critical days and also after he left the investigation with the other Catford-based officers on 16 March 1987.

150. One of the questions arising from the lack of prompt action to deal with DS Sidney Fillery's corrupt behaviour is whether there was any connection between that failure and DS Fillery's position as a member of a Masonic Lodge, which may have conferred a status beyond his position as a Detective Sergeant.

151. Concerns about Freemasonry, and the potential for conflicts of loyalty among Freemasons who were also police officers, recur in the documentation, from 1987 onwards (as discussed in the section 8.1.1 below on Freemasonry).

152. There has never been a clear explanation as to why the Metropolitan Police did not confront and sanction the unacceptable behaviour of DS Sidney Fillery when it occurred. The disciplinary investigation in relation to the three officers working at Belmont Car Auctions took 18 months to complete, concluding in October 1988 after DS Fillery had retired.

130 Witness statement of Peter Newby, MPS007896001, p1, 25 November 2002.

131 Witness statement of Peter Newby, MPS007896001, p1, 25 November 2002.

132 Action A390, 'TST HORNE N469 re knowledge of the murder of MORGAN N1', MPS059829001, returned 15 May 2003.

133 Morgan One police file, MPS004821001, p4, 11 March 1987 to 07 February 1989.

153. When DS Sidney Fillery retired from the police on medical grounds in 1988, he continued to be the subject of suspicion in terms of his alleged corrupting influence on police officers linked to Southern Investigations (later Law & Commercial). Former DS Fillery became a partner in Southern Investigations in June 1989. The business was later considered by the Metropolitan Police to be a hub of corruption (see Chapter 4, Operation Nigeria/Two Bridges and section 7 in this chapter).

154. Former DS Sidney Fillery was suspected in 2002 of orchestrating surveillance of the Morgan Two Senior Investigating Officer, DCS David Cook, by the *News of the World* and of complicity in other attempts to undermine DCS Cook in order to compromise the Abelard One/Morgan Two Investigation (see Chapter 6, The Abelard One/Morgan Two Investigation; and Section 7.3 below).

155. Other examples of corruption apparently not related to the actions or omissions of DS Sidney Fillery, but which occurred during the murder investigations in the 1980s, are illustrated below.

4.2.3 The leak about the impending arrests in April 1987

156. The Morgan One Investigation planned to arrest six suspects on 03 April 1987 in connection with the murder of Daniel Morgan. On 02 April 1987, a man named Len Beauchamp allegedly telephoned another man, Person U25, and told him that six people had been arrested for the murder of Daniel Morgan, among them three police officers. Person U25 approached a freelance journalist in Cambridge, who provided the story to the *Daily Mirror* news desk¹³⁴ (see details in Chapter 1, The Morgan One Investigation).

157. Sylvia Jones, a *Daily Mirror* journalist, was contacted by the newspaper that day. She attempted to verify the information by contacting D/Supt Douglas Campbell, who was not available. She said that she could not confirm the information from any other source.¹³⁵ She also later stated that she had contacted Southern Investigations and ‘*may well have warned REES of the impending operation*’.¹³⁶

158. No reports regarding the arrests which were made on 03 April 1987 appeared in the media until the following day; the media respected the confidentiality of the information.

159. Subsequently it became known that a private investigator who had been a police officer (former DS John Ross) had been brought into the Morgan One Investigation room on 02 April 1987 by DC Donald Leslie, a member of the investigation.¹³⁷ DC Leslie was removed from the investigation by D/Supt Douglas Campbell on 16 April 1987. D/Supt Campbell recorded a decision to ‘*[r]eturn D.C. Leslie to normal duties*’ because he had ‘*contacts with ex Police Officers who may be connected with Southern Investigations*’.¹³⁸

160. The Metropolitan Police conducted an enquiry into the leak. Attempts to trace Len Beauchamp proved inconclusive (see Chapter 1, The Morgan One Investigation). The Hampshire/Police Complaints Authority Investigation did not pursue actions recommended by DI Rex Carpenter. The Deputy Senior Investigating Officer of the Hampshire/Police

¹³⁴ Witness statement of Person U25, MPS010825001, pp6-10, 04 November 1987.

¹³⁵ Witness statement of Sylvia Jones, MPS010814001, pp1-2, 02 November 1987.

¹³⁶ Message M545, MPS012605001, 02 November 1987.

¹³⁷ Report R2 of DI Rex Carpenter, MPS027949001, 13 June 1989.

¹³⁸ Policy Decision 8, MPS017104001, 16 April 1987.

Complaints Authority Investigation, DCI Paul Blaker, only instructed one of those actions to be carried out, and this was not done (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

161. The failure to respond to DI Rex Carpenter's recommendations, which went to the core of DCS Alan Wheeler's mandate from the Metropolitan Police and the Police Complaints Authority, was a serious failing by the Hampshire/Police Complaints Authority Investigation (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

162. It is probable that some, if not all, of those arrested had warning of the arrests, which would have enabled them to take any action they thought necessary prior to the arrests and afforded them the opportunity to ensure that no incriminating material, should such have existed, was to be found in property owned by them.

This was a major compromise of the Morgan One Investigation. The source of the leak has not been identified with any certainty, nor is it known whether the story was leaked for financial gain, to protect someone, or for some other reason. The person or persons who leaked the information originally would have known they should not have disclosed the information. Therefore, this was a deliberate and corrupt act.

4.2.4 Further allegations of police involvement in the murder

163. Paul Goodridge, an associate of Jonathan Rees and Daniel Morgan, was arrested by the Hampshire/Police Complaints Authority Investigation in February 1989 and charged with the murder of Daniel Morgan (see Chapter 2, The Hampshire/Police Complaints Authority Investigation).¹³⁹ After his arrest, while in custody, he made off-the-record allegations about Metropolitan Police involvement in the murder to DCS Alan Wheeler. DCS Wheeler made notes of these, indicating that Paul Goodridge was afraid for himself and his family and had said the following:

'There is a big firm involved in this [...] that is all powerful. I can't tell anyone [...] Your lot are ok. I think I might be able to tell you.'

*'[...] The Met Police are a big and powerful firm. There are about seven involved in this.'*¹⁴⁰

164. DCS Alan Wheeler's notes indicate that he understood Paul Goodridge to be alleging police involvement in the murder of Daniel Morgan.¹⁴¹ If the allegations had been true, this would have constituted criminal acts by police officers, amounting to serious police corruption.

¹³⁹ Custody record of Paul Goodridge, HAM000672001, 02 February 1989.

¹⁴⁰ Witness statement of former DCS Alan Wheeler, HAM000340001, p70, 24 July 1996.

¹⁴¹ Transcript of pocket notebook entry made by DCS Alan Wheeler, MPS033399001, p3, 02 February 1989.

165. DCS Alan Wheeler relayed Paul Goodridge's allegations to Roland Moyle, Deputy Chair of the Police Complaints Authority, to Assistant Chief Constable John Wright and DCI Paul Blaker of Hampshire Constabulary, and to the Metropolitan Police Detective Superintendent acting as liaison officer. A file minute by Roland Moyle recorded that '*[i]n view of what Goodridge says Wheeler now appears worried about the possible involvement of Met officers*'.¹⁴²

166. Paul Goodridge was remanded in custody and the following week, when he was visited by a friend, he repeated the allegation he had made to DCS Alan Wheeler. The friend, with Paul Goodridge's knowledge and consent, informed a Detective Constable in the Metropolitan Police whom the friend knew and trusted. On 10 February 1989, on the advice of his superior officer, the Detective Constable spoke on the telephone with DCS Wheeler, confirming what Paul Goodridge had told DCS Wheeler. DCI Paul Blaker took notes of the call (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).^{143,144}

167. Paul Goodridge was visited in prison by police officers, ostensibly to gain his consent for access to his medical records. On 13 February 1989, DCS Alan Wheeler received a call from the Crown Prosecution Service who had been telephoned by Paul Goodridge's solicitor about the visit. DCS Wheeler advised that his officers had not been to the prison.¹⁴⁵ When seen by DCS Wheeler on his way to his next appearance at court some days later, Paul Goodridge was non-committal and would not talk to DCS Wheeler. DCS Wheeler took no action on the telephone calls (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

168. The Panel's view is that this visit was probably carried out by Metropolitan Police officers (see paragraph 291 below).

169. Neither Paul Goodridge's allegations, nor the two visits made to Paul Goodridge when he was remanded in custody, were referred to in either DCS Alan Wheeler's report to the Police Complaints Authority, or his report to the Director of Public Prosecutions. The information was not entered onto the investigation's HOLMES database, nor recorded in the policy book or in any document other than in DCS Wheeler's pocket notebook. Only when he made a witness statement in 1996 in connection with the civil action being taken against Hampshire Constabulary by Paul Goodridge did DCS Wheeler refer to the allegations (but not to the prison visits).¹⁴⁶ The Panel has not seen any evidence that these allegations were pursued.

170. DCS Alan Wheeler told the Police Complaints Authority that there was '*no evidence of police involvement*' in the murder of Daniel Morgan. That conclusion was not true. There was no reference in his report to Paul Goodridge's allegations, or to the evidence provided by Kevin Lennon (see Chapter 3, The Hampshire/Police Complaints Authority Investigation). The report should have referred to the information about alleged police involvement in the murder and should have justified the decision not to pursue this line of enquiry.

171. DCS Alan Wheeler, his Chief Constable John Hoddinott and Roland Moyle, Deputy Chair of the Police Complaints Authority, and senior Metropolitan Police officers, were all aware of the allegations involving police corruption and of the lack of follow-up action. These allegations raised serious issues directly related to the Terms of the Reference of the Hampshire/Police Complaints Authority Investigation (see Chapter 3).

142 Extract from Police Complaints Authority minute sheet, by Roland Moyle, MPS034440001, p3, 03 February 1989.

143 Hampshire/Police Complaints Authority M657, MPS030975001, 10 February 1989.

144 Panel interview of a former DCI, PNL000182001, 11 February 2020.

145 Message M658, MPS030974001, 13 February 1989.

146 Witness Statement by former DCS Alan Wheeler, HAM000340001, p70, 24 July 1996.

172. The Police Complaints Authority should not have accepted DCS Alan Wheeler's final report knowing these matters had not been properly investigated. The interim public statement by the Police Complaints Authority that '[a]ll matters raised have been investigated thoroughly to the satisfaction of the Police Complaints Authority'¹⁴⁷ was incorrect and misleading, in so far as it declared the Hampshire/Police Complaints Authority Investigation to have been thorough.

173. Paul Goodridge's allegations were known to Hampshire Constabulary, the Metropolitan Police and the Police Complaints Authority. None of the three organisations raised the issue of the report's omission of this matter. They agreed, whether tacitly or expressly, to hide from the family of Daniel Morgan and from the public in general, the fact that the original Metropolitan Police investigation into the murder of Daniel Morgan had been ineffective and, in many respects, incompetent.

There is no explanation as to why Paul Goodridge's allegations and the alleged prison visit by unidentified police officers were not the subject of investigation. DCS Alan Wheeler took no action in relation to the calls he received about the visit by police officers to Paul Goodridge in prison. Nor did he inform anyone of the calls. Given his Terms of Reference, that DCS Wheeler did not take this opportunity to establish the identity of police officers who may have been involved in an attempt to prevent someone claiming knowledge of police involvement from talking to him is astonishing.

4.2.5 The handling of witnesses in the Abelard Two Investigation

174. The preceding examples fall under what was originally envisaged when the Panel's Terms of Reference were agreed. The following examples reflect further concern about corruption related to the way the most recent police investigation was conducted.

175. There is evidence that DCS David Cook, the Senior Investigating Officer of the Abelard Two Investigation, repeatedly breached the 'sterile corridor' that should have existed between the investigation and an Assisting Offender, Gary Eaton, who was being debriefed. Some of these breaches were made known to AC John Yates and others at the time. DCS Cook said that many of the contacts were initiated by Gary Eaton for reasons relating to his welfare, and repeatedly gave assurances that he would have no further contact with Gary Eaton. Despite this, DCS Cook continued to have unauthorised contact. Gary Eaton also repeatedly breached the rules applicable to his status as a witness being debriefed by contacting DCS Cook (for further details, see Chapter 8, The Abelard Two Investigation).

176. The Crown Prosecution Service gave clear advice about the dangers of contamination of the debriefing process through contacts between DCS Cook and Gary Eaton.

177. The debrief should have been discontinued by AC John Yates, but this did not happen.

178. DCS David Cook's contacts with Gary Eaton were incompatible with his ongoing role in the Abelard Two Investigation. The juxtaposition of the timing of calls and the presentation by the witness of new evidence about Daniel Morgan's murder, gave rise to suspicions that the witness had been 'coached' (see Chapter 8, The Abelard Two Investigation). Mr Justice Maddison said

¹⁴⁷ Home Office timeline, Record of interim statement issued 12 February 1990, HOM000376001, p9, 29 October 2004.

that he was ‘*satisfied there was improper prompting of some kind*’.¹⁴⁸ The very expensive and lengthy debrief process was regarded as having been compromised, rendering Gary Eaton’s evidence inadmissible.

179. DCS David Cook had been managed by AC John Yates, who had not provided for normal line management and oversight of the investigation, despite early concerns raised by two senior officers, Commander David Johnston and DAC Janet Williams (see Chapter 8, The Abelard Two Investigation). While DCS Cook’s actions were the immediate cause of the exclusion of Gary Eaton’s evidence, responsibility also lay with AC Yates for his failure to oversee the management of the investigation properly.

180. Ultimately the Prosecution withdrew all evidence against the Defendants, and they were acquitted by Mr Justice Maddison.

181. In the subsequent civil case,¹⁴⁹ a High Court Judge, Mr Justice Mitting, found on the balance of probabilities that the Metropolitan Police Commissioner was liable for misfeasance in public office in relation to the prosecution of former DS Sidney Fillery, but that the claims of the other three claimants failed. None of the four claimants was successful in their claims for malicious prosecution (see Chapter 9, Post-Abelard Two). The three claimants whose claims had failed at first instance, Jonathan Rees, Garry Vian and Glenn Vian, then successfully appealed to the Court of Appeal, which unanimously overturned the judgment of Mr Justice Mitting.¹⁵⁰

182. During the hearing of the appeals by Jonathan Rees, Garry Vian and Glenn Vian, Lord Justice McCombe explained:

‘The salient reason [...] was that the Senior Investigating Officer (“SIO”), Detective Chief Superintendent David Cook (“DCS Cook”) was found to have compromised the de-briefing of Eaton by making and receiving an extensive number of unauthorised direct contacts with Eaton in the period leading up to Eaton’s making of his statements, in contravention of express procedures for keeping a “sterile corridor” between the debriefing officers and the investigation team.’¹⁵¹

183. In her order and final judgment concerning the level of compensation to be awarded to the claimants, on 31 July 2019, Mrs Justice Cheema-Grubb stated, ‘*there is no place for any form of “noble-cause” justification for corrupt practices in those trusted to uphold the law*’.¹⁵²

184. Damages of £514,000 and costs resulted from these civil actions.¹⁵³

185. Despite the passage of time since the collapse of the Abelard Two Prosecution in 2011, the investigation of former DCS David Cook’s conduct with regard to the witness Gary Eaton continued until May 2019. The process involved the Independent Police Complaints Commission (now Independent Office for Police Conduct), the Metropolitan Police and the Crown Prosecution Service.

148 Ruling of Mr Justice Maddison, MPS107506001, p36, para 167, undated.

149 This was the civil claim brought by Jonathan Rees, former DS Sidney Fillery, Garry Vian and Glenn Vian in the High Court against the Metropolitan Police, seeking damages for malicious prosecution and for misfeasance in public office.

150 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587.

151 Rees & Ors v Commissioner of Police for the Metropolis [2018] EWCA Civ 1587, p4, para 8.

152 Rees & Ors v Commissioner of Police for the Metropolis [2019] EWHC 2120 (Admin), para 53.

153 Rees & Ors v Commissioner of Police for the Metropolis [2019] EWHC 2120 (Admin), paras 15 and 54-55.

186. Operation Megan was an investigation conducted by the Metropolitan Police from 2017 to 2018 into allegations arising from comments made by Mr Justice Maddison during the pre-trial hearings in the Abelard Two Investigation and complaints made by Jonathan Rees. The complaints included alleged misconduct in relation to the Assisting Offender, Gary Eaton, as well as deliberate failure to disclose material to Defence lawyers. (see Chapter 9, Post-Abelard Two). Mr Justice Maddison had found that there was *prima facie* evidence of possible criminal and misconduct offences. These related to former DCS Cook's contact with Gary Eaton and Mr Justice Maddison's conclusion that '*on the balance of probabilities*' former DCS Cook did prompt Gary Eaton.

187. Operation Megan Two was an investigation conducted by the Metropolitan Police from 2017 to 2019. It examined comments made by Mr Justice Mitting in the civil claim at the High Court in February 2017. Relying upon the judgment of Mr Justice Maddison, Mr Justice Mitting commented that former DCS Cook had done an act which tended to pervert the course of justice by breaching the sterile corridor and prompting Gary Eaton to implicate Glenn Vian and Garry Vian in the murder of Daniel Morgan, and concealing the fact that he had done so from the Crown Prosecution Service and Prosecution Counsel (see Chapter 9, Post-Abelard Two).

188. Ultimately, in November 2018 it was decided that no action should be taken against former DCS David Cook. Jonathan Rees appealed against this decision, which was upheld by a different branch of the Crown Prosecution Service in May 2019.

189. The above examples demonstrate that police corruption did occur during the investigation of the murder of Daniel Morgan and was not confined to the first investigation. Some of the examples of corrupt behaviour clearly had the potential to affect the investigation adversely, and to contribute to preventing the person(s) responsible from being brought to justice. The leak about the impending April 1987 arrests is a case in point. The breaching of the sterile corridor between the Abelard Two Investigation and an Assisting Offender, Gary Eaton, cannot be justified on the basis that the intention was to maintain the willingness of the witness to give evidence and to bring to justice those thought to be responsible for the murder of Daniel Morgan.

5 Admissions of corruption in the Metropolitan Police and lack of candour

5.1 Acknowledging the role of corruption generally

190. Since the 1990s, the Metropolitan Police have acknowledged corruption in general terms as an issue and have done so publicly. In 1997 Sir Paul Condon, then Commissioner of the Metropolitan Police, gave evidence to the Home Affairs Committee of the House of Commons, describing

*'a minority of officers who are corrupt, dishonest, unethical. [...] They commit crimes, they neutralise evidence in important cases and they betray police operations and techniques to criminals. These bad officers sap the morale of their honest colleagues and they do immense damage to public confidence [...] they are very difficult to target and prosecute.'*¹⁵⁴

191. When asked if he could quantify the extent of the corruption problem, Sir Paul Condon responded with figures which attracted much publicity:

*'I would hope and believe it is contained somewhere between 0.5 per cent and one per cent. There is a spurious precision to that but I would say somewhere between 100 officers and 250 officers.'*¹⁵⁵

5.2 Acknowledging the role of corruption in relation to Daniel Morgan's murder

5.2.1 Internal acknowledgement

192. In relation to the murder of Daniel Morgan, there are, in the documentation, various indications that Metropolitan Police officers voiced their concerns internally about corruption from early in the first investigation. In April 1988, during the Inquest into the death of Daniel Morgan, allegations of police corruption were heard and became the subject of considerable media attention. The Coroner stated in his concluding remarks that there had been *'no evidence whatsoever to point to any police involvement in this killing'*.¹⁵⁶ This description of the evidence heard at the Inquest was not accurate and overstated the evidential position. The Coroner had heard Kevin Lennon confirm in his testimony at the Inquest what he had said in his statements to the police: he alleged that Jonathan Rees had told him that his *'mates at Catford'* would help him to kill Daniel Morgan. The Coroner's incorrect remarks were subsequently repeated on 10 June 2004, by the Home Office Minister, Hazel Blears MP, when she set out her reasons for refusing the request for a public inquiry, saying *'[w]e cannot ignore the Coroner's remarks when delivering his verdict of unlawful killing during the inquest, that there was "no evidence whatsoever in this inquest to point to any police involvement in this killing"'*.

193. The Hampshire/Police Complaints Authority Investigation was set up to *'investigate allegations that police were involved in the murder of Daniel Morgan and any matters arising therefrom'*.¹⁵⁷ The Deputy Chair of the Police Complaints Authority, Roland Moyle, recorded DCS Alan Wheeler as saying that *'he feels he will have to look at the whole murder enquiry including FILLERY's involvement, which appears to include picking up documentation from the PI's [private investigators'] office, which subsequently disappeared'* (see Chapter 3, The Hampshire/Police Complaints Authority Investigation)¹⁵⁸ This was one of many concerns raised during the second investigation about the behaviour of officers involved in the first murder investigation.

194. However, these concerns were not properly reflected in DCS Alan Wheeler's final report to the Police Complaints Authority.

¹⁵⁴ Home Affairs Select Committee (HASC), HC 258-I, First Report – Police Disciplinary and Complaints Procedure, para 1, 15 January 1998; available online at <https://publications.parliament.uk/pa/cm199798/cmselect/cmhaff/258-i/ha0103.htm>.

¹⁵⁵ Home Affairs Select Committee (HASC), HC 258-I, First Report – Police Disciplinary and Complaints Procedure, para 13, 15 January 1998; available online at <https://publications.parliament.uk/pa/cm199798/cmselect/cmhaff/258-i/ha0103.htm>.

¹⁵⁶ Coroner's summing up, Inquest Day Eight, INT000008001, p134, 25 April 1988.

¹⁵⁷ Memorandum from Cdr Kenneth Merton to DCS Alan Wheeler, MPS020664001, 24 June 1988.

¹⁵⁸ Home Office timeline, Minute of meeting of 15 July 1988, HOM000376001, p4, 29 October 2004.

195. The view that both the Morgan One and Hampshire/Police Complaints Authority investigations had been effective was wrongly endorsed by the Police Complaints Authority in March 1990 when Gerry Gillman, a senior member of the Police Complaints Authority, wrote to Alastair Morgan, stating:

*'[...] I would like to stress that the two enquiries carried out by the Metropolitan Police and the Hampshire Constabulary have been most thorough and have produced no evidence of police involvement in your brother's murder.'*¹⁵⁹

196. The Coroner's remarks, the findings of the Hampshire/Police Complaints Authority Investigation as presented in the final report of DCS Alan Wheeler, and the Police Complaints Authority's acceptance of its conclusions, formed an unsound basis for the subsequent repeated assertions that there was no police corruption associated with the murder or its investigation.

197. A Metropolitan Police summary of the case history dated March 2011 referred to *'the flawed initial investigation caused by corrupt Police Officers'*¹⁶⁰ and stated:

*'[m]ost notable was the use of Detective Sergeant, Sidney Fillery, who had a close personal and professional relationship with Jonathan Rees. His involvement in the investigation led to the compromise of various critical evidential lines of enquiry.'*¹⁶¹

198. The Panel asked the Metropolitan Police to explain which *'corrupt Police Officers'* were being referred to and which *'critical evidential lines of enquiry'* were meant.¹⁶² In response, the Metropolitan Police referred to the role of DS Sidney Fillery and provided a summary of issues relating to him (see paragraph 119 above), and further stated,

*'[a]s to an explanations [sic] you seek. As mentioned in previous correspondence, this is a matter for the Panel to take up with the author including enquiring what underlying material or information that officer had in their possession when making those assertions. I nor my client's current officers can step in the shoes of the authors of those passages. It is unhelpful to speculate.'*¹⁶³

199. This reply typifies the Metropolitan Police response to the Panel's queries about what is meant by the words which have been used and which are very significant to the family of Daniel Morgan and to the wider public, who have an ongoing interest in the question of whether Daniel Morgan's murderer(s) escaped justice because of police corruption.

159 Letter from Gerry Gillman to Alastair Morgan, PNL000099001, p285, 27 March 1990.

160 Metropolitan Police proposal to the Metropolitan Police Authority, to consider an ex-gratia payment to Daniel Morgan's family, MPS109485001, p52, March 2011.

161 Metropolitan Police proposal to the Metropolitan Police Authority, to consider an ex-gratia payment to Daniel Morgan's family, MPS109485001, p50, March 2011.

162 Letter to Metropolitan Police from the Panel's solicitors, Fieldfisher, p2, 07 August 2019.

163 Email from Metropolitan Police to the Panel's solicitors, Fieldfisher, 18 September 2019.

5.2.2 External admission

200. In July 2004, over 17 years after the murder of Daniel Morgan, Caroline Flint MP, a Home Office Minister, stated in Parliament that:

*'I am informed that the Metropolitan Police accept that the original investigation falls below current investigative standards, but that it was consistent with the standards of the day.'*¹⁶⁴

201. This was the Metropolitan Police's first public acknowledgement of problems in the investigation of Daniel Morgan's murder.

202. On the issue of alleged police corruption, Caroline Flint MP quoted the Coroner's remarks and Roland Moyle's statement when he expressed satisfaction with the final report of the Hampshire/Police Complaints Authority Investigation.

203. The Panel asked to see any briefing material provided to inform the preparation of the Ministerial statement. The Home Office was able to provide copies of correspondence between the Home Office and Members of Parliament, the solicitor representing members of Daniel Morgan's family, the Metropolitan Police and others, as well as briefing notes prepared for Ministers based on the correspondence.¹⁶⁵

204. The briefing materials reflected a partial picture of what had occurred since the murder of Daniel Morgan, largely based on the information provided by the Metropolitan Police to the Home Office. Again, there was emphasis on the Coroner's summing up at the Inquest and his conclusion that there had been '*no evidence whatsoever in this inquest to point to any police involvement in this killing*'.¹⁶⁶ The material again referred to the Hampshire/Police Complaints Authority Investigation and the fact that the Police Complaints Authority had confirmed to the Home Office that it was satisfied with the conduct of the investigation and with its findings.

205. The briefing materials also refer, among other things, to a Metropolitan Police document in which DCS David Cook, the Senior Investigating Officer of the overt side of the Abelard One/Morgan Two Investigation, was reported to have said that the investigation had looked for evidence, intelligence or other information that would suggest corruption, but had found none.¹⁶⁷

206. In response to requests from members of Daniel Morgan's family for a public inquiry, the Home Office prepared a submission to the Minister, which included a draft letter that repeated the Coroner's remarks and the Police Complaints Authority's acceptance of the final report on the Hampshire/Police Complaints Authority Investigation.¹⁶⁸

164 Hansard HC Deb, Vol 423, Col 236WH, 06 July 2004; <https://hansard.parliament.uk/Commons/2004-07-06/debates>.

165 Home Office briefing materials, HOM000022001, pp1-12, 2004.

166 '*Draft Response to letter from Chris Smith MP, Roger Williams MP and Lord Livesey of Talgarth*', HOM000022001, p11, undated.

167 '*Chronology of events*', HOM000019001, p7, 19 April 2004.

168 '*Draft Response to letter from Chris Smith MP, Roger Williams MP and Lord Livesey of Talgarth*', HOM000019001, pp8-10, undated.

207. The Home Office Minister, Hazel Blears MP, sent a letter dated 08 December 2004 to the solicitor representing members of Daniel Morgan's family.¹⁶⁹ In her letter, the Minister stated that the Metropolitan Police '*have acknowledged to me that there were failings in that first investigation and that it was undermined because of the involvement of certain individuals within the investigation team*'.¹⁷⁰ The letter did not specify how certain individuals had undermined the investigation. This reflects the lack of detail in the briefing material prepared for the Minister, which in turn reflects the lack of detail provided by the Metropolitan Police.

208. The Minister did not use the term 'corruption' in her letter. She quoted the Metropolitan Police's acknowledgement, which is vague and might be interpreted in different ways. The '*failings in that first investigation*' and the undermining of the investigation by individuals within the investigation team might be taken as a reference to mistakes and incompetence or as an oblique reference to corruption.¹⁷¹

209. The Metropolitan Police should have been more candid and specific in their briefing to the Home Office Minister, Hazel Blears MP. Her letter was based on the information provided to her.

210. The Metropolitan Police's admission of failings was repeated in October 2005 by Commissioner Sir Ian Blair, in oral evidence given to the Metropolitan Police Authority, when he stated that the Morgan One Investigation had been '*compromised*'.¹⁷² This statement was not in the public domain, as meetings of the Metropolitan Police Authority were not public.

211. Neither the letter from the Home Office, nor Commissioner Sir Ian Blair's comments, specified the way in which it was believed that the investigation had been '*undermined*' or '*compromised*'. The Panel asked former Commissioner Sir Ian Blair, now Lord Blair, what he had meant. He explained that it was a reference to the alleged actions of former DS Sidney Fillery.¹⁷³ He could provide no further clarification.

212. In 2006, a report commissioned by the Metropolitan Police Authority into the murder of Daniel Morgan was presented in confidence by DAC John Yates (see Chapter 7, The 2006 Report to the Metropolitan Police Authority). Even though the Terms of Reference included the requirement to indicate whether there was police corruption/collusion or involvement in either the murder itself or in the subsequent failure of investigations, the initial draft report failed to confront the issue of corruption adequately, and went so far as to state the following:

*'It was beyond any reasonable comprehension, then, as it would be now, despite having measures in place, to think that a Police Officer could have been involved and working against the direction of the enquiry and the interests of the family by destroying evidence or giving the suspects an advantage through informing them of intended police action.'*¹⁷⁴

169 Letter to Bhatt Murphy from Hazel Blears MP, HOM000380001, 08 December 2004.

170 Letter to Bhatt Murphy from Hazel Blears MP, HOM000380001, p3, 08 December 2004.

171 Letter to Bhatt Murphy from Hazel Blears MP, HOM000380001, p3 08 December 2004.

172 Alastair Morgan Folder 12, '*PROPOSAL BEFORE FULL METROPOLITAN AUTHORITY SITTING*', PNL000110001, p27, 27 October 2005.

173 Panel meeting with Lord Ian Blair, p2, 20 July 2015.

174 The 2006 Report from the Commissioner of the Metropolitan Police Service to the Metropolitan Police Authority, MPS105740001, pp32-33, para 192, 31 January 2006.

213. The wording in the 2006 Report to the Metropolitan Police Authority reflects a totally inappropriate mindset. It ignores the endemic risk and existence of police corruption. All strategies to prevent police corruption must always involve a recognition of the fact that police officers may commit corrupt acts. It should not be *'beyond any reasonable comprehension'* that an officer might work to undermine an enquiry. Awareness of the risk of corrupt behaviour is a prerequisite for confronting and combatting corruption.

214. Len Duvall, Chair of the Metropolitan Police Authority at the time of the report, stated in interview with the Panel that he wanted the Metropolitan Police to accept that something was wrong with their processes. In his rejection of the first draft of the report from the Metropolitan Police, Len Duvall stated that the report had the tone of *'everything was alright'*,¹⁷⁵ which was both wrong and unacceptable.

215. The report was revised. The final version included an admission about corruption generally in the Metropolitan Police:

*'There can be little doubt that this was a time when corruption in certain parts of the MPS [Metropolitan Police Service], particularly the specialist squads, was endemic. It was only in the mid to late 90s that the true extent of the nature of the corrupt activity came to light and positive action taken to address the issues, both directly and allied with a proper preventive strategy. It is fair to say that the MPS had taken its collective eye off the ball in the 1980s and the result was squads within squads and an appalling level of dishonest activity. This is not something that the MPS can be proud of.'*¹⁷⁶

216. Even this limited acknowledgement of corruption was included only at the instigation of Len Duvall. This report was shared with members of Daniel Morgan's family but was not published, as the Metropolitan Police Authority did not normally publish such reports.

217. Len Duvall carried out his role as Chair of the Metropolitan Police Authority effectively. He held the Metropolitan Police to account and robustly challenged the first version of the report presented to him.

218. On 10 April 2006, David Riddle, the Deputy Chief Executive and Solicitor to the Metropolitan Police Authority, on behalf of Len Duvall, sent a copy of the 2006 Report to solicitors representing members of Daniel Morgan's family. In the accompanying letter, he wrote:

'DAC John Yates has confirmed that in his professional view this case, particularly in the early stages, suffered significantly from the taint of corruption. In particular, the actions and conduct of ex-Detective Sergeant Fillery (and his potential associates) fell well below that which is expected. DAC Yates personally considers that Fillery was both corrupt and a corrupter of colleagues and others. What he cannot say, to the

¹⁷⁵ Panel interview with Len Duvall, pp.2-3, para 13, 20 July 2017.

¹⁷⁶ The 2006 Report from the Commissioner of the Metropolitan Police Service to the Metropolitan Police Authority, para 109, MPS109479001, p178, para 109, 07 April 2006.

*degree of certainty required, is that he was corrupt around this particular case. This was a deplorable episode in the history of the MPS [Metropolitan Police Service] and it is deeply regrettable that the family have not seen anyone brought to justice as yet; a situation made worse through the probable fact that some of those entrusted to uphold the law may have deliberately undermined the initial investigation.*¹⁷⁷

219. There is no explanation in the letter as to the identities of the ‘potential associates’ of DS Sidney Fillery, and it does not specify whether they included civilian associates or police officers (see Chapter 1, The Morgan One Investigation).

220. The 2006 Report to the Metropolitan Police Authority contained the following paragraph:

‘Viewing it from what we know, Detective Superintendent [Douglas] Campbell was not far from the truth. Sadly to prove their suspicions they needed evidence but the initial weakness in the investigation had probably led to that being destroyed and no longer available.

‘That weakness was the presence of Detective Sergeant Fillery on the murder investigation and his corrupt relationship with the prime suspect Jonathan Rees.’¹⁷⁸

221. A briefing was prepared in 2011 by DCS Hamish Campbell, Metropolitan Police Homicide Command, for Metropolitan Police Authority members about the collapse of the trial of those accused of Daniel Morgan’s murder.¹⁷⁹ It contained references to the conduct of police officers, including ‘suspicions that Fillery’s participation in the first investigation contributed to the compromise of securing critical evidence’¹⁸⁰ and, in the Abelard Two Investigation, information from witnesses suggesting ‘that the actual motive behind Morgan’s murder was to prevent him disclosing the criminality of certain persons – and their link to corrupt police officers’.¹⁸¹ An earlier version of the briefing note dated 18 March 2011 explained that the Abelard Two Investigation had gathered information that Daniel Morgan was murdered ‘to prevent him disclosing the criminality of Rees, the Vian’s [sic] and their links to corrupt police officers, such as Fillery’.¹⁸²

222. In 2011, after the Prosecution withdrew its case against Jonathan Rees, James Cook, Glenn Vian, Garry Vian and former DS Sidney Fillery, Acting Commissioner Tim Godwin wrote a letter to Alastair Morgan, saying:

‘I am deeply sorry that the MPS [Metropolitan Police Service] has failed to bring to justice those responsible for the murder of Daniel. The MPS has accepted that police corruption in the original investigation was a significant factor in this failure. As you know, corruption in its various forms formed a major line of enquiry in the most recent investigation.

‘I recognise how important this is to both you and your family and that the part played by corruption in the original investigation is acknowledged publicly. You are entitled to an apology not only for this failure but also for the repeated failure of the MPS, over

177 Alastair Morgan Folder 11, Letter from David Riddle to Raju Bhatt, PNL000109001, pp1-2, 10 April 2006.

178 The 2006 Report from the Commissioner of the Metropolitan Police Service to the Metropolitan Police Authority, MPS109479001, pp190-191, paras 186-187, 05 April 2006.

179 Metropolitan Police Authority briefing note, MPS107588001, pp3-7, 29 March 2011.

180 Metropolitan Police Authority briefing note, MPS107588001, p3, 29 March 2011.

181 Metropolitan Police Authority briefing note, MPS107588001, p4, 29 March 2011.

182 Metropolitan Police Authority briefing note, MPS109592001, p134, 18 March 2011.

many years following Daniel's murder, to accept that corruption had played such a part in failing to bring those responsible to justice.

*'[...] we recognise the consequences of the repeated failure of the MPS over the years to confront the role played by police corruption in protecting those responsible for the murder from being brought to justice.'*¹⁸³

223. Throughout this process of internal acknowledgement and confidential disclosure to members of the family of Daniel Morgan, the family have been placed in the extraordinary position of receiving a lot of information in confidence, including information about suspected police corruption, without being able to cite it, and without the satisfaction of seeing corrupt officers called to account (see Chapter 12, *The Treatment of the Family*). What the family was told about the nature of this corruption was tantalisingly imprecise: it comprised little more than innuendo, and yet was repeated on a number of occasions. The Metropolitan Police have provided little detail of the alleged corruption other than the repeated reference to DS Sidney Fillery. There is some evidence in the material available to the Panel to support the allegation that the first investigation of Daniel Morgan's murder was compromised by corruption. There were also other very serious problems with that investigation (see Chapter 1, *The Morgan One Investigation*).

224. In December 2020, the Metropolitan Police acknowledged to the Panel that the scope of corruption surrounding the investigations into the murder of Daniel Morgan went beyond the role of DS Sidney Fillery. The Metropolitan Police claimed they had investigated the possibility that the motive for the murder was to prevent Daniel Morgan exposing general and serious police corruption. The Metropolitan Police stated that this line of enquiry was actively pursued in the Morgan One, Hampshire/Police Complaints Authority and Abelard Two investigations, but that the Metropolitan Police were unable to find any significant corroboration to support it. The Panel does not accept that this line of enquiry was pursued actively or fully in these investigations.

5.2.3 Public admission

225. The first public admission of police corruption came in the press statement by DCS Hamish Campbell on 11 March 2011, when the criminal proceedings against those charged ended. He said:

*'This current investigation has identified, ever more clearly, how the initial inquiry failed the family and the wider public. It is quite apparent that police corruption was a debilitating factor in that investigation. This was wholly unacceptable.'*¹⁸⁴

226. A further public statement was made by AC Martin Hewitt on 10 March 2017, the thirtieth anniversary of the murder of Daniel Morgan. It stated:

*'The Met's re-investigation into Daniel Morgan's murder identified, ever more clearly, how the initial inquiry failed the family and wider public. We publicly stated that it is quite apparent that police corruption was a factor in that first investigation. This is wholly unacceptable.'*¹⁸⁵

¹⁸³ Letter from Acting Commissioner Tim Godwin to Alastair Morgan, MPS109485001, pp5-6, 30 March 2011.

¹⁸⁴ Metropolitan Police Authority briefing note, MPS109561001, p6, 29 March 2011.

¹⁸⁵ Vikram Dodd, 11 March 2017, 'Daniel Morgan: how a 30-year-old murder still haunts Britain's powerful', *The Guardian*; at www.theguardian.com/uk-news/2017/mar/10/daniel-morgan-how-private-eyes-haunts-britains-powerful-30-years-on.

5.3 Lack of candour and obfuscation

227. The Panel requested from the Metropolitan Police the briefings for all the statements acknowledging the role of police corruption in the investigation of the murder, including the public statements made most recently. The Metropolitan Police provided some, but not all, of the briefing material. They wrote to the Panel in June 2019 indicating that they had *'not been able to find any new material to assist'*.¹⁸⁶

228. In the absence of all the requested briefings, the Panel asked the Metropolitan Police to clarify what lay behind the admissions of corruption. The Metropolitan Police Directorate of Legal Services replied that, in instances where individual police officers had accepted or conceded corruption in the case, *'any clarity required would have to be provided by those officers themselves'*.¹⁸⁷ In June 2019, AC Nick Ephgrave informed the Panel Chair that his team had made enquiries in respect of the intended meaning or intent of Acting Commissioner Tim Godwin's statement of March 2011, but had not been able to find any new material to assist. He suggested that the Metropolitan Police's concerns were likely to be in relation to the conduct of DS Sidney Fillery and the subsequent failure of the Metropolitan Police to obtain sufficient evidence to charge and convict him of any offences connected to the alleged corruption. AC Ephgrave indicated, as had the Metropolitan Police's solicitor previously, that it may be necessary for the individual authors to provide further elucidation.¹⁸⁸

229. Public statements such as those made by senior Metropolitan Police officers are made on behalf of the Metropolitan Police. The Metropolitan Police as an organisation must be able to provide and explain the reasons for statements made on its behalf, especially where it is making admissions of corruption. It is not acceptable to abrogate the responsibility by referring the Panel to the individuals who made the statements.

230. **What is notable about the various corruption admissions emanating from senior Metropolitan Police officers in the case of Daniel Morgan is that:**

- i. only two of them were public statements;**
- ii. at no point has it been indicated that the suspected corruption related to the murder itself; rather the implication has been that the suspected corruption prevented the successful prosecution of those responsible for the murder;**
- iii. virtually no detail has been given as to the nature of the suspected corrupt behaviour or how it served to undermine the murder investigation;**
- iv. the suspicion of corruption has solely been connected to the 'initial' murder investigation (that is Morgan One); and**
- v. the focus of the imputed police corruption has been almost entirely on one individual officer.**

¹⁸⁶ Letter from AC Nick Ephgrave to Baroness Nuala O'Loan, p2, 26 June 2019.

¹⁸⁷ Letter from Metropolitan Police to the Panel's solicitors, Fieldfisher, p2, 21 March 2018.

¹⁸⁸ Letter from AC Nick Ephgrave to Baroness O'Loan, p2, 26 June 2019.

231. In internal documents there are multiple references to DS Sidney Fillery's possible role in corruption, and police suspicions about him date back to a matter of days after the commencement of the initial murder investigation (see Chapter 1, The Morgan One Investigation). The Panel has concluded that the Metropolitan Police were justified in some of their suspicions about DS Fillery, for example, in relation to the first statement he took from Jonathan Rees.

232. In 2011, the Metropolitan Police had written of '*the flawed initial investigation caused by corrupt Police Officers*'¹⁸⁹ when proposing to the Metropolitan Police Authority that an *ex gratia* payment be made to the family of Daniel Morgan. The '*corrupt Police Officers*' were not named.

233. The Metropolitan Police have not been able to explain what it meant by its various statements about individual police corruption adversely affecting the investigation of Daniel Morgan's murder. This is an extraordinary situation, given that the concerns about police corruption have been the strongest concern (other than the identification of the murderer(s) of Daniel Morgan) of the members of his family and others, and have created enormous public interest in this case.

234. The examples of corruption provided to the Panel by the Metropolitan Police (see paragraph 119 on the *précis* above) reflect what has been termed a 'rotten apple' model of police corruption, that is, a single officer acting corruptly.¹⁹⁰ The repeated internal references by the Metropolitan Police to the actions or inactions of officers, and notably former DS Sidney Fillery, whether well-founded or not, have tended to divert attention from the wider problems of management and governance identified in the investigation chapters in this Report.

235. The Panel has identified three types of failings. The first is the tolerance of policing that was poor or below accepted standards, as is described in the investigation chapters: for example, the failure to preserve the crime scene, the failure to hold evidence and exhibits in a secure and proper manner, the lack of appropriate management and the lack of compliance with established procedures. This has been accompanied by a failure of senior police officers to acknowledge evidence of police incompetence when it is put before them, and a general tendency for the police service to 'close ranks' and become defensive when challenged.

236. The second type of failing was an historical phenomenon and involved the tolerance and even encouragement of a culture based on regular drinking sessions (usually accessed by car), and an expectation of socialising in local pubs. Regular drinking sessions and drink driving are not features of police culture today. However, there were, and continue to be, issues attaching to the involvement of police officers in 'secret' societies, such as the Freemasons, and police officers mixing with local figures operating on the fringes of legality, including with some private investigators working in the area of local security and used car dealing, debt collection and property recovery.

237. Where failings of type one and two are already present, the scope for corruption is greatly increased.

¹⁸⁹ Metropolitan Police proposal to the Metropolitan Police Authority, to consider an ex-gratia payment to Daniel Morgan's family, MPS109485001, p52, March 2011.

¹⁹⁰ Newburn T. (2015) *Literature Review – Police Integrity and corruption*, London: HMI Constabulary.

238. The third type of failing is incontrovertibly corrupt behaviour, including the selling of stories to press contacts, the sale for private gain of police services (such as tracing car registration plate numbers through the Police National Computer) and the planting of false evidence, as in the Simon James conspiracy to pervert the course of justice case, when Jonathan Rees arranged through corrupt linkages with one or more police officers for the police to discover drugs planted in the car of his client's estranged wife, leading to her arrest on drugs charges (see Chapter 4, Operation Nigeria/Two Bridges).

239. As regards the original murder investigation (the Morgan One Investigation), it is not clear in every instance which failings were attributable to corruption and which to incompetence, poor management, failures to comply with national policy and police practice falling far below the expected standards at the time. There are examples of all of these in the first two investigations. The Metropolitan Police's lack of candour both about corruption and about other failings obscures the truth still further. Their repeated assertion that the original murder investigation reflected the standards of the time is just one example.

240. The Morgan One Investigation failed to comply with national policy¹⁹¹ when it merged several distinct roles in the administration of the investigation and assigned them to one and the same officer. In the Abelard Two Investigation, roles that were supposed to be carried out by different officers were likewise assigned to a single officer. The national policy on the staffing of distinct roles in the Major Incident Room was designed to safeguard the integrity of investigations into serious crimes.

241. The Metropolitan Police did not acknowledge this failing in the first murder investigation at the time. Nor have they acknowledged this failing in the last murder investigation. The repetition in the Abelard Two Investigation of a failure analogous to that seen in the Morgan One Investigation indicates a lesson not learned in the intervening 19 years.

242. When failings in police investigations are combined with unjustified reassurances rather than candour on the part of the Metropolitan Police, this may constitute institutional corruption. The Metropolitan Police's culture of obfuscation and a lack of candour is unhealthy in any public service. Concealing or denying failings, for the sake of the organisation's public image, is dishonesty on the part of the organisation for reputational benefit. In the Panel's view, this constitutes a form of institutional corruption.

243. The Metropolitan Police's lack of candour manifested itself in the hurdles placed in the path of the Panel, such as AC Cressida Dick's initial refusal to recognise the necessity for the Panel to have access to HOLMES (the data system which provides safeguards for the integrity of investigations and also enables independent scrutiny to identify failures), as well as limiting access to the most sensitive information (which was not provided at the Panel's secure premises and was only accessible at a location involving considerable travel time and precluding daily reference and crosschecking; see Chapter 11, for details). It can also be seen in the Metropolitan Police responses to the Panel's 'fairness process' in December 2020.¹⁹²

¹⁹¹ The Major Incident Room Standardised Administrative Procedures (MIRSAP).

¹⁹² The Panel sent 'fairness' letters to all those individuals and organisations it was considering criticising, in order to allow them the opportunity to respond and to make representations as to why they ought not to be criticised. The Panel considered all the responses it received and, where appropriate, either amended or withdrew its draft remarks.

244. For example, the Panel indicated in its fairness letter that it intended to criticise the Metropolitan Police for not complying with the Major Incident Room Standardised Administrative Procedures (MIRSAP) when the Morgan One Investigation's Major Incident Room merged several management roles and assigned them to an individual officer. This removed a layer of scrutiny and quality assurance from the investigation. If the MIRSAP procedures had been adopted, with different officers performing different roles, this would have provided an important safeguard for the integrity of the investigation.

245. The Metropolitan Police responded that it did not fully adopt MIRSAP until 2015, but it did endeavour to apply the principles of MIRSAP. In 1987, the investigation team utilised the Major Incident Computer Application (MICA), a computer system MIRSAP did not supply guidance for. This system was trialled, but HOLMES became the tool ultimately adopted by police forces throughout the UK. Between 2004 and 2015, the Metropolitan Police used as its reference the London Homicide Manual. This document permitted some variance from MIRSAP due to the volume of murder investigations undertaken in London.

246. The Metropolitan Police had not provided the Panel with a copy of the London Homicide Manual, and the Panel had not been aware of its existence until receipt of the Metropolitan Police response to their fairness letter in December 2020.

247. Lack of candour about past failures is not conducive to better policing, especially when those failures include corruption. There is a risk that, if a police force does not acknowledge corruption and combat it promptly and robustly, some officers may believe they can behave corruptly without consequences. With regard to the murder of Daniel Morgan and its investigation, placing the reputation of the organisation above the need for accountability and transparency did not prevent further corrupt behaviour, for example in and after the Abelard Two Investigation.

248. In 2006, the United Kingdom ratified the United Nations Convention Against Corruption, which recognises that '*the prevention and eradication of corruption is a responsibility of all States*'.¹⁹³ Under the provisions of the Convention, the state is obliged to '*develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability*'.¹⁹⁴

193 United Nations Office on Drugs and Crime, 2004, United Nations Convention against Corruption, p6, New York, available at https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf.

194 United Nations Office on Drugs and Crime, 2004, United Nations Convention against Corruption, p9, New York, available at https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf.

6 Tackling corruption in the Metropolitan Police: legislation, policy and practice during the period of investigations into Daniel Morgan's murder

6.1 The law relating to police corruption

249. Before 2015 there was no statutory offence of police corruption. Officers suspected of corrupt activity were sometimes prosecuted for the common law offences of misconduct in public office, misfeasance in public office, attempting to pervert the course of justice, perjury and conspiracy to commit criminal acts, depending on the circumstances of the unlawful behaviour. This was the position in 1987 when Daniel Morgan was murdered, and investigation of the murder began. The position has changed over the course of the 34 years since then. The Panel has looked at the changing position and the indications of corruption occurring during this long period.

250. A new criminal offence, '*corrupt or other improper exercise of police powers and privileges*',¹⁹⁵ was introduced under section 26 of the Criminal Justice and Courts Act 2015. Announcing plans for the new legislation, the Home Secretary, Theresa May MP, gave the following explanation:

*'The current law on police corruption relies on the outdated common-law offence of misconduct in public office. It is untenable that we should be relying on such a legal basis to deal with serious issues of corruption in modern policing.'*¹⁹⁶

251. With the implementation on 13 April 2015 of this new statutory offence, a police officer commits an offence if he or she:

'(a) exercises the powers and privileges of a constable improperly, and

*(b) knows or ought to know that the exercise is improper.'*¹⁹⁷

252. At section 26(4), the legislation explains that '*a police constable exercises the powers and privileges of a constable improperly if -*

(a) he or she exercises a power or privilege of a constable for the purposes of achieving -

(i) a benefit for himself or herself, or

(ii) a benefit or a detriment for another person, and

*(b) a reasonable person would not expect the power or privilege to be exercised for the purpose of achieving that benefit or detriment.'*¹⁹⁸

253. The College of Policing and the National Police Chiefs Council now follow similar definitions of corruption based on the section 26 offence.¹⁹⁹

195 Introduced under the Criminal Justice and Courts Act 2015, s26.

196 Hansard HC Deb, Vol 576, Col 1065, 06 March 2014; <https://hansard.parliament.uk/Commons/2004-07-06/debates>.

197 Criminal Justice and Courts Act 2015, s 26(1).

198 Criminal Justice and Courts Act 2015, s26(4).

199 Briefing to the Panel by the College of Policing, 29 April 2020.

6.2 The definition of corruption used by the Metropolitan Police

254. The Metropolitan Police did not regard as serious or view as corruption an early example of alleged ‘moonlighting’. This is explored in Example A below.

Example A

255. Three serving police officers, DS Sidney Fillery, DC Alan Purvis and DC Peter Foley, were subject to disciplinary investigation for assisting Southern Investigations in providing security at the Belmont Car Auctions. All three officers admitted being present at the auctions but denied being paid; none had informed the Metropolitan Police about attending the auctions.

Evidence emerged that one of the Detective Constables received a benefit in kind: when he had traded in his old car for one of the cars on auction, the car value was inflated to ensure that the officer had the deposit to purchase the car through a finance company.

DS Sidney Fillery took medical retirement before his disciplinary case was completed. The report on the disciplinary case recommended that the two junior officers ‘*should receive strong words of advice from their Chief Superintendent as to their conduct throughout this matter and their future behaviour*’²⁰⁰ (see Chapter 1, The Morgan One Investigation).

256. The Panel believes that DS Sidney Fillery, DC Alan Purvis and DC Peter Foley were obtaining work, in addition to their police work, by virtue of their position and skills as police officers and thereby gaining benefit.

257. As the most senior of the three police officers, DS Sidney Fillery’s involvement in this matter implied a more serious failure. It is probable that, had the disciplinary process found against DS Fillery, the sanctions would have been more severe than was the case in respect of the two junior officers, DC Peter Foley and DC Alan Purvis. It was not uncommon at the time for police officers under disciplinary scrutiny to retire before the process was concluded. Following sustained criticism of the long-standing pattern of police officers facing the prospect of disciplinary action being allowed to take early retirement, the regulations regarding this option were changed in 2015.^{201,202}

258. In October 1997, DAC Roy Clark provided a witness statement, relating to the alleged ‘moonlighting’, in which he said that Southern Investigations ‘*had been profiting from the services of a small number of police officers contrary to their duty*’. He stated that ‘*[w]hilst these matters amounted to discipline offences under the Police Discipline Regulations they do not amount to corruption*’.²⁰³

200 Report by D/Supt Alec Button; Complaint against Police, MPS015801001, p42, 07 October 1988.

201 Independent Police Complaints Commission, (2013) *Eleventh Report of Session 2012-2013*, London: The Stationery Office Limited, p28, para 84, see <https://publications.parliament.uk/pa/cm201213/cmselect/cmhaff/494/494.pdf>.

202 The Police Pension Regulations 2015 came into force on 01 April 2015.

203 Witness statement of DAC Roy Clark, MPS054304001 p3, 30 October 1997.

259. DAC Roy Clark acknowledged that the officers' conduct amounted to disciplinary offences but did not view it as corrupt. While the Panel agrees that the conduct could be treated as disciplinary offences, it disagrees with DAC Clark's view that it did not constitute corruption.

260. In June 2019, the Metropolitan Police gave further responses to the Panel, indicating that its Directorate of Professional Standards anti-corruption unit has also utilised the following description of 'corruption' for training and reference purposes:

*'This involves a direct abuse of position in a relationship of implicit or explicit exchange with others, inside or outside the police organisation. It follows the common idea of corrupt police staff doing or not doing, something for an external or internal "corrupter" for some kind of gain (though not necessarily financial). It will also be taken to mean the breaking of rules and laws by police staff in order to achieve results.'*²⁰⁴

261. It is not clear whether this definition was used historically in training. The Panel's remit to examine the connections and corrupt linkages between police officers, private investigators and the media resonates with the reference to a 'relationship of implicit or explicit exchange with others, inside or outside the police organisation'. This is illustrated by the following example.

262. The historic intelligence which gave rise to Operation Nigeria/Two Bridges described former DS Sidney Fillery and Jonathan Rees as 'deeply involved in corruption, using a network of serving and retired police officers to access sensitive intelligence for the purpose of progressing crime, frustrating the course of justice, and selling sensitive information to the press'.²⁰⁵ Operation Nigeria/Two Bridges was undertaken 'to investigate "corrupters of police"'.²⁰⁶ The intelligence it gathered indicated that Southern Investigations (which, by May 1999 was trading as Law & Commercial) was acting as a hub for serious and ongoing corruption (see Chapter 4, Operation Nigeria/Two Bridges).

263. It is critical to the Panel's analysis of the role of corruption in the investigations over time to understand how the Metropolitan Police has defined corruption, and on what basis it endeavours to prevent, identify, investigate and combat it. In 1987, when Daniel Morgan was murdered, all allegations of police misconduct and all complaints were investigated by the police, on occasion supervised by the Police Complaints Authority. When the Panel began to receive documents early in 2015, it asked the Metropolitan Police for its definition of corruption.

264. In May 2015, the Metropolitan Police explained that its Directorate of Professional Standards had adopted as its working definition, the definition used by the Independent Police Complaints Commission.²⁰⁷ The Independent Police Complaints Commission's definition was of serious corruption (which it might investigate) and included:

- i. *'any attempt to pervert the course of justice or other conduct likely seriously to harm the administration of justice, in particular the criminal justice system;*

204 Letter from AC Nick Ephgrave to Baroness Nuala O'Loan, p3, 26 June 2019.

205 Application for renewal of surveillance, MPS099739001, p69, 8 December 1998.

206 2000 Murder Review Report, MPS020525001, p77, para 9.4, 06 October 2000.

207 Independent Police Complaints Commission, Statutory Guidance, 2015.

- ii. *payments or other benefits or favours received in connection with the performance of duties amounting to an offence for which the individual concerned, if convicted, would be likely to receive a sentence of more than six months;*
- iii. *abuse of authority;*
- iv. *corrupt controller, handler or covert human intelligence source (CHIS) relationships;*
- v. *provision of confidential information in return for payment or other benefits or favours where the conduct goes beyond a possible prosecution for an offence under S55 of the Data Protection Act 1998;*
- vi. *extraction and supply of seized controlled drugs, firearms or other material; or*
- vii. *attempts or conspiracies to do any of the above.*²⁰⁸

265. The Metropolitan Police version of the above text, '*Incidents and offences that meet the definition of serious corruption set down by the IPCC [Independent Police Complaints Commission]*', included the addition of the following offences:

- i. *'Information leakage to criminals';*
- ii. *'Information leakage to the media';*
- iii. *'Misuse of authority for sexual advantage (excluding those from searches)';*
- iv. *'Theft';*
- v. *'Fraud (significant financial gain £1000+); and'*
- vi. *'Involvement in production, supply or distribution of controlled drugs.'*²⁰⁹

266. The definition of serious corruption was used by the Independent Police Complaints Commission in determining which instances of corrupt conduct by police officers were sufficiently serious to merit being investigated by the Commission, rather than through the internal police disciplinary process. As it was a definition of 'serious corruption', it did not purport to cover all corrupt conduct.

267. The adoption of the Independent Police Complaints Commission's definition of serious corruption as the basis for the Metropolitan Police's working definition of corruption, with a brief list of other criminal offences added by the Metropolitan Police, begged the question as to how the Metropolitan Police regard other examples of corrupt conduct that do not meet the threshold of serious corruption, such as fraud where the financial gain is less than £1,000. The Panel asked the Metropolitan Police about this. They replied that '*it is difficult to conceive of corruption that is not serious*'.²¹⁰ This response does not go to the matter at issue. The Panel agrees that corruption is always '*serious*', but there are different levels of seriousness. The Independent Police Complaints Commission definition, and by extension the Metropolitan Police's working definition of corruption, only concerned offences serious enough to be investigated by the Independent Police Complaints Commission.

²⁰⁸ Independent Police Complaints Commission, Statutory Guidance, 2015, p45, para 8.13.

²⁰⁹ Response by D/Supt Neil Hutchinson, '*AC Professionalism Public Inquiry Team Briefing Note: Summary of questions and responses to the Daniel Morgan Independent Panel on 12 May 2015*', p3, 30 June 2015.

²¹⁰ Letter from the Metropolitan Police to the Panel's solicitors, Fieldfisher, p2,21 March 2018.

268. The Metropolitan Police responses on the definition of corruption have not referred to the Code of Ethics issued by the College of Policing in July 2014.²¹¹ The Code has a statutory basis²¹² and as such applies to all police forces in England and Wales.²¹³ It sets out principles and standards of professional behaviour for the policing profession in England and Wales; among the principles are honesty, integrity, accountability and openness, all of which are relevant to an analysis of corruption.

269. The Metropolitan Police response to the Panel in June 2019 also stated that, in practice, the Directorate of Professional Standards investigates an officer or member of police staff for a specific criminal offence such as bribery, perverting the course of justice or misconduct in public office, rather than for ‘*corruption*’, since ‘*corruption*’ is not a criminal offence.²¹⁴ This ignores the fact that section 26 of the Criminal Justice and Courts Act 2015 had already been brought into force in April 2015, introducing the offence of ‘*corrupt or other improper exercise of police powers and privileges*’.²¹⁵ This important change in the legislation relating to corruption was not mentioned by the Metropolitan Police in its initial response to the Panel, nor in their subsequent responses to repeated requests on this subject. However, the Panel accepts that all the possible offences in the Daniel Morgan murder investigation were committed before 2015.

270. In April 2017, a supplementary Operational Advice Note by the Independent Police Complaints Commission was issued, including material about the change in legislation.²¹⁶ In February 2020, the Independent Office for Police Conduct issued revised statutory guidance on the police complaints system, including a revised definition of ‘*serious corruption*’.²¹⁷

271. The guidance issued by the Independent Office for Police Conduct in February 2020 includes, after the definition of ‘*serious corruption*’, a definition of ‘*abuse of position*’ as:

‘any attempt by a person serving with the police, whether on or off-duty, to inappropriately or illegitimately take advantage of:

- i. their position as a person serving with the police*
- ii. the authority their position as a person serving with the police affords them, or*
- iii. any powers conferred on them by virtue of their position as a person serving with the police.’²¹⁸*

272. In 2019, the Metropolitan Police explained to the Panel that, for the purposes of the Mayor’s Office for Policing and Crime (MOPAC) and Metropolitan Police Service joint anti-fraud, bribery and corruption strategy, corruption is defined as:

‘the offering, promising, giving, requesting, receiving or agreeing to accept an inducement or reward (i.e. a bribe), which may influence a person to act against

211 College of Policing, Code of Ethics, July 2014. This was the first Code issued by the College of Policing, which was established in 2012.

212 As a code of practice issued under section 39A of the Police Act 1996 (as amended by s124 of the Anti-Social Behaviour, Crime and Policing Act 2014). College of Policing, Code of Ethics, p1, para 1.2.1, July 2014.

213 College of Policing, Code of Ethics, p1, para 1.2.2, July 2014.

214 Letter from AC Nick Ephgrave to Baroness Nuala O’Loan, p3, 26 June 2019.

215 Criminal Justice and Courts Act 2015, s26.

216 Independent Police Complaints Commission, Operational advice note, April 2017.

217 Independent Office for Police Conduct, *Statutory Guidance on the police complaints system*, February 2020, p57, para 9.15.

218 Independent Office for Police Conduct, *Statutory Guidance on the police complaints system*. February 2020, p57, para 9.17.

*the interests of MOPAC/MPS [Mayor's Office for Policing and Crime/Metropolitan Police Service].*²¹⁹

273. The key issue is not that the person is acting against the interests of the Mayor's Office for Policing and Crime and/or the Metropolitan Police, but more importantly that they would be acting contrary to the public interest and to the professional integrity required of every police officer. The public interest and professional integrity of the police should be at the heart of any anti-corruption strategy adopted by the police and explicitly referenced as such. This definition of corruption is not sufficiently comprehensive.

274. The changes made in 2020 to the Independent Police Complaints Commission's 2015 definition by the Independent Office for Police Conduct are of relevance to the Panel's work and include:

- i. reference to the new offence of '*corrupt or other improper exercise of police powers and privileges*' introduced by section 26 of the Criminal Justice and Courts Act 2015;
- ii. the addition to the text of the '*abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship*', reflecting the work carried out by the Independent Police Complaints Commission and the Independent Office for Police Conduct on complaints about this kind of police conduct;
- iii. a new formulation about the '*provision of confidential information in return for payment or other benefits or favours*' with a reference to the legislation on data protection enacted since the previous definition of serious corruption by the Independent Police Complaints Commission;²²⁰
- iv. the amendment of '*abuse of authority*' to '*any other abuse of position*'; and
- v. the extension of the provision of '*attempts or conspiracies to do any of the above*' so that the definition now applies to '*attempts, conspiracies, incitements, assistance or encouragement to do any of the above*'.²²¹

275. These changes broaden the behaviours encompassed in the definition used in the 2015 guidance issued by the Independent Police Complaints Commission. However, the 2020 guidance by the Independent Office for Police Conduct does not explicitly list '*Information leakage to criminals*' and '*Information leakage to the media*'. These examples of criminal acts were added by the Metropolitan Police to the definition of '*serious corruption*' which fell within the Independent Police Complaints Commission's guidance issued in 2015 for the purposes of the Metropolitan Police's working definition of serious corruption.

219 Letter from AC Nick Ephgrave to Baroness Nuala O'Loan, p4, 26 June 2019.

220 Data Protection Act 2018, s170.

221 Independent Office for Police Conduct, 'Statutory guidance on the police complaints system', p55, February 2020, see https://www.policeconduct.gov.uk/sites/default/files/Documents/statutoryguidance/2020_statutory_guidance_english.pdf.

276. In May 2020, in response to the Panel's question, the Metropolitan Police confirmed that it was now using the statutory guidance issued by the Independent Office for Police Conduct in conjunction with guidance prepared by its Directorate of Professional Standards and issued in 2020.

277. There is risk attached to the Metropolitan Police using a restrictive definition of corruption that concerns only 'serious corruption'. Less serious corrupt behaviour may not be considered 'corruption' and might be dealt with lightly or overlooked, with the risk of promoting a culture of tolerance of low-level corruption and an expectation of impunity that could encourage some individual police officers to go further and become involved in serious corruption.

278. Example B below illustrates one of the offences added by the Metropolitan Police to the Independent Police Complaints Commission's definition of serious corruption: information leakage to the media.

Example B

279. By the early 1990s, News International had become a major client of Southern Investigations. The documentation indicates that income came from '*investigating stories and supplying stories*'. The intelligence examined by the Panel concerning former police officers associated with former DS Sidney Fillery, Jonathan Rees and Southern Investigations (later Law & Commercial) includes evidence of behaviour resulting in criminal convictions, dismissals and resignations. One police officer was dismissed from the Metropolitan Police for failure to meet standards of honesty and integrity, having been charged with selling copies of *The Police Gazette* (a confidential police document circulated nationally that contained details of wanted criminals and serious crimes) to Jonathan Rees and with disclosing to the press via Jonathan Rees the time and place of an identification parade involving a major crime figure.

280. The final sentence of the anti-corruption unit's definition broadens it to include police personnel acting corruptly out of a desire to get results. This is illustrated by Example C below.

Example C

281. During the Abelard Two Investigation, DCS David Cook had repeated contact with Gary Eaton, despite his awareness and warnings from DAC John Yates that this was in breach of the requirement that there can be no direct contact between the investigation and the witness who is being debriefed. Mr Justice Maddison decided to exclude the evidence of this witness, because there had been repeated breaches, because he was satisfied that there was improper prompting of the witness and because of the mental health of the witness.

282. Both offences (leakage of police information to criminals and leakage of police information to the media) added to the definition of '*serious corruption*' by the Metropolitan Police in its 2015 guidance are no longer explicitly highlighted in the 2020 Metropolitan Police guidance.

However, it is very likely that such acts would now fall within the scope of the police corruption offence introduced by section 26 of the Criminal Justice and Courts Act 2015. Both acts are of relevance in the context of the investigations into the murder of Daniel Morgan.

283. Examples D and E below illustrate the leakage of police information to people suspected of criminal offences.

Example D

284. On 02 April 1987, the day before the planned arrests of three police officers and of three other individuals for the murder of Daniel Morgan, there was a leak of this information via a tip to the news desk of the *Daily Mirror*. One of the newspaper's journalists had attempted to verify the information by contacting D/Supt Douglas Campbell. Unable to reach him, she had contacted Southern Investigations and '*may well have warned REES of the operation*'.

Example E

285. During Operation Abelard Two, the Senior Investigating Officer, former DCS David Cook, leaked information about two separate impending arrests to Michael Sullivan, a writer and journalist. Former DCS Cook also disclosed a large amount of police information, including sensitive and personal data, to journalists and others outside the police. He has stated that his behaviour was motivated by a keen desire to reveal what he believed to be the truth about the murder of Daniel Morgan and its investigation. The sharing of information was also motivated, at least in part, by the expectation of profits from publishing the book he was writing with Michael Sullivan about police investigations, including the investigation of the murder of Daniel Morgan. Michael Sullivan appears to have kept confidential the materials provided to him by his co-author. Other information leaked by former DCS Cook was used in the BBC *Panorama* programme (see Chapter 8, The Abelard Two Investigation).

286. In December 2020, the Metropolitan Police advised the Panel that it uses different definitions of corruption depending on the circumstances. However, they have failed to explain what the different definitions are or what the different circumstances might be.

6.3 Tackling corruption in practice

287. The following examples, taken from the earliest and the most recent investigations of the murder of Daniel Morgan, serve to illustrate what the Panel means by institutional corruption.

288. The documentation shows that the Morgan One Investigation had already been compromised by serious mistakes and incompetence. Example F below illustrates both this and the failure by senior management to confront corruption promptly.

Example F

289. Senior managers were alerted to concerns about corruption in the Morgan One Investigation by D/Supt Douglas Campbell's requests to his superiors for the investigation to be transferred to another unit and later for a review of the investigation. Senior officers refused the first request and appointed DCS Douglas Shrubsole, D/Supt Campbell's line manager, to conduct what turned out to be a brief review resulting in a positive assessment of the investigation that was not warranted by the available information or by the limitations of the review (see Chapter 1, The Morgan One Investigation). The documentation shows that the investigation had already been compromised, including through loss of evidence and forensic failures, causing irretrievable damage to the prospect of successfully bringing those responsible for the murder to justice. Senior management was responsible for lack of effective oversight of the first investigation and failure to act promptly to confront corruption.

290. Example G below shows a senior police officer seeking to cover up any possibility of police involvement in the murder of Daniel Morgan.

Example G

291. On 02 February 1989, DCS Alan Wheeler had spoken privately with Paul Goodridge, who was in custody and was charged with the murder of Daniel Morgan. He was fearful of reprisals for giving information to the police. Paul Goodridge alluded to the involvement of Metropolitan Police officers in the murder. DCS Wheeler spoke of his concerns about these allegations with his own senior management in Hampshire Constabulary, with Roland Moyle, Deputy Chair of the Police Complaints Authority, and with senior management in the Metropolitan Police. Following further developments, Paul Goodridge, who was then remanded in custody, was visited by police officers ostensibly to gain his consent for access to his medical records. Further to a phone call from the Crown Prosecution Service telling DCS Wheeler of the police officers' visit to see Paul Goodridge, DCS Wheeler advised that his officers had not been to the prison. Paul Goodridge subsequently refused to engage further with DCS Wheeler.

The Panel concludes that the unknown visitors to Paul Goodridge were in all probability Metropolitan Police officers. DCS Wheeler did not inform anyone of the calls or refer to them in his reports to the Crown Prosecution Service or to the Police Complaints Authority. He did not mention them in the statement he made in connection with the later civil proceedings. Given his Terms of Reference, it is astonishing that he did not take this opportunity to establish the identity of police officers who may have been involved in an attempt to prevent someone who said he had knowledge of police involvement from talking to him. This points strongly to an intention on the part of DCS Wheeler to cover up the possibility of police involvement in the murder of Daniel Morgan (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

292. Example H below illustrates institutional corruption involving multiple organisations.

Example H

293. DCS Alan Wheeler failed to fulfil the Terms of Reference of the Hampshire/Police Complaints Authority Investigation *'to investigate allegations that police were involved in the murder of Daniel Morgan and any matters arising therefrom'*, despite reports from his officers indicating multiple problems with the first investigation, including indications of corruption during the Morgan One Investigation, and despite allegations received at the end of his investigation about police involvement in the murder, which were not followed up properly (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).

The Morgan One Investigation was compromised by serious failures, incompetence and the role of DS Sidney Fillery in the investigation. DCS Alan Wheeler's final report on the Hampshire/Police Complaints Authority Investigation omitted a number of important issues which should have been included. The Police Complaints Authority accepted the report, despite being aware of the omissions, stating that *'[a]ll matters raised have been investigated thoroughly'*. A letter from the Police Complaints Authority to Alastair Morgan stated that the Morgan One and Hampshire Constabulary investigations had *'produced no evidence of police involvement in your brother's murder'*. This was taken as a finding that there was no police corruption involved in the murder. That inaccurate message was repeated for many years.

Three organisations – Hampshire Constabulary, the Metropolitan Police and the Police Complaints Authority – accepted the omissions and inaccuracies in DCS Wheeler's final report, despite their awareness to the contrary. The three organisations failed to ensure that the allegations of corruption received at the end of the Hampshire/Police Complaints Authority Investigation were followed up properly, even though DCS Wheeler had brought this matter to their attention. Their acceptance of his final report and their failure to act cannot reasonably be explained as coincidence or as genuine error.

DCS Wheeler's final report and Roland Moyle's conclusions about the thoroughness of the first two investigations were used for many years to protect the reputation of the Metropolitan Police, as well as the reputation of the Hampshire Constabulary and of the Police Complaints Authority.

These cumulative failures amount to institutional corruption on the part of all three organisations.

294. The inaccurate positive assessment of the Morgan One and Hampshire/Police Complaints Authority investigations also formed the basis for unjustified assurances which were repeated over the years by the Metropolitan Police. Examples of this are set out in various parts of this Report (see Chapter 3, The Hampshire/Police Complaints Authority Investigation, paragraphs 496, 505 and 507; and Chapter 12, The Treatment of the Family paragraphs 90 and 233 for some of the examples). Other officials at senior levels reiterated the assurances based on briefings they received from the police. Some of the repetition may have been due to uncritical

reliance on what had been said in the past by senior police officers and reaffirmed over many years. The documentation shows that the conflict between public assurances and internal suspicions of corruption remained unresolved for decades.

295. The most recent failure to tackle corruption relates to the investigations into the alleged conduct of former DCS David Cook during and after Operation Abelard Two.

296. Some of these allegations were investigated under Operation Megan and Operation Megan Two. Among the allegations, it was asserted that:

- i. Gary Eaton was prompted and/or coached by the Operation Abelard Two Investigation team, particularly by DCS David Cook, and was tipped off by the Operation Abelard Two Investigation team that Defence lawyers had discovered that Gary Eaton had lied about his father being dead;
- ii. former DCS Cook lied in court when giving evidence during bail applications (it is noted that DCS Cook did not in fact give evidence during the bail application);
- iii. the procedures for the debriefing of Assisting Offenders who were willing to give evidence under the Serious Organised Crime and Police Act 2005 were not complied with; and
- iv. the Operation Abelard Two Investigation team were aware of, but failed to disclose to the Defence, relevant material.

297. The details of these allegations and the account of these investigations are to be found in Chapter 9.

298. The allegations investigated in Operations Megan and Megan Two were very serious. The evidence in respect of some of those allegations did not meet the threshold for criminal prosecution but, in respect of some of those allegations, would have met the threshold for disciplinary proceedings to determine whether there had been gross misconduct. However, since former DCS David Cook had retired from the Metropolitan Police in 2007, and then from the Serious Organised Crime Agency in 2013, there could be no disciplinary proceedings.

299. Despite the fact that neither criminal nor disciplinary proceedings were brought against former DCS David Cook at any stage (and as explained previously, no disciplinary proceedings could be brought following the retirement of a police officer), his behaviour was corrupt, as was ultimately recognised by all three judges sitting in the Court of Appeal in 2018, hearing the appeal by Jonathan Rees, Glenn Vian and Garry Vian against the findings of Mr Justice Mitting. Exemplary damages were awarded to the three appellants, to *'highlight and condemn the egregious and shameful behaviour of a senior and experienced officer DCS COOK'*.²²² The claimants also received payment of their costs.

300. The investigations of former DCS David Cook's conduct were very protracted, starting in 2011 and finishing in 2020. The Metropolitan Police wanted the Independent Police Complaints Commission to carry out the investigation of Jonathan Rees's complaints. The Commission was not obliged to investigate such complaints and had the right to refer them back to the Metropolitan Police. On 14 June 2013, the Deputy Chair of the Independent Police Complaints Commission, Deborah Glass, wrote to Commander Allan Gibson declining to investigate Jonathan Rees's complaints and the comments made by Mr Justice Maddison in 2011, saying

²²² Rees & Ors v Commissioner of Police for the Metropolis [2019] EWHC 2120 (Admin), p12, para 53.

that '[w]hile the IPCC [Independent Police Complaints Commission] does investigate a small number of corruption cases you are aware that we are not currently resourced to carry out many or large corruption enquiries'.²²³

301. On 25 October 2013, DCI Fiona McCormack was appointed as the Senior Investigating Officer to conduct an investigation into part of these matters²²⁴ but was unable to secure the resources necessary to conduct the investigation until January 2014.²²⁵ Finally, while the Metropolitan Police searched former DCS David Cook's home in November 2014, and found evidence of significant wrongdoing, even the partial investigation of the matter, which became known as Operation Edison, did not conclude until April 2020, in part because of the limited staff resources.

302. Ultimately, the investigation of the various matters was shared between the Metropolitan Police and the Independent Police Complaints Commission as indicated above (see also Chapter 9, Post-Abelard Two). However:

- i. Jonathan Rees's complaints, initially made in 2012, were not finalised by the production of a statement of complaint until 2014;²²⁶
- ii. the Independent Police Complaints Commission initially declined on 03 July 2012 to investigate Jonathan Rees's BBC *Panorama* complaint and the allegations about coaching witness Gary Eaton;²²⁷
- iii. some 15 months later, on 25 October 2013, it was decided that the Metropolitan Police would investigate the matters referred to in (ii) above.²²⁸ Resources were not made available to enable the investigation to commence until January 2014; and
- iv. it transpired that there were links between Operation Longhorn (unauthorised disclosure to Michael Sullivan) and the BBC *Panorama* investigation. On 08 January 2015, it was agreed that the investigation into the *Panorama* leakage would be conducted wholly by the Independent Police Complaints Commission.²²⁹

303. The searches of former DCS David Cook's home in 2014 resulted in the recovery of massive amounts of material. Before any investigation of possible criminal offences could occur, the material had to be examined and classified, and personal material belonging to former DCS Cook and legally privileged material had to be removed, and it had to be assessed for security purposes. Lack of resources meant that the material was made available to the Metropolitan Police investigators, and to the Panel by the Metropolitan Police between 2017 and October 2019. This matter was investigated by the Metropolitan Police under the title Operation Edison (see Chapter 8, The Abelard Two Investigation; and Chapter 9, Post-Abelard Two).

304. During Operation Abelard Two and in the Post-Abelard Two period, multiple serious failures and wrongdoing became evident: the failure to manage the investigation properly, the failure to disclose evidence to the Defence, the failure to abide by the procedural requirements regarding protected witnesses, the disclosure of large amounts of police information to third parties and the probable prompting of a witness.

223 Letter from Deborah Glass to Commander Allan Gibson, MPS109847001, pp1-2, 14 June 2013.

224 Decision 42, SIO Decision Log, MPS109902001, p49, 14 October 2013.

225 Decision 49 and Decision 50, SIO Decision Log, MPS109903001, pp3-5, 26 November 2013.

226 Witness statement of Jonathan Rees, MPS109704001, pp40-64, 13 June 2014.

227 Operation Megan Report, MPS109687001, p9, para 5.2, undated.

228 Decision 42, SIO Decision log, MPS109902001, p49, 14 October 2013.

229 Operation Megan Report, MPS109687001, p15, para 7.16, undated.

305. The Panel recognises that a great deal of positive work was accomplished by members of the Abelard Two Investigation team. However, the failures identified had significant consequences, including the following:

- i. Possible risk to the lives and safety of individuals who might be identified as a consequence of the unauthorised disclosures.**
- ii. Possible risk to those to whom information was disclosed as a consequence of their having possession of the material.**
- iii. Suspects being wrongly remanded in custody for lengthy periods of time awaiting trial, and the awards of damages and costs to those remanded in custody because a judge was not provided with all the relevant information.**
- iv. Potential compromise of future criminal investigations and consequential prosecutions.**
- v. Breaches of data protection legislation affecting many individuals who may not have known that their personal details had been disclosed to third parties.**
- vi. Potential further criminality resulting from use of the information disclosed.**
- vii. Distress to the families of victims of crime, including the family of Daniel Morgan.**
- viii. The cost of the ongoing investigations and the cost of investigations such as those which have occurred since 2011 in establishing what had happened and the consequences of what had happened.**
- ix. Damage to the reputation of policing generally and specifically of the organisations which employed former DCS David Cook and whose investigation materials he unlawfully retained, particularly the Metropolitan Police and the National Crime Agency (which succeeded the Serious Organised Crime Agency).**
- x. Consequential mistrust in the future conduct of policing and of the operation of the Rule of Law.**

306. After reviewing the Operation Edison file, the Crown Prosecution Service provided investigatory advice to the Metropolitan Police in April 2020, who subsequently decided not to proceed further with the investigation into former DCS David Cook.

307. The Metropolitan Police and the Independent Police Complaints Commission were reluctant to investigate the allegations against former DCS David Cook, in part because of serious deficiencies in the way in which anti-corruption investigations are resourced. As a result, the investigations were not conducted in a timely and effective manner. Former DCS Cook was under investigation for eight years. It is essential that such investigations can be conducted in a timely manner so that justice is done. Only then will the police communicate to officers that alleged corrupt activities will be properly and robustly dealt with.

RECOMMENDATION

308. The Metropolitan Police must ensure that the necessary resources are allocated to the task of tackling corrupt behaviour among its officers. Without proper resources there can be no effective fight against corruption. Since the Independent Office for Police Conduct has responsibility for investigating such matters, it must also be properly resourced to do so.

309. Former DCS David Cook was able to operate outside many of the laws, policies and procedures which govern policing, without being called to account. The Panel has not been advised of any systematic attempt to identify the procedural weaknesses which facilitated his ability to remove from police custody such vast amounts of sensitive police material, and the onward dissemination of much of it. The Panel can see no reason why the same situation could not arise today.

7 Corruption in the linkages between police officers, private investigators and the media

7.1 Introduction

310. The connections between Southern Investigations, former police officers working as private investigators, serving police officers and representatives of the media, were part of the landscape of Daniel Morgan's working life.

311. One theory as to why Daniel Morgan was murdered was to prevent him revealing evidence of police corruption. Evidence was received during the first investigation supporting this theory.

312. Much later, in November 2006, in evidence to the Abelard Two Investigation, a friend of Daniel Morgan reported that Daniel Morgan had told him that he had found out some '*damning evidence*' about Metropolitan Police officers. The friend said that Daniel Morgan had not disclosed the content of that evidence but had described it as '*so serious that he could not go to the Met police*' and that he had '*made contact with another force to tell them about it*'. Daniel Morgan's friend could not remember which force Daniel Morgan had contacted but thought that it was perhaps the West Midlands Police. He said he believed that Daniel Morgan had arranged to see officers from the other force the week that he was murdered.²³⁰ In fact, an officer from the West Yorkshire Police had arrived at the Southern Investigations offices to speak to Daniel Morgan the day after he was murdered (see Chapter 1, The Morgan One Investigation).

313. The Panel has made clear that it has found no convincing evidence as to by whom or for what reason Daniel Morgan was murdered. Information which emerged long after the event lends plausibility to a possible motive not fully pursued by the murder

²³⁰ Message M328 Abelard Two Investigation, MPS073227001, pp1-2, 14 November 2006.

investigations: namely, that Daniel Morgan's immediate professional circle included corrupt police officers and non-police associates, some of whom considered Daniel Morgan to be a threat to their corrupt interests.

314. A number of former and current police officers working in South London during the 1980s and 1990s had links with Southern Investigation and former DS Sidney Fillery.

315. In 2006, when Operation Abelard Two was initiated, the Metropolitan Police examined historical intelligence concerning 19 former police officers associated with former DS Sidney Fillery, Jonathan Rees and Southern Investigations/Law & Commercial. Ten of the police officers had been convicted and imprisoned for criminal offences; their offences ranged from false imprisonment, perverting the course of justice and conspiracy to pervert the course of justice, drugs offences, accepting a bribe, obtaining property by deception, supplying drugs, accepting bribes for confidential information and theft of files, fraud related to computer misuse, and bribing an officer to destroy case files.

316. As well as the ten convicted and imprisoned officers, one officer had resigned while under investigation, one had been dismissed from the Metropolitan Police for failure to meet standards of honesty and integrity, and one had been demoted but later reinstated before retirement on a full pension. Two police officers were acquitted (one of inciting a police officer to commit a corrupt act, namely providing access to the Police National Computer, and the other of misconduct in public office). The remaining four were not charged or convicted of offences.

317. The historical intelligence examined does not reflect a 'rotten apple' model of corruption. It is indicative of systemic failings, including the existence of a corrupt culture.

318. The investigations did not fully consider whether or not the motive for the murder was to prevent Daniel Morgan exposing local police corruption (occurring in the South East London area) of which he was aware during the course of his work and through his immediate contacts There is an uncomfortable disjunction: over time it has become increasingly unlikely that evidence can be found to bring those responsible for the murder to justice, and the Metropolitan Police have conceded ever more readily and publicly that police corruption compromised the initial investigations. They have done so without spelling out precisely what that corruption comprised.

7.2 Corrupt links and illegal activities at Southern Investigations/Law & Commercial

319. Several of the former police officers who figure in the investigation chapters of this Report established or joined private detective agencies upon retirement from the police. DS Sidney Fillery of the Catford Crime Squad retired on medical grounds from the Metropolitan Police in 1988 and became Daniel Morgan's successor, joining Jonathan Rees at Southern Investigations in June 1989, as predicted in Kevin Lennon's testimony in 1987 (see Chapter 1, The Morgan One Investigation).

320. In 1989, PC Timothy Gratton-Kane told the Hampshire/Police Complaints Authority Investigation that DS Sidney Fillery and other Catford police officers had carried out work involving use of police resources for Southern Investigations²³¹. There is no evidence that this information was reported to the Metropolitan Police, nor was it properly investigated by the Hampshire/Police Complaints Authority Investigation, to determine whether there was any

231 Report by Dennis Stephens, MPS023075001, pp1-2, 12 September 1988.

information which might assist police in identifying Daniel Morgan's murderer(s). The information would have been reported and investigated had that investigation been exploring seriously the network of corrupt and corrupting relationships involving Southern Investigations.

321. The Morgan One Investigation into Daniel Morgan's murder had found some evidence of links between Southern Investigations and individual journalists (see Chapter 1, The Morgan One Investigation). At the time insufficient documentation was gathered to indicate whether work generated by newspapers formed a significant proportion of the company's income prior to Daniel Morgan's murder.

322. After Daniel Morgan's murder, former DS Sidney Fillery replaced Daniel Morgan as Jonathan Rees's business partner. There is evidence that a substantial proportion of their business income thereafter involved payment by newspapers for confidential information, some of which had been provided by police officers. During their successive attempts to solve the murder of Daniel Morgan, the Metropolitan Police discovered evidence that Southern Investigations (later Law & Commercial) sold the media a variety of confidential data obtained illegally (see Chapter 4, Operation Nigeria/Two Bridges).

323. The Panel's Terms of Reference refer specifically to *'the incidence of connections between private investigators, police officers and journalists at the News of the World and other parts of the media and alleged corruption involved in the linkages between them'*.²³²

324. There is no evidence to establish exactly when Southern Investigations started to work with the *News of the World*. The records of Southern Investigations' activities in 1986 and 1987 are inadequate; the first available invoice was for £1,305.25 in October 1988.²³³

325. Ian Paye, the bookkeeper for Southern Investigations from around 1989 or 1990, stated in May 2000 that by 1989/1990, *'over 50% of their income was from News International, investigating stories and supplying stories'*.²³⁴

326. If, as Ian Paye stated, over half of the firm's income came from *News International* by the time that he took up his post, this volume would have taken time to develop. The absence of proper record-keeping at Southern Investigations prevents analysis of whether these links were already developing in 1987. The bookkeeper who was employed by Southern Investigations after the murder of Daniel Morgan told the Abelard One/Morgan Two Investigation about the firm's work during the period from April 1987 to 1989. The bookkeeper stated that *'[d]uring the time I worked at Southern Investigations, the News of the World was their main client, being invoiced up to 500 times a month'*.²³⁵ The bookkeeper also stated that *'Southern Investigations had very good contacts with an Editor at the News of The World'* and that she had heard in the office that the firm had paid the Editor's credit card bill which amounted to *'between £5,000 and £7,000'* and his child's school fees.²³⁶ When the police showed her a list of five names, she immediately recognised the name of Alex Marunchak, and stated *'I am sure that this is the name of the News of the World Editor concerned'*. In 2020, Alex Marunchak denied that any such payments were made.

232 Terms of Reference, para 3.

233 *'Financial Profile Southern Investigations'*, MPS008128001, p23, 27 September 2002.

234 Witness statement of Ian Paye, MPS061694001, p3, 04 May 2000.

235 Witness statement of a bookkeeper at Southern Investigations, MPS060405001, pp1-2, 08 August 2002.

236 Witness statement of the bookkeeper at Southern Investigations, MPS060405001, p2, 08 August 2002.

327. Alex Marunchak of the *News of the World* denied having known or worked with Daniel Morgan before Daniel Morgan's murder.²³⁷ He was later suspected, with former DS Sidney Fillery, of arranging surveillance on DCS David Cook, the Senior Investigating officer of the overt side of the Abelard One/Morgan Two Investigation.

328. John Peacock, who was casually employed as a process server at Southern Investigations at the time of Daniel Morgan's murder, was asked by the Abelard One/Morgan Two Investigation about work done on behalf of the *News of the World*. He stated that:

*'I can recall that at some time and I can only say about the time of the murder, REES had indicated to me that there was going to be some work done with the News of the World. He never told me what it was about or who it involved and as far as I know I have never done any work associated to the News of the World to my knowledge.'*²³⁸

329. It is not possible to establish definitively when Southern Investigations began to do work for the *News of the World*.

330. Southern Investigations/Law & Commercial was the subject of intelligence-gathering during the 1990s (Operation Nigeria/Two Bridges) as the result of suspicions that it was the hub of corrupt linkages involving police officers and the media.

331. Former D/Supt Robert Quick's statement to the Leveson Inquiry gave insights into the intelligence which led to the establishment of Operation Nigeria/Two Bridges:

*'The Anti-Corruption Command was established in response to significant intelligence indicating serious corruption was being perpetrated by a minority of officers. This included officers passing to criminals, information and intelligence held on them by the MPS [Metropolitan Police Service] in return for payment or other benefits; corrupt relationships between police officers and police informants where police officers were complicit in plans to commit crimes and share insurance reward monies; the sale of information from police computers to criminals; the sabotaging of evidence; and the unauthorised disclosure of sensitive information to journalists for payment. These were some of the main strategic threats identified through a long term covert operation named Operation "Othona" which ran between 1993 — 1998.'*²³⁹

332. The Metropolitan Police produced a number of charts showing the wider links among individuals in Law & Commercial, police officers suspected or convicted of corruption, and journalists.

333. The historic intelligence relating to Southern Investigations (later Law & Commercial) was summarised in a Metropolitan Police report as follows:

*'Both FILLERY and REECE [sic] have been subjects of interest to CIB for a considerable period of time. Long term and wide ranging intelligence shows them to be deeply involved in corruption, using a network of serving and retired police officers to access sensitive intelligence for the purpose of progressing crime, frustrating the course of justice, and selling sensitive information to the press.'*²⁴⁰

237 Witness statement of Alex Marunchak, MPS079262001, p1 13 October 2009.

238 Witness statement of John Peacock, MPS062398001, pp9-10, 27 September 2002.

239 Witness statement of former D/Supt Robert Quick to the Leveson Inquiry, pp1-2, 13 February 2012.

240 Application for renewal of surveillance approval, MPS099739001, p69, 08 December 1998.

334. Intelligence gathered in 1999 included the following:

- i. Jonathan Rees was recorded describing the commissioning of illegal Police National Computer checks from serving police officers for payment. Jonathan Rees gave the nickname of an officer who had been a member of the Catford Crime Squad at the time of Daniel Morgan's murder.²⁴¹

Jonathan Rees claimed he had been told by his contact that his (Jonathan Rees's) name was included on the Police National Computer in connection with an allegation of drugs offences. He gave a nickname for the officer he said had entered his name on the system and said that he had confronted him about this and had said to him '*why did you fucking do that to me [...] I've helped you out, all the times.*'²⁴²

Attempts were made by the Complaints Investigation Bureau Intelligence Cell (CIBIC) on 13 August 1999 to identify the officer. A potential link was made to a former police officer with a similar sounding name, however no firm positive identification was actually made as to the officer to whom Jonathan Rees had referred.²⁴³

- ii. Jonathan Rees had obtained copies of a Special Branch Intelligence Bulletin, copies of *The Police Gazette* (a confidential and internal police publication) and details of police operations – all of which were then sold on to journalists and used as the source of articles. *The Police Gazette* was allegedly obtained through a Metropolitan Police officer (PC Thomas Kingston) suspended at the time on a matter involving the unauthorised disclosure of information from the Police National Computer, for which he was subsequently dismissed.²⁴⁴

Investigation showed that PC Thomas Kingston had been provided with copies of *The Police Gazette* by PC Paul Valentine, a serving officer and a member of the Special Escort Group, which was predominantly responsible for '*the escort of royalty, diplomats, visiting heads of states, high risk prisoners and high security loads*'.²⁴⁵

- iii. Jonathan Rees was recorded discussing the contents of various issues of *The Police Gazette* with a journalist, Douglas Kempster of the *Sunday Mirror*, on a number of occasions, including one instance in which it appears that Douglas Kempster's Editor had lost a copy of *The Police Gazette* due for return to the police.²⁴⁶

335. Listening-device evidence had also revealed that Jonathan Rees had been commissioned by a man called Simon James to help him obtain custody of his child. Jonathan Rees with others arranged for Class A drugs to be placed in the car belonging to Simon James's estranged wife, and for DC Austin Warnes to arrange for the police to 'discover' the drugs. The police duly arrested Simon James's wife. She was later released.²⁴⁷

241 Record of interview (listening device transcript), MPS099531001, p645, 05 August 1999.

242 Record of interview (listening device transcript), MPS099531001, p645, 05 August 1999.

243 Action 00592, MPS099304001, p187, raised on 12 August 1999 and completed on 15 June 2000.

244 '*Advice File re Valentine, Kempster, Kingston, & Rees*', MPS099594001, pp4-5, 11 February 2000.

245 '*Advice File re Valentine, Kempster, Kingston, & Rees*', MPS099594001, p5, 11 February 2000.

246 '*Advice File re Valentine, Kempster, Kingston, & Rees*', MPS099594001, p, 11 February 2000.

247 '*Operation 'Two Bridges Closing Report'*', MPS099294001, pp19-23, 20 July 2001.

336. Jonathan Rees, DC Austin Warnes and Simon James were convicted of conspiracy to pervert the course of justice. James Cook was found not guilty of any criminal offences (see Chapter 4, Operation Nigeria/Two Bridges).²⁴⁸ These events, and the conviction and imprisonment of Jonathan Rees and DC Warnes fuelled suspicions that police corruption had been a factor in the murder of Daniel Morgan because it demonstrated that Jonathan Rees acted corruptly with a police officer.

337. During the investigation of the conspiracy case referred to in the previous paragraph, police officers searching the offices of Law & Commercial in relation to a separate matter had found copies of *The Police Gazette*.

338. In February 2000, Metropolitan Police data²⁴⁹ revealed 273 instances in which journalists were provided with confidential police information by Law & Commercial. Of this total of 273 illegal transactions, 216 (79 per cent) involved various journalists from the *Mirror* Group and the remaining 21 per cent involved one journalist from the *News of the World*.

339. The 273 instances can be divided into two categories:

1. those in which there was evidence of an offence, although a further search – including of journalists' records – was required to retrieve additional evidence; and
2. those where there was insufficient evidence at present, and a search warrant would be required to retrieve files.

Category 1 totalled 81 instances (30 per cent of instances) and category 2 totalled 192.

340. Of the 81 instances in which there was *prima facie* evidence of an offence, 75 instances involved *Mirror* Group journalists; the names of 57 of those journalists were not recorded. The six remaining instances involved the journalist Alex Marunchak of the *News of the World*.

341. An advice file was submitted to the Crown Prosecution Service in relation to Jonathan Rees, PC Thomas Kingston, PC Paul Valentine and journalist Douglas Kempster. The evidence consisted of audio-tape transcripts from the listening devices in Law & Commercial.²⁵⁰ A police summary of listening-device evidence retrieved on 30 June 1999 contained the following information about PC Valentine:

'KEMPSTER [Douglas Kempster, journalist] visits Law & Commercial and REES tells him that [a notorious criminal figure] is due to attend Kilburn Police Station next Tuesday for an Identification Parade. REES says that he will be able to get the exact time of the parade and the route that will be taken.

*'This information did not come from the gazettes and is believed to have come from [PC Paul] VALENTINE, through [PC Thomas] KINGSTON, who was part of the escort. KEMPSTER used this information to pen an article that was published in the Sunday Mirror on 11/07/99.'*²⁵¹

248 'Operation 'Two Bridges Closing Report', MPS099294001, pp37-38 and p46, 20 July 2001.

249 Memorandum from a Detective Constable, MPS099704001, pp28-50, 10 February 2000.

250 'Summary of Evidence', EDN001497001, undated.

251 'Advice File re Valentine, Kempster, Kingston, & Rees', MPS099594001, p8, 11 February 2000.

342. PC Thomas Kingston, PC Paul Valentine and the journalist, Douglas Kempster, were arrested and questioned in respect of the supply of *The Police Gazette*; each made 'No comment' responses to questions put to them in interview.

343. A case conference was held on 20 June 2000, involving the Metropolitan Police, the Crown Prosecution Service and Counsel, to discuss the Simon James conspiracy case and the evidence in relation to Jonathan Rees, PC Thomas Kingston, PC Paul Valentine and the journalist Douglas Kempster. The Crown Prosecution Service noted that:

'the probe clearly showed Rees negotiating Police Gazette material not only to Kempster but also to two other journalists employed by national newspapers, [...] and Alex Marunchak, who have not been the subject of investigation. On this basis it could be said that Police have adopted a selective approach to this enquiry.'

344. In response, DCI Barry Nicholson said that this was solely due to 'a lack of manpower and resources for this aspect'. DCI Nicholson's policy files/decision logs relating to Operation Nigeria/Two Bridges refer to the reasons for the large number of offences still to be investigated:

'1. Due to command being unable or unwilling to support current operation with analytical.

2. Staff being seconded or transferred to CIBIC [Complaints Investigation Bureau Intelligence Cell] or other ops are not being returned to assist Operation Two Bridges.

3. Delays would prejudice potential prosecutions.

4. Unable to produce charts, analytical work to support cases currently before courts.'

345. Ultimately, no criminal charges were brought. The Metropolitan Police did, however, bring disciplinary proceedings against PC Paul Valentine, both in respect of *The Police Gazette* issue and for providing other sensitive information to Law & Commercial. As a result of those proceedings, PC Valentine was dismissed from the Metropolitan Police in September 2002.

346. Over 30 examples of information gathered by Law & Commercial from various financial institutions were identified. Illegal banking checks were apparently conducted for Law & Commercial by private investigators. The Metropolitan Police investigated two private investigators, one of whom had admitted obtaining private telephone information for Law & Commercial and the other had admitted obtaining private financial data by deception.²⁵² Neither of them were prosecuted.

347. The listening device deployed within Law & Commercial by Operation Nigeria/Two Bridges captured Jonathan Rees, talking about the legality of obtaining confidential information and passing it on to the media, in conversation with a journalist from the *Daily Mirror* on 06 July 1999. Jonathan Rees is recorded as saying:

*'we are not going to put the numbers in there because what we are doing is illegal, isn't it, you know, I don't want people coming in and nicking us for criminal offence, you know.'*²⁵³

²⁵² *Operation Two Bridges*, MPS099672001, pp4-8, 18 August 2000.

²⁵³ Enhanced audio summary, MPS000862001, p3, 06 July 1999.

348. Although this intelligence post-dated the murder, it is evidence of Jonathan Rees's involvement in corrupt practices, notably passing to the media confidential information obtained from the police, despite being aware that it was illegal.

349. At this stage, Jonathan Rees and others had been charged with perverting the course of justice in the conspiracy case and the Crown Prosecution Service advised in respect of Jonathan Rees that he should not be charged with obtaining confidential material:

*'[A]lthough any public interest issues must be considered it may be that any further prosecution would appear either vindictive or malicious on the part of the prosecuting authority.'*²⁵⁴

350. There was a wealth of evidence concerning multiple instances of unauthorised individuals obtaining confidential information. There was no reason to consider charges against Jonathan Rees as *'vindictive or malicious'*, as there was probable cause and reasonable grounds for the charges. Although the Crown Prosecution Service said that *'any public interest issues must be considered'*, there was a failure to take into account the deterrent effect of prosecuting these serious matters.

351. Notwithstanding the decision not to bring criminal charges, there was evidence proving the source, route and the final use of confidential police material. This sheds light on the corrupt use of connections between the police and private investigators (and specifically by Jonathan Rees) and journalists.

352. In February 2012, former AC Robert Quick made a written statement to the Leveson Inquiry into the culture, practice and ethics of the press. He stated that, during Operation Nigeria/Two Bridges:

*'it became clear that, amongst other criminal activities, "Southern Investigations" was acting as a "clearing house" for stories for certain newspapers. Many of these stories were being leaked by police officers who were already suspected of corruption or by unknown officers connected to officers suspected of corruption, who were found to have a relationship with "Southern Investigations".'*²⁵⁵

353. He also referred to journalists identified as having direct relationships with Southern Investigations and recollected that *The Sun* and the *News of the World* were among the newspapers involved. According to former AC Robert Quick, during Operation Nigeria/Two Bridges it became clear that officers were being paid *'sums of between £500 and £2000 for stories about celebrities, politicians, and the Royal Family, as well as police investigations'*.²⁵⁶

254 'Summary of evidence against William Jonathan Rees', MPS049760001, p5, undated.

255 Statement of Robert Quick, The Leveson Inquiry, EDN001938001, p4, 13 February 2012.

256 Statement of Robert Quick, The Leveson Inquiry, EDN001938001, p4, 13 February 2012.

354. Former D/Supt (later AC) Robert Quick, who had been involved at a senior level in Operation Nigeria/Two Bridges, referred to the disappearance from Metropolitan Police records, including the archives, of his own short report written in 2000 on *'the role of journalists in promoting corrupt relationships with, and making corrupt payments to, officers for stories about famous people and high profile investigations in the MPS [Metropolitan Police Service]'*.²⁵⁷

In it he had recommended an investigation into such activities. He had submitted his report to Commander Andrew Hayman of the Professional Standards Department at the time.²⁵⁸

355. Commander Andrew Hayman reportedly had reservations based on potential procedural and legal difficulties pertaining to journalistic material. Former D/Supt Robert Quick did not believe that the journalists would be entitled to use that legal protection in the circumstances in which these stories were being obtained. He stated to the Leveson Inquiry that he did not know whether the matter was referred further up the command chain or what action was taken.²⁵⁹

356. The Metropolitan Police were not able to provide a copy of former D/Supt Robert Quick's report to the Panel. The Panel has seen a report produced by a Detective Sergeant after suspects, including Jonathan Rees, his client Simon James and DC Austin Warnes, were arrested in August 2000 in connection with a conspiracy to pervert the course of justice, which expressed concerns that the press was being used to disrupt and compromise the prosecutions of former officers awaiting trial and those already convicted. There were allegations that Jonathan Rees was engaged in a campaign to discredit the Anti-Corruption Squad and the officers connected with his prosecution by publication of misleading and incorrect information.

357. Commander Andrew Hayman took action in August 2000 while Jonathan Rees was awaiting trial for conspiracy to pervert the course of justice. He wrote to *The Guardian* Editor, Alan Rusbridger, about proposals by journalists, Michael Gillard and Laurie Flynn, to publish an article relating to the work of the Metropolitan Police Anti-Corruption Squad:

*'Whilst I understand and support the need to report on issues of public interest, I have concerns that in their research your journalists may be at risk, perhaps unwittingly of assisting Rees in unethically or unlawfully seeking his acquittal [...].'*²⁶⁰

358. Michael Gillard and Laurie Flynn made a complaint in relation to Commander Andrew Hayman, and the Metropolitan Police Authority asked an outside police force to investigate the complaint. This was carried out by Commissioner Perry Nove of the City of London Police.²⁶¹

359. His ensuing report to the Metropolitan Police Authority traced the interest of the two journalists in the Complaints Investigation Bureau (CIB) from around 1999, describing them as *'proactive journalists'* making approaches to serving and retired police officers and to criminals who they believed might be able to provide them with an insight into the workings of the Complaints Investigation Bureau.²⁶² According to the report:

*'[t]he journalists had a particular concern that CIB [Complaints Investigation Bureau] was using questionable and discredited methods in its efforts to deal incisively with corrupt police officers and that it's [sic] record of success was unsatisfactory.'*²⁶³

257 Statement of Robert Quick, The Leveson Inquiry, EDN001938001, p5, 13 February 2012.

258 Statement of Robert Quick, The Leveson Inquiry, EDN001938001, p5, 13 February 2012.

259 Statement of Robert Quick, The Leveson Inquiry, EDN001938001, p6, 13 February 2012.

260 Letter from Commander Andrew Hayman to Alan Rusbridger, MPS107534001, p52, 02 August 2000.

261 Report by Commissioner Perry Nove, MPS107534001, pp130-138, 21 June 2002.

262 Report by Commissioner Perry Nove, MPS107534001, pp130-138, 21 June 2002.

263 Report by Commissioner Perry Nove, MPS107534001, p133, 21 June 2002.

360. Commissioner Perry Nove reported that the Metropolitan Police conducted a number of discreet or linked investigations into serving and former officers. He considered many of these investigations were proactive and involved a range of investigative methods designed to deal successfully with difficult suspects, most of whom were knowledgeable about how they might be investigated. Commissioner Nove explained that the Metropolitan Police became aware of the journalists' activities through its information sources and that '*MPS [Metropolitan Police Service] officers believed the journalists were in contact with one of the principal suspects in a major CIB [Complaints Investigation Bureau] enquiry*'.²⁶⁴

361. On 12 December 2002, a decision was taken by the Metropolitan Police Authority that '*there was nothing to indicate DAC Hayman was motivated by malice or an improper agenda*' and so, under the regulations in place at the time, the Authority had '*no jurisdiction*' to consider the complaint by Michael Gillard and Laurie Flynn.²⁶⁵

362. In 2014, there were various high-profile prosecutions of journalists, on charges including conspiracy to hack voicemails, conspiracy to pay public officials and conspiracy to pervert the course of justice.

363. Of the nine individuals who were convicted of criminal offences, most had worked for the *News of the World*:

- i. Andy Coulson, former *News of the World* Editor;²⁶⁶
- ii. Ian Edmondson, former *News of the World* News Editor;²⁶⁷
- iii. Jules Stenson, former *News of the World* Features Editor;²⁶⁸
- iv. Greg Miskew, former *News of the World* News Editor;²⁶⁹
- v. Neville Thurlbeck, former *News of the World* News Editor and Chief Reporter;
- vi. James Weatherup, former News Editor at the *News of the World*;²⁷⁰
- vii. Dan Evans, a journalist at the *News of the World* and at the *Sunday Mirror*;²⁷¹
- viii. Glenn Mulcaire, private investigator used by *News of the World*;²⁷²
- ix. Graham Johnson, former *Sunday Mirror* journalist.²⁷³

264 Report by Commissioner Perry Nove, MPS107534001, p134, 21 June 2002.

265 Letter from Catherine Crawford, Clerk to the Metropolitan Police Authority to CCL Solicitors, PNL000102001, p283, 13 December 2002.

266 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p24 para 4.55, 04 February 2020.

267 Lisa O'Carroll, 2014, 'Phone hacking: News of the World's Ian Edmondson pleads guilty', *The Guardian*, 03 October, found at <https://www.theguardian.com/uk-news/2014/oct/03/phone-hacking-trial-news-world-ian-edmondson-pleads-guilty>.

268 BBC, 2014, 'Ex-News of the World journalist admits phone-hacking charges', 12 December, found at <https://www.bbc.co.uk/news/uk-30450603>.

269 Lisa O'Carroll, Caroline Davies, 2013, 'Phone-hacking trial: three ex-News of the World staff plead guilty' *The Guardian*, 30 October, found at <https://www.theguardian.com/uk-news/2013/oct/30/phone-hacking-trial-news-of-world-staff>.

270 Lizzie Dearden, 2014, 'Andy Coulson jailed for 18 months: News of the World journalists sentenced for phone hacking' *Independent*, 04 July, found at <https://www.independent.co.uk/news/uk/crime/andy-coulson-jailed-news-world-journalists-sentenced-phone-hacking-9583769.html>.

271 James Cusick, 2014, 'I hacked 200 phones for NOTW, says ex-reporter Dan Evans' *Independent*, 27 January, found at <https://www.independent.co.uk/news/uk/crime/i-hacked-200-phones-notw-says-ex-reporter-dan-evans-9088795.html>.

272 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p20, para 4.46, 04 February 2020.

273 BBC, 2014, 'Ex-Sunday Mirror reporter Graham Johnson admits phone hacking', 06 November, found at <https://www.bbc.co.uk/news/uk-29933698>.

364. Rebekah Wade (now Brooks), Editor of *News of the World* from 2000 to 2003, Editor of *The Sun* from 2003 to 2009 and Chief Executive Officer of News International from 2009 to 2011, was acquitted.²⁷⁴ The *News of the World* ceased publication in 2011.

7.3 Surveillance of DCS David Cook by the *News of the World*

365. In summer 2002, DCS David Cook, the Senior Investigating Officer for the overt side of the Abelard One/Morgan Two Investigation into Daniel Morgan's murder, was subjected to surveillance by the *News of the World* (see Chapter 6, the Abelard One/Morgan Two Investigation).

366. On 26 June 2002, DCS David Cook had fronted a second BBC *Crimewatch* appeal for information about the murder, with the offer of a substantial reward.

367. The next day, T/D/Supt David Zinzan, who was leading the covert side of the Abelard One/Morgan Two Investigation, rang DCS David Cook to report that sensitive intelligence had been received indicating that Southern Investigations and a journalist from the *News of the World* were seeking information to discredit DCS Cook.²⁷⁵

368. The following week, a payroll officer at Surrey Police – DCS David Cook's former employer – received a suspicious phone call, purporting to be from the Inland Revenue and relating to the tax affairs of DCS Cook. The call was from an unobtainable number.²⁷⁶ He did not provide any information and reported the incident to his superiors.

369. Shortly thereafter DCS David Cook noticed a discreetly parked vehicle which had a clear view of his home. It was established that the vehicle was leased to News International. DCS Cook later noted a suspicious van, the driver of which showed an interest in his home address. The van subsequently followed DCS Cook's car when he left the house.²⁷⁷

370. In response, a Metropolitan Police counter-surveillance team was deployed. The drivers of both suspicious vehicles were identified as *News of the World* staff photographers.²⁷⁸ Dick Fedorcio, Head of Media at the Metropolitan Police Directorate of Public Affairs, contacted the *News of the World*. He was told that the journalists believed that they were following a legitimate story, namely that DCS David Cook was having an affair with Jacqui Hames, the BBC *Crimewatch* presenter. Jacqui Hames later told the Leveson Inquiry that this explanation was 'utterly nonsensical', that she and DCS Cook were married and had two children, and their relationship had been the subject of a *Hello!* magazine article.²⁷⁹

371. In the following months, other possible surveillance incidents caused DCS David Cook and Jacqui Hames concern. They noticed someone in a van taking photographs of their house,²⁸⁰ believed that items in the garden had been moved,²⁸¹ and post had been opened and re-sealed. An email was sent from an unnamed source to the producer of BBC *Crimewatch*, suggesting

274 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p24 para 4.55, 04 February 2020.

275 Draft witness statement of former DCS David Cook, MPS102164001, p28 (unsigned and undated).

276 Email from Surrey Police payroll officer, MPS102164001, p52, 8 July 2002.

277 Draft witness statement of former DCS David Cook, MPS102164001, p28 (unsigned and undated).

278 Report by DS Gary Dalby, MPS102164001, p5, 2 December 2011. Although one driver was identified as a *News of the World* employee at the time of the incident in 2002, the second driver was not identified as such until 2011.

279 Witness Statement of Jacqui Hames to the Leveson Inquiry, p15, para 39, 22 February 2012.

280 Witness Statement of Jacqui Hames to the Leveson Inquiry, p14, para 37, 22 February 2012.

281 Meeting with Jacqui Hames, p1, 18 January 2016.

that Jacqui Hames was having an affair with a senior police officer.²⁸² The Metropolitan Police were unable to attribute any of these further possible surveillance incidents to particular individuals or organisations.²⁸³

372. On 09 January 2003, a meeting took place, of which no contemporary record was taken, between Dick Fedorcio, Commander Andre Baker, DCS David Cook and Rebekah Wade, Editor of the *News of the World* (and shortly to become Editor of *The Sun*). Evidence subsequently submitted to the Leveson Inquiry suggested that this was essentially a ‘welfare’ meeting to support DCS Cook rather than an operational meeting to deal with the issue.²⁸⁴ Rebekah Wade reportedly indicated that she understood the story being pursued by her newspaper was a legitimate story about a marital affair. DCS Cook and Commander Baker told Rebekah Wade that they had information indicating that one of her journalists was being paid by Southern Investigations and that ‘*she should be aware*’.²⁸⁵

373. In 2012, over nine years after these events, following a police investigation, advice was sought from the Crown Prosecution Service as to whether there were grounds to prosecute anyone for the surveillance of DCS David Cook. An advice was provided by Gregor McGill, Deputy Chief Crown Prosecutor,²⁸⁶ approved by Alison Levitt QC, Principal Legal Adviser to the Director of Public Prosecutions, in accordance with the processes adopted at that time by the Crown Prosecution Service. It stated that the following facts were considered to be established:

- i. Sidney Fillery had regular contact with Alex Marunchak over the relevant period and a number of large payments were made by Sidney Fillery to Alex Marunchak, a curious fact ‘*given that normally journalists pay private investigators, not the other way around*’.
- ii. Within a few days of the BBC *Crimewatch* broadcast, an effort was made to discover DCS Cook’s home address, via a technique known as ‘*blagging*’,²⁸⁷ the inquirer purporting to be from the Inland Revenue.
- iii. DCS Cook’s personal details were found in a notebook belonging to Glenn Mulcaire, who at the time was employed by the *News of the World* on a freelance basis and who was known to engage in phone-hacking and ‘*blagging*’ on the newspaper’s behalf. Glenn Mulcaire’s habit was to write the name of the journalist who tasked him in the top left-hand corner: the name written was ‘*Greg*’ (this was established to be a reference to Greg Miskew).
- iv. Shortly after the blagging attempt, the van leased by News International was seen near DCS Cook’s home address and, two days later, the police established that the van was being used by *News of the World* staff. Subsequent investigation revealed Alex Marunchak, *News of the World* journalist, was ‘*investigating*’ DCS Cook and Jacqui Hames.²⁸⁸

282 Witness Statement of Jacqui Hames to the Leveson Inquiry, p14, para 35, 22 February 2012.

283 Draft witness statement of former DCS David Cook, MPS102164001, pp29-30, (unsigned and undated).

284 Witness Statement of Dick Fedorcio to the Leveson Inquiry, EDN000690001, pp20–21, 28 February 2012.

285 Dick Fedorcio, Leveson hearing transcript, pp54-57, 13 March 2012.

286 ‘*2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by New of the World in July 2002*’ by Gregor McGill, approved by Alison Levitt QC, MPS102164001, pp16-21, 27 January 2012.

287 The action of obtaining private or confidential information by impersonation or another method of deception.

288 ‘*2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by New of the World in July 2002*’ by Gregor McGill, approved by Alison Levitt QC, MPS102164001, pp18-19, 27 January 2012.

374. The Deputy Chief Crown Prosecutor concluded that it was not possible to infer that the motive/intention of Alex Marunchak and Glenn Mulcaire had been to disrupt the police investigation. Jacqui Hames was a public personality with a high profile; a story suggesting that she was having an affair with a police officer would be attractive to the *News of the World* in its own right. The fact that the ‘*story was plainly a nonsense gives rise to the possibility that AM [Alex Marunchak] and GM [Glenn Mulcaire] may in fact have been deceived. I do not see how the prosecution could disprove this, were it to be advanced by the defence.*’²⁸⁹

375. The Deputy Chief Crown Prosecutor advised that ‘[a]lthough there is no direct evidence, a jury would be entitled to infer that the tip-off about the “affair” is likely to have come from Southern Investigations’, for, among other reasons:

*‘the tip-off must have come from a source which the NOTW [News of the World] journalists trusted to the extent that they would not question it, given that a very brief investigation would have revealed that this was not a story at all.’*²⁹⁰

376. As for the evidence that payments had been made by Southern Investigations to Alex Marunchak, a jury might infer that, although this was ‘*plainly highly suspicious*’, the payments ‘*cannot be linked*’²⁹¹ to the incident of surveillance. There was therefore insufficient evidence to substantiate any allegation of doing an act tending and intending to pervert the course of public justice.²⁹²

377. At the time of the surveillance on DCS David Cook, Jonathan Rees was serving a seven-year custodial sentence.²⁹³ Former DS Sidney Fillery was in regular contact with Alex Marunchak of the *News of the World*.²⁹⁴

378. The Panel agrees with the advice offered by the Crown Prosecution Service that there was insufficient evidence capable of proving that the *News of the World* surveillance of DCS David Cook was instigated by either Jonathan Rees or former DS Sidney Fillery. Nonetheless, the circumstantial evidence suggests very strongly that intrusive activity suffered by DCS Cook, his wife Jacqui Hames and their family was arranged by former DS Fillery and Alex Marunchak (see Chapter 6, The Abelard One/Morgan Two Investigation).

379. The Abelard One/Morgan Two Investigation of Daniel Morgan’s murder and the inevitable close police scrutiny of Law & Commercial posed a threat to the activities of the partnership. Jonathan Rees and former DS Sidney Fillery had a clear vested interest in seeing DCS David Cook discredited and the Abelard One/Morgan Two Investigation subverted.

289 ‘2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by New of the World in July 2002’ by Gregor McGill, approved by Alison Levitt QC, MPS102164001, pp19-20, 27 January 2012.

290 ‘2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by New of the World in July 2002’ by Gregor McGill, approved by Alison Levitt QC, MPS102164001, p19, 27 January 2012.

291 ‘2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by New of the World in July 2002’ by Gregor McGill, approved by Alison Levitt QC, MPS102164001, p20, 27 January 2012.

292 ‘2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by New of the World in July 2002’ by Gregor McGill, approved by Alison Levitt QC, MPS102164001, p21, 27 January 2012.

293 Police National Computer print-out in respect of Jonathan Rees, MPS004001001, p3, 14 July 2009.

294 ‘2nd Advice relating to the Circumstances Surrounding Surveillance Conducted on ex-DCS C and JH by New of the World in July 2002’ by Gregor McGill, approved by Alison Levitt QC, MPS102164001, p17, 27 January 2012.

380. The surveillance of DCS David Cook and Jacqui Hames caused them and their family considerable anxiety, both then and after the events. There is no evidence that the surveillance of DCS Cook by the *News of the World* either shaped the conduct of the Abelard One/Morgan Two Investigation or had an impact on the conclusions to which the investigation came. The experience almost certainly deepened DCS Cook's long-term commitment to bringing to justice those responsible for Daniel Morgan's murder and/or for attempting to subvert the police investigation of the case.

7.4 Linkages between senior police officers and the media

381. Deputy Commissioner John Stevens was responsible for anti-corruption matters at the time of Operation Nigeria/Two Bridges. As he subsequently revealed in his autobiography, he had been specifically recruited by the then Commissioner Sir Paul Condon, to tackle corruption in the Metropolitan Police,²⁹⁵ and corruption prevention became one of his key interests. During his time as Deputy Commissioner and Commissioner, and later, following his retirement in 2005, he delivered a series of high-profile lectures on the topic, both in the UK and internationally.

382. In 2000, Deputy Commissioner Stevens was appointed Commissioner of the Metropolitan Police and served in that capacity until 2005. Lord Stevens (as he later became), as his evidence to the Leveson Inquiry²⁹⁶ and his autobiography²⁹⁷ made clear, pursued a concerted open media strategy with a view to getting across to the media a better informed and more favourable account of the work of the Metropolitan Police. As part of that strategy, he had regular meetings with the editors of all the leading newspapers of the day, including *The Guardian* and the *News of the World*.

383. As Deputy Commissioner, John Stevens' responsibilities included reviewing and authorising the continued use of a probe placed in the offices of Law & Commercial.²⁹⁸ The briefing documents provided directly to the Deputy Commissioner referred, among other things, to '*corruption between journalists, private investigators, suspended and serving police officers*', '*selling them on to newspapers*' and '*stories leaked to the press*'.²⁹⁹ Deputy Commissioner Stevens endorsed his initial authorisation of the probe on 06 January 1999 with the request, '*Please keep me updated as to progress in this case*'.³⁰⁰

384. On 21 September 2002, a lengthy and detailed article appeared in *The Guardian* newspaper containing an exposé of Operation Nigeria/Two Bridges. It was written by Graeme McLagan³⁰¹ and included details of the operation, including the bugging of the offices of Law & Commercial (referred to in the article as 'Southern Investigations'). It also mentioned, among others, the journalists Alex Marunchak and Douglas Kempster and their employers, the *News of the World* and *The Mirror* newspapers respectively. The article contained direct quotes from the police probe transcripts, including conversations between Jonathan Rees, Alex Marunchak and Douglas Kempster. Graeme McLagan could not have written the article without receipt of

295 *Nor for the Faint-Hearted: My Life Fighting Crime*, p 217, p231.

296 Leveson Report Vol 2, Chapter 2, The History of the Relationship: Different Approaches – Metropolitan Police Service: The Commissioners, Lord Stevens para 1.12. www.levesoninquiry.org.uk/wp-content/uploads/2012/03/witness-statement-of-Lord-Stevens.pdf

297 *Not for the Faint-Hearted: My Life Fighting Crime*, pp 251-2.

298 See Chapter 4, Operation Nigeria/Two Bridges, for details.

299 Application for intrusive surveillance, MPS105390001, 05 August 1999.

300 Intrusive Surveillance Application Bundle re Law & Commercial, MPS099739001, p23, 06 January 1999.

301 New Scotland Yard Press Bureau file, MPS047984001, 21 September 2002.

information, authorised or leaked, by an unknown police source. Publication of the article also meant that the link between Jonathan Rees and former DS Sidney Fillery of Law & Commercial on the one hand, and Alex Marunchak of the *News of the World* on the other, became public knowledge.

7.4.1 *The Leveson Inquiry*

385. The question as to what senior Metropolitan Police officers knew about the corrupt trade of confidential information to journalists subsequently became, a decade later, one focus of the Leveson Inquiry into the culture, practices and ethics of the British press following the News International (then the owner of the *News of the World*) telephone hacking scandal.

386. In the course of his explanation as to the approach that his Inquiry would take, Lord Justice Leveson made reference to the Daniel Morgan case and the fact that connections with the *News of the World* were allegedly involved, and that this connection ‘*has been the subject of media comment*’. Lord Justice Leveson stated:

‘I can well understand why Mr Morgan’s family saw the Inquiry as an opportunity to uncover information about his death (and Mr Rees clearly visualised that possibility because he applied for Core Participant status on the basis that he might be the subject of criticism). Whether there should be an inquiry into this particular case is not for me to say: it is sufficient if I repeat the explanation that to have examined the issues arising would have taken weeks or months and I did not consider that the very limited time available for this Inquiry was best deployed in that way. In the event, although I made it clear that Mr Rees could make a statement for the Inquiry, he has not done so.’³⁰²

387. From this it is clear the Leveson Inquiry did not have the capacity to and would not explore the detailed connections arising in the Daniel Morgan murder enquiry between the police, private detective agencies and the *News of the World*. That would be the task of this Panel.

7.4.2 *Lord Stevens’ evidence to the Leveson Inquiry*

388. When cross-examined during his evidence to the Leveson Inquiry, Lord Stevens was asked about corruption generally in the police. He stated:

‘Corruption is always there in a Police Service the size of the Metropolitan Police and every now and again I was hearing stories that people either within the service or who had retired from the service might well be paid for newspaper reports, or tipping off people as to when certain raids were taking place and therefore a strong anti-corruption strategy and squad was essential.’³⁰³

389. However, when more specifically questioned, he stated: ‘*I don’t know of any issue [concerning corruption] that came up, real issue, on my watch.*’

390. At this point Lord Justice Leveson asked Lord Stevens if he had any recollection of it actually happening on ‘*his watch*’, to which Lord Stevens responded: ‘*No, I don’t. No Sir.*’

302 Leveson Report, Vol 1, Chapter 2, para 2.10, pp23-24,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/270939/0780_i.pdf.

303 Examination of Lord Stevens at the Leveson Inquiry, 06 March 2012.

391. On 06 March 2012, Lord Stevens was further asked at the Leveson Inquiry about his knowledge of the BBC *Crimewatch* appeal for evidence that, as part of the Abelard One/Morgan Two Investigation into the murder of Daniel Morgan, had in 2002 been fronted by DCS David Cook. Lord Stevens said that he was aware of the *Crimewatch* appeal and the fact that considerable resources were being invested in the re-investigation of Daniel Morgan's murder, but that at the time he had not been aware that DCS Cook and his family had been put under surveillance by the *News of the World*.³⁰⁴

392. Subsequent to this evidence, Lord Stevens made a supplementary witness statement, in which he said:

'I understand that Mr Fedorcio [then Director of Public Affairs for the Metropolitan Police], will say that he informed me of a meeting which took place at New Scotland Yard on 9 January 2003 between Commander Baker, Detective Superintendent Cook [sic], Rebekah Brooks and Mr Fedorcio. I am also now informed that after the meeting, Mr Fedorcio arranged for Rebekah Brooks to attend a press reception at New Scotland Yard that I was present at.

*'This may well be an accurate account but I have no recollection or note of either their meeting or the content of what was discussed. If the content of the meetings was as I have now been informed, I would expect there to be a formal record of it on the relevant case correspondence file.'*³⁰⁵

393. Dick Fedorcio informed the Leveson Inquiry that he had informed Commissioner Stevens before the meeting that it was to take place.³⁰⁶

394. Lord Stevens was also asked questions at the Leveson Inquiry regarding the activities of Southern Investigations and the *News of the World*. He testified that during his time as Deputy Commissioner and Commissioner he had not been aware that the *News of the World* was making extensive use of Southern Investigations illegally to obtain information about police officers.³⁰⁷

395. Lord Stevens was then asked by the Leveson Inquiry questions arising out of his autobiography, *Not for the Faint-Hearted: My Life Fighting Crime*, published soon after his retirement as Commissioner in 2005.

'Q Can I ask you please about page 263 of your book.... You say in your book: "At the end of the 1990s, an independent detective agency called Southern Investigations, based in Sydenham, was frequently coming on the anti-corruption squad's radar". So when did you become aware of that?

A: As Deputy Commissioner, a presentation was made to me to try and get a probe into Southern Investigations' offices. The probe took an extraordinarily long time to get fitted in, in legal terms. It was all done legally. And having authorised that, which was part of an effort to find out what they were up to, that led to certain prosecutions and those prosecutions are a matter of record.

304 Examination of Lord Stevens at the Leveson Inquiry, 06 March 2012.

305 Statement number 2 of Lord Stevens to the Leveson Inquiry, MPS109559001, pp3-4, 23 March 2012.

306 Statement of Dick Fedorcio to the Leveson Inquiry, pp24-25, paras 102-105, 28 February 2012.

307 Examination of Lord Stevens at the Leveson Inquiry, 06 March 2012.

Q: *The probe you're referring to is a hidden microphone, is that right?*

A: *It was, yes.*

Q: *Because your book goes on to say: "Eventually, it became possible to monitor conversations and the hidden microphones picked up much intelligence about the activities going on inside. Via the agency, corrupt officers were selling stories about their investigations to newspapers and being paid quite handsome amounts of money, an unsavoury business all around."*

A: *Yes.*

Q: *So when did you become aware of that?*

A: *When prosecutions took place and one or two people were successfully prosecuted.*³⁰⁸

7.4.3 Lord Stevens' interview with the Panel

396. In interview with the Panel on 09 December 2020, Lord Stevens was asked about his evidence to the Leveson Inquiry. What period of time had he been referring to when he had said that there was '*no real issue*' of police corruption occurring '*on his watch*'? He said he had meant his time as Commissioner from February 2000 to February 2005. He also made clear that by '*no real issue*' he had not meant that there was no police corruption, for there was always some police corruption, but he could not recall it being a significant issue. Indeed, he said that complaints, including allegations of police corruption, halved during his time as Commissioner.³⁰⁹

397. Lord Stevens was then asked what he had learned about the activities at Law & Commercial when he was authorising continued use of the probe in their offices. Did he recall, for example, being regularly briefed by D/Supt Robert Quick throughout Operation Nigeria/Two Bridges on the nature of the relationship between Alex Marunchak of the *News of the World* and Jonathan Rees of Law & Commercial? Former AC Quick had told the Panel that he and Lord Stevens '*were talking about Mr Marunchak quite a lot*'.³¹⁰ Lord Stevens told the Panel that he could not recall talking about Alex Marunchak with former D/Supt Quick or with anyone else.³¹¹ He accepted that, if he had repeatedly signed off the continued covert surveillance of the offices of Law & Commercial in 1998/9, then he would have been briefed on the intelligence being gained. However, he had no recollection of the detail and thought his senior subordinates would have been more involved in the operational detail. As Deputy Commissioner he had more strategic and managerial responsibilities.

398. Lord Stevens was asked whether his evidence to the Leveson Inquiry meant that he was unaware of the selling of confidential information to, among other newspapers, the *News of the World*, until the arrests, prosecutions and convictions of journalists took place. He said he thought that was the case, though he could not recall precisely when he became aware. Asked whether that might have been at the time of the so-called 'phone hacking' court cases during the years 2011-2014, he replied that he could not recall exactly when he had learned about the various corruption cases, including those involving Law & Commercial.

308 Examination of Lord Stevens at the Leveson Inquiry, 06 March 2012.

309 Panel Interview with Lord Stevens, pp3,4 and 12, 09 December 2020.

310 Panel Interview with former AC Robert Quick, PNL000197001, p2, para 15, 10 November 2014.

311 Panel Interview with Lord Stevens, p13, 09 December 2020.

399. Lord Stevens emphasised that these events, both the cases of police corruption in connection with Law & Commercial and the evidence he had given to the Leveson Inquiry, had occurred a long time ago – twenty and eight years ago respectively. He emphasised that as Commissioner he had been responsible for and preoccupied with major policy and strategic managerial issues. Whatever he might have been told at different times about the Daniel Morgan murder enquiry, or the corrupt activities of serving or retired police officers and journalists trading confidential information through Law & Commercial, they would not have been among his priorities. It was therefore unsurprising that he could not remember. Furthermore, his autobiography had been ghost-written and he could not remember the detail.³¹²

400. The Panel asked Lord Stevens whether, in September 2002, he had seen the major article on the corrupt trade being conducted by Law & Commercial by Graeme McLagan, published in *The Guardian* newspaper on 21 September 2002, which had specifically named Alex Marunchak, employed by the *News of the World*, as a major purchaser of corruptly obtained confidential information. Lord Stevens said that he had no recollection of seeing the article.³¹³

401. Lord Stevens was asked by the Panel whether he would have expected Dick Fedorcio, his Director of Public Affairs, to inform him about a major newspaper article of this character about leaks of confidential police information to the Press. He replied: '*Absolutely. I'd expect to be informed of that.*' He stressed once again, however, that his responsibilities were strategic. He would have expected one of his senior subordinates to be aware of the article and to do whatever needed to be done in response.³¹⁴

402. Dick Fedorcio informed the Panel in 2021, that he, too, would have expected Lord Stevens to be made aware of the article, and if he was not aware of its existence, the article would have been brought to the attention of another senior officer.

403. Lord Stevens was also asked about the meeting on 09 January 2003 at New Scotland Yard which, according to the testimony to the Panel of both former Commander Andre Baker and former DCS David Cook, was convened specifically to discuss the surveillance by the *News of the World* of former DCS Cook and his family.³¹⁵ Lord Stevens reiterated what he had told the Leveson Inquiry, namely that he was now aware of the purpose of the meeting, but he had not known at the time.³¹⁶

404. Lord Stevens also repeated to the Panel what he had told the Leveson Inquiry, namely that he was aware that Dick Fedorcio had stated to the Leveson Inquiry that, following the meeting, he (Dick Fedorcio) had escorted Rebekah Wade to a reception that she and the Commissioner were both attending and that he had told Sir John Stevens that he '*thought the meeting had been useful*', wording which suggested that the Commissioner knew about the nature of the meeting.³¹⁷

405. However, Lord Stevens also told the Panel what he had told the Leveson Inquiry concerning this, namely that the evidence given by Dick Fedorcio was no doubt accurate, but he was unaware that DCS David Cook and his family had been placed under surveillance by the

312 Panel interview with Lord Stevens, pp9-14, 09 December 2020

313 Panel interview with Lord Stevens, pp9-10, 09 December 2020

314 Panel interview with Lord Stevens, p6, 09, December 2020.

315 Panel interview with former Commander Andre Baker, PNL000256001, p3, 07 March 2018 and Panel interview with former DCS David Cook, paras 48-49, 04 June 2015.

316 Statement number 2 of Lord Stevens to the Leveson Inquiry, MPS109559001, p4, 23 March 2012

317 Statement of Dick Fedorcio to the Leveson Inquiry, p25, para 105, 28 February 2012.

News of the World and that Southern Investigations (Law & Commercial) had been ‘*gathering evidence on senior MPS [Metropolitan Police Service] personnel*’.³¹⁸ He had no recollection of being told about these matters.³¹⁹

406. Lord Stevens further reiterated what he told the Leveson Inquiry, namely that ‘*[i]f the content of the meetings was as I have now been informed, I would expect there to be a formal record of it on the relevant case correspondence file*’.³²⁰ He told the Panel that he found it surprising that Dick Fedorcio, according to his testimony to the Leveson Inquiry, had said that he had made no record of the meeting.³²¹

407. The Panel also finds it surprising that Dick Fedorcio made no record of the meeting with DCS David Cook and Rebekah Wade.

408. The Panel drew Lord Stevens’ attention to the fact that D/Supt Robert Quick, who joined the Complaints Investigation Bureau 3 (CIB3) in January 1999 and took over management of Operation Nigeria/Two Bridges at the time that Lord Stevens was regularly authorising the continued use of the probe at Law & Commercial, had written a short report on the character and incidence of corruption in the Metropolitan Police.³²² The Panel had asked the Metropolitan Police for a copy of that report but had been told that no copy of it could be found. Lord Stevens said he was unaware of the report and he had not read it.³²³

409. The Panel asked Lord Stevens if, with regard to the meeting with DCS David Cook and Rebekah Wade on 09 January 2003, he wished to comment on the fact that Commander Andre Baker had been alleged to have told DCS Cook, before entering Mr Fedorcio’s office, that ‘*[t] he boss doesn’t want a fuss about this*’, the implication being that ‘*the boss*’ was Lord Stevens. He responded that it was not unusual for people to go around using the Commissioner’s name and that there were also ‘*lots of bosses*’ in the Metropolitan Police. He said that he had no views on the matter and could not remember anything in relation to it.³²⁴

410. The Panel informed Lord Stevens that the evidence from the probe at Law & Commercial indicated that Alex Marunchak with Douglas Kempster, of the *Mirror* Group, had been purchasers of corruptly obtained personal information through the offices of Law & Commercial, but that whereas Douglas Kempster had been prosecuted, Alex Marunchak had not. Lord Stevens was adamant that if there had been evidence of criminal offences against Alex Maranchak, whom he did not know and did not believe he had ever met, then he should have been prosecuted.³²⁵

411. Lord Stevens said that he had never said anything which could be interpreted to suggest that, if there was evidence of criminal behaviour, proceedings should not be brought. He was adamant that if there was evidence of criminal offences against Alex Marunchak, then he should have been prosecuted.³²⁶

318 Statement number 2 of Lord Stevens to the Leveson Inquiry, MPS109559001, pp3-4, 23 March 2012.

319 Examination of Lord Stevens at the Leveson Inquiry, 06 March 2012 and Panel interview of Lord Stevens, 09 December 2020.

320 Statement number 2 of Lord Stevens to the Leveson Inquiry, MPS109559001, p4, 23 March 2012.

321 Panel Interview with Lord Stevens, pp6-7, 09 December 2020.

322 Panel Interview with Lord Stevens, pp5-6, 09 December 2020.

323 Panel interview with Lord John Stevens, p6, 09 December 2020.

324 Panel Interview with Lord Stevens, pp8-9, 09 December 2020.

325 Panel interview with Lord Stevens, p14, 09 December 2020.

326 Panel interview with Lord Stevens, p14, 09 December 2020.

7.4.4 Former AC Andrew Hayman's evidence to the Leveson Inquiry

412. Lord Stevens was not alone among senior Metropolitan Police officers whose connections with News International, the publisher of the *News of the World* and *The Times*, attracted the interest of the Leveson Inquiry. Former AC Andrew Hayman also signed a contract with News International on his retirement from the police. He was paid an annual retainer to act as an occasional columnist.³²⁷ In 2009, following the emergence in *The Guardian* of the 'phone hacking' allegations which led to the establishment of the Leveson Inquiry, he wrote an article in *The Times* which was widely interpreted as a rebuttal of the allegation that 'phone hacking' was widespread.³²⁸

413. Former AC Hayman's rebuttal, which as subsequent discoveries made clear was shown to be ill-founded,³²⁹ attracted attention because he had, from 1998 to 2002, been a senior officer with responsibility for Professional Standards and in 2006 had been in charge of the Metropolitan Police's initial internal enquiry into 'phone hacking'. When examined by the Leveson Inquiry, it was pointed out to him that Sir Ian Blair, Commissioner at the time of former AC Hayman's resignation from the police, had in his autobiography been critical of former AC Hayman for being too close to the media,³³⁰ a proposition with which former AC Hayman did not agree.³³¹

7.4.5 Other senior Metropolitan police officers and the News of the World

414. In 2011 and 2012, controversy regarding links between senior Metropolitan Police personnel and the *News of the World* was reignited. On 14 July 2011, a former Executive Editor of the *News of the World*, Neil Wallis, was arrested in connection with the 'phone hacking' scandal.³³² Furthermore, it was disclosed that Neil Wallis had been paid to act as a media consultant to the Metropolitan Police in 2009 and 2010.³³³

415. The following day, on 15 July 2011, AC John Yates also resigned amid allegations from several directions, including from an MP, that in 2009, when he had conducted a review into the 2006 allegations of hacking of telephones of members of the Royal Family by a private investigator working for the *News of the World*, he had inappropriately found no fault with the original investigation and had also misled a House of Commons Select Committee about the matter. The Select Committee did not, however, find that former AC Yates had misled them.

416. The issue was later examined at the Leveson Inquiry. Former AC John Yates was the subject of serious criticism in Lord Justice Leveson's report, which stated that former AC Yates had failed adequately to address the matter and had mischaracterised the evidence he had reviewed.³³⁴

417. Some months later, in March 2012, Dick Fedorcio resigned when it was announced that, following an investigation by the Independent Police Complaints Commission, it had been decided to initiate proceedings against him for gross misconduct related to his hiring

327 Leveson Report, Vol 2, paras 5.22 to 5.25, pp905-906.

328 *The Times*, 11 July 2009 & Leveson Report, Vol 2, paras. 5.28-5.33, pp907-908.

329 *The Times*, 11 July 2009 & Leveson Report, Vol 2, paras. 5.28-5.33, pp907-908.

330 Ian Blair *Policing Controversy*, 2009, p 237.

331 Former AC Andrew Hayman's examination at Leveson Inquiry, 01 March 2012.

332 Leveson Report, Vol 2, paras 5.88 to 5.95, pp926-928.

333 Leveson Report, Vol 2, paras. 4.91 to 4.113, pp879-886.

334 Leveson Report, Vol 1, para 12.13(a) & (c), pp417/8.

of Neil Wallis.³³⁵ Earlier in the month, the Leveson Inquiry had heard that Dick Fedorcio had invited people from two leading public relations firms to submit rival bids for the contract that was awarded to Neil Wallis. However, Lord Justice Leveson suggested that the companies had been chosen because Dick Fedorcio knew they would be more expensive than Neil Wallis. Dick Fedorcio denied this but confirmed that he initially wanted to award the contract to Neil Wallis without any competition.³³⁶

7.4.6 Conclusions

418. As Commissioner from 2000 to 2005, Sir John Stevens cultivated the media, including the *News of the World*, with a view to improving the picture being given by the media of the work of the Metropolitan Police. On retiring as Commissioner in 2005, Lord Stevens signed contracts with the *News of the World* to write articles for the newspaper, a potentially compromising relationship to which the Leveson Inquiry paid close attention. However, the Leveson Report made no criticism of Lord Stevens' conduct in this respect.

419. The Panel recognises that as both Deputy Commissioner and Commissioner, Lord Stevens had major managerial and strategic roles which make it entirely understandable that he would not be informed about most day-to-day operational details with regard to particular investigations. Furthermore, even if informed, the passage of time would make it probable that he would not remember many of the details about which he possibly was told, or which were the subject of papers which crossed his desk.

420. However, given the importance that Lord Stevens was attaching as Commissioner to both the extirpation of police corruption and being more open with the media, it is surprising that his attention was not drawn to the very serious allegations about the illegal trade in police-derived information between Law & Commercial and the *News of the World*, and the allegation that the *News of the World* was attempting to subvert the Senior Investigation Officer, former DCS David Cook, leading the Abelard One/Morgan Two Investigation. Following publication of the article in *The Guardian* in 2002, the first of those allegations had become public knowledge. It was therefore inevitable that Lord Stevens' relationship with the *News of the World* and his subsequent contract with the newspaper would give rise to suspicions of partiality unlikely to inspire confidence that police corruption was being tackled.

421. It is clear that, at the very least, Lord Stevens failed to exercise due diligence about the *News of the World*, police and Law & Commercial connections before entering into a contract with the *News of the World*. The Panel notes that Lord Stevens did not complete the contract with the *News of the World* after two of its employees were convicted. However, a cursory check of intelligence records would have revealed the wealth of data held by the Metropolitan Police about the linkages between the *News of the World*, Law & Commercial and illegally obtained police information and the role of corruption in those linkages.

422. By the same token, former AC Andrew Hayman, given his senior operational responsibilities when serving with the Metropolitan Police, must have been aware that 'phone hacking' was a serious matter and that parts of the press, including the *News of*

335 Report of the Independent Police Complaints Commission, Investigation into the decision to employ Mr Neil Wallis of Chamy Media Ltd. as a specialist advisor to the Metropolitan Police, para 140

336 Leveson Report, Vol 2, paras 4.102-4.106, pp882-884.

the World, part of the same newspaper group that went on to employ him, were culpable recipients of the confidential information being supplied. His public downplaying of the practice compromised the integrity of the police.

423. The absolute need for clear boundaries to be maintained between senior police personnel and those working in the mass media is demonstrated by the events summarised above. While the Panel's Terms of Reference do not encompass the specific matters that led to the resignations, it is appropriate for the Panel to state that the demonstrated links between personnel at the highest levels of the Metropolitan Police and people working for a news organisation linked to criminality associated with the murder of Daniel Morgan, are of serious and legitimate public concern.

424. For senior police officers to take up employment with media outlets or other organisations, whose record involves criminal activity, is profoundly damaging for the reputation of the police service. In this instance, it contributed to the establishment of the Leveson Inquiry and the inclusion of a specific provision within the Terms of Reference of the Daniel Morgan Independent Panel. The Panel therefore welcomes the adoption in 2018, of the recommendation contained in Lord Justice Leveson's Report that consideration be given to whether limits should be placed upon the nature of any employment of Chief Officers within or by the media, post-service.³³⁷ It is now national policy that all officers in England and Wales of Assistant Chief Constable/Commander rank and above, should notify and obtain the approval of their Chief Officer or Police and Crime Commissioner of their intention to take up any paid or unpaid position, whether with media organisations or elsewhere, within 12 months of leaving the police service.³³⁸

7.5 Misuse of police information from 2006 onwards

425. Following the acquittal of the five Defendants in March 2011, former DCS David Cook was investigated over a period of nine years by both the Metropolitan Police and the Independent Police Complaints Commission (later Independent Office for Police Conduct) because of alleged criminality and misconduct. The allegations related to: elements of former DCS Cook's conduct of the Abelard Two Investigation; unauthorised possession of official information and documentation belonging to or originating from the Metropolitan Police, Essex Police, Surrey Police, the Serious Organised Crime Agency, the Metropolitan Police Authority, and material belonging to Jonathan Rees who had been charged with the murder of Daniel Morgan; and unauthorised disclosure of some of that material to third parties. In addition to the disclosure which can be identified from email chains, there is evidence that documents may, on occasion, have been hand-delivered to recipients. The disclosures took place over a period from 2006 until 2014.

426. There were the following five investigations:

- i. Operation Longhorn, 2011-2015: alleged unauthorised disclosure of 5,846 pages of official documents covering the period between 23 August 2006 and 07 September 2011, attached to some of 620 emails between former DCS David Cook and the journalist, Michael Sullivan. Although all the emails and attachments sent by former

³³⁷ Leveson Report, Vol 2, para. 4.151, p898.

³³⁸ <https://www.gov.uk/guidance/chief-officers-post-service-employment#chief-officer-ranks-where-approval-for-post-service-employment-is-required>.

DCS Cook to Michael Sullivan were analysed, the report of the Independent Police Complaints Commission focused on 46 emails with 43 attachments which had been sent from former DCS Cook to Michael Sullivan (see Chapter 9, Post-Abelard Two).³³⁹

- ii. The BBC *Panorama* investigation, 2012-2017: alleged unauthorised disclosure of confidential material belonging to Jonathan Rees, to a BBC *Panorama* programme which was broadcast on 14 March 2011, three days after the Defendants in the prosecution for the murder of Daniel Morgan were acquitted (see Chapter 9, Post-Abelard Two).
- iii. Operation Megan, 2012-2018: alleged misconduct in relation to protected witnesses, and deliberate failure to disclose material to Defence lawyers.
- iv. Operation Edison, 2014-2020: alleged possession of material belonging to the Metropolitan Police and the Serious Organised Crime Agency and other police agencies and unauthorised disclosure by former DCS David Cook of material to journalists and other third parties (see Chapter 9, Post-Abelard Two).
- v. Operation Megan Two, 2017-2019: statements by Mr Justice Mitting that former DCS Cook had done an act which tended to pervert the course of justice by breaching the sterile corridor and prompting witness evidence and concealing the fact that he had done so from the Crown Prosecution Service and Prosecution Counsel (see Chapter 9, Post-Abelard Two).

427. The investigations arose from a series of events, including:

- i. the fact that material was found in 2011 at the home of the journalist Michael Sullivan by police officers from Operation Elvedon, which was enquiring into allegations of inappropriate payments by journalists to police officers and other public officials;
- ii. comments made by Mr Justice Maddison in the Crown Court in 2011 and Mr Justice Mitting in the High Court in 2016;
- iii. a complaint made by Jonathan Rees initially in January 2012, the content of which was finalised in 2014; and
- iv. a realisation by the Metropolitan Police that former DCS David Cook was in possession of material belonging to the Metropolitan Police in 2014, and a consequential search of his home, during which very large quantities of material were found.

428. There are very strict rules governing the handling and dissemination of investigation materials, and the disclosure or discussion of investigative techniques and methodologies. These rules exist to ensure the integrity of criminal investigations so that any prosecution will not be compromised, and the processes of investigation will be protected.

429. Unlawful access to police information occurs whenever details are provided by corrupt officers or police staff from the Police National Computer database or from other police documentation, such as *The Police Gazette*. In some cases, unlawful disclosure of information

³³⁹ 'Investigation into the actions of Mr David COOK unauthorised disclosure of documents to a journalist whilst he held a public office', IPC001370001, p14, para 51, September 2014.

enables journalists to publish material to which they should not have access. In other cases, it may impede or prevent a prosecution, because suspects become aware of what is happening during a police investigation and can take action to protect themselves.

430. In some cases, no money changes hands, but a benefit to an officer can be identified. Before the passing of the Criminal Justice and Courts Act 2015, there was no general offence of *'corrupt or other improper exercise of police powers and privileges'*.³⁴⁰ The offences which might be committed by an officer who unlawfully disclosed information or material before 2015 included misconduct in public office.

431. Operation Longhorn, the BBC *Panorama* investigation and Operation Edison all involved unauthorised disclosure of police material to third parties by former DCS David Cook. Those to whom information was disclosed without lawful reason included a number of journalists: Michael Sullivan of News International, Glen Campbell, Peter Jukes, Laurie Flynn, Douglas Kempster and Tom Harper; and others such as former AC Robert Quick, Alastair Morgan, and Alastair Morgan's solicitor, Raju Bhatt.

432. During and after the Abelard Two Investigation, former DCS David Cook and Michael Sullivan were writing a book together. The draft chapters of the book referred extensively to Daniel Morgan's murder and its investigation, but it also appears to have been intended to deal with police and media corruption on a wider scale. As time passed, former DCS Cook gathered very significant numbers of confidential investigation files and materials relating to police corruption. The documents and material sent by former DCS Cook to Michael Sullivan and examined in Operation Longhorn were not limited to material relating to the murder of Daniel Morgan. A further 620 emails and 5,846 pages of documents covering the period between 23 August 2006 and 07 September 2011 were provided to the Metropolitan Police by News International. These documents were analysed, and a report in July 2014³⁴¹ concluded that:

*'what is evident from reviewing these 5846 pages of documents is that David COOK was intent on advancing his career as a future author of books and as a result provided Mike SULLIVAN with unrestricted access to material belonging to the Metropolitan Police Service and Operation ABELARD II. Although it is apparent from the content of some of these emails and from his prepared statements to the IPCC [Independent Police Complaints Commission] that he was experiencing both health and personal problems, he was undeterred in his mission to publish this book.'*³⁴²

433. In the BBC *Panorama* investigation, video footage of a boat trip by Jonathan Rees and invoices belonging to him, which had been stored on his computer, were found to have been given by former DCS David Cook to journalist Glen Campbell, who was making the BBC *Panorama* programme *'Tabloid Hacks Exposed'*.³⁴³

434. A search warrant was obtained and executed at former DCS David Cook's home address in November 2014. Forty-two exhibits were seized, including a large number of electronic storage devices including laptops, memory sticks and mobile telephones.³⁴⁴

340 Introduced under the Criminal Justice and Courts Act 2015, s26.

341 Report by a Detective Constable, MPS109840001, 31 July 2014.

342 Report by a Detective Constable, MPS109840001, pp17-18, 31 July 2014.

343 Operation Megan Report, MPS109687001, p14, undated.

344 Operation Megan Report, MPS109687001, paras 6.3-6.5, p13, undated.

435. Operation Edison produced a report which stated that *‘there is material present that originates from major crime investigations conducted in the mid-1990s during his work with Surrey Police, including many murder enquiries and high profile investigations, through to his leadership of Operation Morgan 11 (Daniel Morgan murder enquiry) from 2001-2002, his work with SCD1 Homicide (2003-2005) and the further investigation of Operation Abelard 2 from 2006-2011 and beyond’*³⁴⁵ (see Chapter 9, Post-Abelard Two). This material included reports, intelligence logs, intelligence reports, case papers, research and analysis documents, Metropolitan Police legal advice and email correspondence, and reports to the Crown Prosecution Service for advice.

436. The recovered documentation varied in its classification, from open source material which is freely available to the public, to highly sensitive, secret documents.³⁴⁶ They ranged in date from 1987 to 2014.^{347,348} As stated above, former DCS David Cook shared some of this material, including material marked ‘Secret’ and ‘Confidential’, with third parties. The Operation Edison investigation focused on disclosure to journalists, although the disclosures identified included disclosures to other individuals, some of whom were interested in matters of media corruption, such as the issues dealt with by the Leveson Inquiry. Material was disclosed which could have put at risk the lives of people identified in those documents had their content become known.

437. Documents relating to the investigation of the murder of Daniel Morgan which had been disclosed unlawfully by former DCS David Cook to various people included the following:

- i. Many witness statements dating from 1987;³⁴⁹
- ii. Details of witnesses and suspects;³⁵⁰
- iii. Debrief reports containing intelligence naming individuals;^{351,352}
- iv. Intelligence reports;³⁵³
- v. An interim report on Operation Two Bridges;³⁵⁴
- vi. A spreadsheet summarising 200 audio listening-device recordings from Operation Two Bridges;³⁵⁵
- vii. Gold Group meeting minutes marked ‘Confidential’;
- viii. Surveillance logs;³⁵⁶

345 Edison Report, EDN002277001, p2, para 1.8, 04 February 2020.

346 Briefing note re Operation Megan Report, Metropolitan Police Service Directorate of Professionalism, p1, 26 January 2015.

347 Report by DS Gary Dalby, Review of Edison Tranche 2, EDN001054001, 23 May 2018.

348 Report by DS Gary Dalby, Retention and Redaction Op Edison – Tranche 3, EDN001055001, 24 May 2018.

349 Operation Edison Appendix B review of emails and attachments, EDN002279001, p.4, 04 April 2010.

350 Operation Edison Appendix B review of emails and attachments, EDN002279001, p.1, 13 October 2009.

351 Edison Report, EDN002248001, p13, para 65, June 2019.

352 Operation Edison Appendix B review of emails and attachments, EDN002279001, p.6, 04 August 2010.

353 Edison Report, EDN002248001, p14, para 75, June 2019.

354 Edison Report, EDN002248001, p11, para 57, June 2019.

355 Edison Report, EDN002248001, p7, para 38, June 2019.

356 Edison Report, EDN002248001, p8, para 40, June 2019.

- ix. Extensive quantities of material from the Abelard Two Investigation,³⁵⁷ including a tabular analysis of the evidence given by all the major witnesses to date and evidence derived from the Inquest against each of the four Defendants charged with the murder of Daniel Morgan;^{358,359}
- x. Material relating to other police operations which derived from the investigation of Daniel Morgan's murder, such as the Asda supermarket robbery file;³⁶⁰
- xi. Email exchanges with members of the family of Daniel Morgan and others, including journalists, concerning matters relating to the investigation.³⁶¹ One hard drive alone was found to contained 15,797 emails;³⁶² and
- xii. A strictly confidential letter to the Editor of *The Guardian* in relation to the activities of two journalists working for the newspaper.³⁶³

438. In addition to this, multiple 'Secret' and 'Confidential' documents, including investigation reports, intelligence documents, and other sensitive material from many other investigations and operations not related to the murder of Daniel Morgan, were disclosed by former DCS David Cook to various people. Some of these documents related to the identity of police informants and were classified as 'Secret' to protect the lives of the individuals involved.

439. There is no evidence of payment for any of the unauthorised disclosures made by former DCS David Cook. However, there is evidence that he hoped to profit from his activities in the future. For example:

- i. DCS Cook began to discuss with Michael Sullivan the prospect of writing a book, '*the Book Project*', about the investigation of the murder of Daniel Morgan as early as 2006.³⁶⁴ It was for this purpose that he provided material to Michael Sullivan. One email from DCS Cook to Michael Sullivan stated:

'The main thing I ask is that we

- 1. Make an early agreement as to how we are going to do this and work towards it*
- 2. Keep it to ourselves to prevent professional problems and infiltration as you will soon find out*
- 3. Keep it absolutely factually based*
- 4. Do not expose secret police methodology*
- 5. Split everything 50/50[.]'*³⁶⁵

357 Operation Edison Appendix B review of emails and attachments, EDN002279001, various dates.

358 Email from former DCS David Cook to Michael Sullivan, EDN001819001, 28 June 2010.

359 Evidence summary, document attached to email dated 28 June 2010, EDN001820001, undated.

360 Email from former DCS David Cook to Michael Sullivan, EDN001121001, 09 April 2010.

361 Edison Report, EDN002248001, p5, paras 23-24, June 2019.

362 Operation Edison material held by the Metropolitan Police DPS, PNL000267001, p2, para 5ii, 10 September 2017.

363 Edison Report, EDN002248001, pp6-7, paras 35-38, June 2019.

364 '*Investigation into the actions of Mr David COOK unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, pp27-28, para 135, September 2014.

365 '*Investigation into the actions of Mr David COOK unauthorised disclosure of documents to a journalist whilst he held a public office*', IPC001370001, p28, para 137, September 2014.

- ii. An email from former DCS Cook to Michael Sullivan, dated 02 June 2010, enclosed information about two of the Defendants in the Abelard Two Investigation, extracts from listening-device material obtained during Operation Nigeria/Two Bridges, and a list of corrupt former police officers associated with the Defendants, including details of their convictions. DCS Cook wrote, '*[t]he attached file may be of some interest re background [...] the project is lodged in my mind about hoping to get something out of this otherwise I am saddled with a mortgage that I neither want or need*'.³⁶⁶
- iii. In an email dated 26 February 2011, DCS Cook enquired of Glen Campbell, '*[n]ot sure there is much on it but what would a copy of a certain PI's³⁶⁷ hard drive [sic] worth*'.³⁶⁸

440. There is ample evidence that former DCS David Cook knew that he was disclosing information which should not be disseminated. For example:

- i. Attached to an email dated 27 October 2009 from former DCS Cook to Michael Sullivan was a report on an unrelated and unsolved murder in 1996 which named suspects and had been sent to the Abelard Two Investigation by Essex Police.³⁶⁹ It was described as being '*[n]ot for further circulation*'.³⁷⁰
- ii. An email on 02 November 2009 contained information relating to violent crime. DCS Cook wrote: '*Mike, This will give you some great background of the levels of violence the Vians are engaged in. It is absolutely not for further circulation.*'³⁷¹
- iii. On 09 October 2010, Glen Campbell emailed former DCS Cook: '*Let me know when I can collect the 1999 Southern document [...]*.' Former DCS Cook replied saying that he had them electronically and could send them anytime, but he wanted '*some assurances about how they will be used. I cannot afford for them to be blazoned across a TV screen.*'³⁷²
- iv. An email dated 23 February 2011 from DCS Cook to Michael Sullivan referring to a matter unrelated to the murder of Daniel Morgan stated, '*attached is the conspiracy by Glenn [Vian] and Garry [Vian] that was captured by the probe we deployed through the house we purchased. With regards the other stuff, if I can find a way of getting it out without causing any problems I will see what I can do.*' This document was classified as '*Restricted*'.³⁷³
- v. By 05 October 2013, former DCS Cook had obtained possession of a Metropolitan Police document wanted by writer/journalist Peter Jukes, and emailed to say that that he had obtained possession of the documentation '*totally on the QT via a circuitous route and I would not want the person who has control of it to know I have it*'.³⁷⁴

366 Email 28 of 46 from Appendix A of the Operation Longhorn Report, IPC001349001, p2, 02 June 2010.

367 The letters 'PI' were interpreted by the Independent Police Complaints Commission as being an abbreviation for Private Investigator.

368 '*Investigation into complaint made by William.J.Rees*', IPC001411001, p21, para 153, 14 December 2016.

369 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p5, item 22, undated.

370 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, IPC001321001, p5, item 22, undated.

371 '*Review of Exhibit KRR/50*', *Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, [IPC001321001](#), p5, item 23, undated.

372 '*Investigation into complaint made by William.J. REES*', IPC001411001, p18, paras 135-136, 14 December 2016.

373 '*Review of Exhibit KRR/50*', Emails from former DCS David Cook to Michael Sullivan, [IPC001321001](#), p9, item 37, undated.

374 Edison Report, EDN002277001, p34, para 5.33, 04 February 2020.

441. Former DCS David Cook is reported to have told the Independent Police Complaints Commission that *'he accepted that he should not have sent confidential documents and this would never have been authorised. He did not attempt to argue that there was any legitimate investigative purpose for disclosing the information and it would appear to have been sent simply to assist the book project.'*³⁷⁵

442. Former DCS David Cook's reason for the *'Book Project'* was to set *'the record straight'*, and in justification of his many disclosures to journalists, former DCS Cook spoke repeatedly of correcting misapprehensions, his wish to *'show the integrity of his investigation'*, protecting the reputation of the police and acting in the public interest.³⁷⁶

443. The unauthorised disclosures by DCS David Cook were investigated, as stated above, in three different enquiries (see Chapter 9, Post-Abelard Two).

444. In Operation Longhorn, it was decided by the Head of the Crown Prosecution Service Organised Crime Division, Gregor McGill, that there would be no prosecution:

*'I am satisfied that the broad extent of the criminality has been determined and that I can make a fully informed assessment of the public interest. I am satisfied that the public interest does not require a prosecution in this case and that this case should not proceed further.'*³⁷⁷

445. In the BBC *Panorama* case, the matter was not referred to the Crown Prosecution Service by the Deputy Chair of the Independent Police Complaints Commission, Deborah Glass, who decided that there was no indication *'that criminal offences may have been committed'* and that even if there were, *'there is no realistic prospect of the full code evidential and public interest charging tests being met and so it would be inappropriate for the matters in the report to be considered by the DPP [Director of Public Prosecutions]'* and *'I have accordingly decided not to refer this investigation to the DPP.'*³⁷⁸ The matter was not referred on the basis that it could not be proved beyond a reasonable doubt that former DCS David Cook had provided the documents to the BBC *Panorama* programme broadcast on 14 March 2011.

446. In the report of Operation Edison, it was noted that, despite being under investigation in Operation Longhorn, former DCS David Cook continued to disclose material to journalists.³⁷⁹ The nature of that material in large part related to the alleged corrupt relationship between members of the press and private investigators.³⁸⁰ The purpose of disclosing the information from reading the email content, appears to have been in part to expose this corrupt relationship.³⁸¹

447. As was the case in Operation Longhorn, there was no full investigation of all the unauthorised disclosures and the retention of police materials. A very limited preliminary investigation report was sent to the Crown Prosecution Service.

375 *'Investigation into the actions of Mr David COOK unauthorised disclosure of documents to a journalist whilst he held a public office'*, IPC001370001, p18, para 72, September 2014.

376 Crown Prosecution Service, Operation Longhorn Report, IPC001410001, p33, para 146, 11 September 2015.

377 *'Endorsement by Head of Division'*, IPC001410001, p57, 29 September 2015.

378 Commission delegate decision regarding early referral to the Director of Public Prosecutions (DPP), p10, 03 January 2017.

379 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, pp62-63, para 6.23, 04 February 2020.

380 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p61, para 6.16-6.18, 04 February 2020.

381 Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p61, para 6.16-6.18, 04 February 2020.

448. The Reviewing Lawyer noted that *'the disclosure of information covering these headings [occurred] in 2012-2014 when there was a real national focus on the conduct of journalists and those who worked for them, was capable of raising or contributing to an important matter of public debate about serious impropriety, significant unethical conduct and significant incompetence. Given that the issues were still current in the public domain, the likely public interest served by this information in my view was medium to high.'*³⁸² It was therefore decided that there would be no prosecution, because of the existence of a potential defence by former DCS David Cook that his activities were justified as being in the public interest.

449. Former DCS David Cook was a very senior officer with direct access to the Assistant Commissioner at the Metropolitan Police until 2011, and to senior managers in the Serious Organised Crime Agency until his resignation in 2013. There were mechanisms available to him through which he could have brought his concerns about failings in the investigations of Daniel Morgan's murder, and his concerns about the activities of corrupt police officers, the media and private investigators to the attention of his managers in both organisations. He had written a report in 2006 which was submitted by AC John Yates to the Metropolitan Police Authority about the investigations into the murder of Daniel Morgan. He had access to all the material he needed to bring concerns to the attention of the police in both the organisations in which he served (see Chapter 7, The 2006 Report to the Metropolitan Police Authority). Since 1998, there have been statutory protections against detrimental treatment or victimisation for those who in the public interest raise a concern about alleged wrongdoing including corrupt, illegal or unethical behaviour under the Public Interest Disclosure Act 1998. Former DCS Cook could have taken this route had he felt unable to take any other route. He chose not to do so.

450. It is surprising that a senior police officer, faced with the possibility that there would be no successful prosecution of a murder because of lack of evidence, should conclude that the suspects were guilty and that he was justified in removing confidential and secret investigation materials to his own home in order to write a book which would *'set the record straight'*. It is equally surprising that a senior officer, concerned about police/press corruption (which inevitably involves unlawful dissemination of material), should conclude that these matters would be best dealt with by engaging in further unlawful dissemination of material to journalists and others.

451. It is even more surprising that senior lawyers should conclude that former DCS David Cook had a public interest defence for his criminal behaviour that was so strong that it could not be challenged. This sends an appalling message to officers of all ranks about how the criminal justice system views such conduct, which is in breach of all the fundamental duties of a police officer.

³⁸² Investigative advice of Senior Specialist Prosecutor Michael Gregory, EDN002277001, p62, para 6.19, 04 February 2020.

452. It is accepted that policing has long been understood as a profession in which officers stand together – a ‘blue wall’. That blue wall was intended to enable and support the fight against crime. Those working in policing are often in a unique position to bring evidence of wrongdoing by colleagues to their superiors. However, in some circumstances those within policing ranks who have sought to report wrongdoing have also experienced the blue wall, and have been ostracised, transferred to a different unit, encouraged to resign, or have faced disciplinary proceedings themselves. Members of anti-corruption units in police forces have experienced hostility and rejection because of the work which they have been appointed to do.

453. Standard 10 of the Police Code of Ethics 2014 now tells officers, ‘[y]ou have a positive obligation to question the conduct of colleagues that you believe falls below the expected standards and, if necessary, challenge, report or take action against such conduct’. It also states that ‘[i]f you feel you cannot question or challenge a colleague directly, you should report your concerns through a line manager, a force reporting mechanism or other appropriate channel’ and that ‘[t]he policing profession will protect whistleblowers according to the law’.³⁸³

454. There are now statutory protections against detrimental treatment or victimisation for those who in the public interest raise a concern about alleged wrongdoing including corrupt, illegal or unethical behaviour under the Public Interest Disclosure Act 1998. There is also national guidance published by the College of Policing on their website in 2016, which provides for the following:

- i. If a person raises a genuine concern, there should be no risk of reprisal or consequence if they are mistaken.
- ii. Forces need to put robust processes in place to ensure harassment or victimisation of those reporting concerns is not tolerated.
- iii. Reports should be kept confidential and if a person reporting a concern wishes to remain anonymous, they should be able to do so.
- iv. The person reporting concerns must be consulted and kept updated throughout the investigation.³⁸⁴

455. Police officers and police staff who report alleged wrongdoing are, therefore, not only to be protected against discrimination but also to be supported by line managers, to be encouraged to seek the assistance of their union or staff association and, where necessary, to be referred for specialist help from occupational health units. The recent approach to whistleblowing is a significant improvement in terms of principles and policy. The Panel notes that there may be a considerable gap between theory and practice when it comes to safeguarding whistleblowers.

³⁸³ College of Policing, Code of Ethics, p15, paras 10.2-10.4, July 2014.

³⁸⁴ https://www.college.police.uk/News/College-news/Pages/reporting_concerns.aspx

456. The Public Disclosure Act 1998 introduced arrangements to support ‘*protected disclosure*’ in specified circumstances. The act of protected disclosure is more commonly referred to as ‘whistleblowing’. Until very recently there has been continuing cultural resistance to measures to protect whistleblowing. Despite this, there are, and have been for a long time, processes through which police officers who wish to address corruption can do so. Officers are under an ethical duty to report known wrongdoing and do not have the right to act unlawfully themselves in the pursuit of their aims. To do so is to act corruptly.

RECOMMENDATION

457. It is recommended that Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services conduct a thematic investigation of the operation of the practices and procedures introduced following the adoption of the Code of Ethics in 2014 to determine whether sufficient resources are available to ensure appropriate protection of those police officers and police staff who wish to draw alleged wrongdoing to the attention of their organisations.

7.6 Concluding remarks

458. The Panel has found evidence of corruption in the linkages between serving police officers and private investigators, and in particular with Southern Investigations (later Law & Commercial) at the time of Daniel Morgan’s murder and afterwards. The Panel has also found corruption in the linkages between Southern Investigations and former police officers, some of whom had been dismissed and others who had retired while disciplinary procedures were pending, but who continued to obtain information and assistance from former colleagues within the Metropolitan Police. The documentation indicates that these linkages were used in an illegal trade in confidential information, much of it police information, via private investigators to the media. In particular, the information was sold to the *News of the World*, the media organisation named in the Panel’s Terms of Reference³⁸⁵ and which accounted for an increasing proportion of Southern Investigations’ business by the early 1990s. The involvement of serving police officers in trading in confidential information obtained illegally is a form of corruption. It was also a breach of the rules of professional conduct for editors.³⁸⁶

459. The Panel has traced in the documentation the increasing concern of the Metropolitan Police about this illicit trade in information that continued to develop in the 1990s and was reflected in the intelligence gathered by operations such as Nigeria/Two Bridges, which showed that Southern Investigations/Law & Commercial was operating as a hub of corruption.

³⁸⁵ Terms of Reference, para 3.

³⁸⁶ ‘Editors’ Code of Practice’, The Press Complaints Commission, <https://accountablejournalism.org/ethics-codes/UK-Press-Complaints>.

460. The discussion above reflects the concerns expressed in the advisory report by Elizabeth Filkin QC,³⁸⁷ commissioned to assist the Metropolitan Police in preparing its evidence for the Leveson Inquiry³⁸⁸ in the wake of the 2011 ‘phone hacking’ scandal involving the *News of the World*. The report called for more extensive, open and impartial provision of information to the public and drew attention to concerns about:

- i. senior police officers working in the media after retirement;
- ii. the lack of a coherent policy for police relations with the media;
- iii. police media contacts being mediated by former police officers, some of them private investigators; and
- iv. the lack of a corporate media strategy in the Metropolitan Police.

461. The report of Elizabeth Filkin quoted the allegation made by John Whittingdale MP, Chairman of the House of Commons Culture, Media and Sports Select Committee:

‘The only reason that I can think that the hacking enquiry was not fully pursued was that it was a story that the police did not wish to uncover. They did not want to damage their relationships with News International. It was appalling negligence if not corruption. I fear that the damage to public confidence in the police as a result of the hacking scandal will be colossal.’³⁸⁹

462. In December 2020, the Metropolitan Police told the Panel that its current media policy describes the principles underpinning the way the Metropolitan Police communicates with the media. It explained that *‘it is aligned to the College of Policing’s Guidance on Relationships with the Media and has been updated, taking account of Lord Justice Leveson’s public inquiry and other recent relevant reports including the Filkin report.’*

8 Confronting corruption and incompetence

463. An inability to explain its acknowledgment of the impact of corruption on the Morgan One Investigation and institutional defensiveness were a hallmark of the Metropolitan Police responses to challenges to its failure to bring anyone to justice for the murder Daniel Morgan. The admissions of corruption in 2011, more than 24 years after the murder, were unclear. Confronting corruption required a fresh, thorough and critical look at the original investigation and those which followed.

8.1 Integrity and conflicts of interest

8.1.1 Freemasonry

464. The possible impact of relevant police officers’ membership of the Freemasons, and their consequential Masonic loyalties, has been a cause of suspicion and distrust by those investigating the murder of Daniel Morgan. Membership of the Freemasons requires the swearing of solemn oaths, on pain of death if breached, of secrecy and obedience to the

387 Elizabeth Filkin, *‘The ethical issues arising from the relationship between the Police and the Media: Advice to the Commissioner of Police of the Metropolis and his Management Board’*, p33, January 2012.

388 Lord Justice Leveson, *Inquiry into The Culture, Practices and Ethics of the Press, 2011-2012*. (Report 29 November 2012).

389 Elizabeth Filkin, *‘The ethical issues arising from the relationship between the Police and the Media: Advice to the Commissioner of Police of the Metropolis and his Management Board’*, p8, January 2012.

mysteries of Freemasonry. The Panel has seen no evidence that Masonic connections were a factor in Daniel Morgan's murder, nor that they were improperly deployed to frustrate the investigations into it. However, there is evidence of the concern about the extent to which Masonic loyalties might conflict with those which police officers owe to each other and to the public by virtue of their office. Although the Panel has seen no evidence that Masonic connections were a factor in the murder, or that they were improperly deployed to frustrate the investigations into it, the documentation shows that suspicions were entertained by investigating officers over several decades.

465. Some of the police officers prominent in the first investigation of the murder of Daniel Morgan were Freemasons. It is known that DS Sidney Fillery was a Freemason, and became Master of two different Lodges in 1993 and 1996.³⁹⁰ The following were also Freemasons: DC Alan Purvis,^{391,392,393} DC Peter Foley,³⁹⁴ DI Allan Jones,³⁹⁵ DS Malcolm Davidson (in the 1970s),³⁹⁶ DC Duncan Hanrahan,³⁹⁷ PC Derek Haslam,³⁹⁸ DC Michael Crofts,³⁹⁹ DC Kinley Davies⁴⁰⁰ and DCI Wallis.⁴⁰¹ The police officer whose death by suicide was thought by some to be linked to the murder of Daniel Morgan, DC Alan Holmes, was the Master of his Lodge.⁴⁰² No link was established between the death of DC Holmes and the murder of Daniel Morgan. The evidence indicates that the suggestion originated with Jonathan Rees.

466. Evidence showed that DC Alan Holmes's death by suicide was linked to a major anti-corruption investigation against Commander Ray Adams. Commander Adams described himself as '*a lapsed member*' of the Freemasons. DC Holmes left a suicide note which stated among other things that '*I have been forced to inform on a CID Police Commander*'.⁴⁰³ By some this was construed as referring to his Freemason's oath, but it could as easily have simply referred to the personal and professional loyalty he had for a senior officer.

467. When in 1988 Jonathan Rees made a complaint against D/Supt Douglas Campbell and other police officers involved in the original investigation into the murder of Daniel Morgan, D/Supt Campbell was told that Jonathan Rees's complaint against him was being financed by '*Police Officers with Masonic connections*'.⁴⁰⁴ Jonathan Rees was questioned about this in March 1988. He did not respond to the questions put to him.⁴⁰⁵ Jonathan Rees was initiated into the Freemasons on 20 November 1991.⁴⁰⁶

468. DCI David Zinzan, who led the covert side of the Abelard One/Morgan Two Investigation, was aware that suspects in the case were '*corrupters of police*'. The possibility that Masonic connections might be used for corrupt purposes caused DCI Zinzan to be concerned about the proximity of his incident room to the offices of Law & Commercial (alternative premises were

390 Intelligence report, MPS099613001 p679, 24 January 2000.

391 Witness statement DC Alan Purvis, MPS036855001, p7, 26 November 1992.

392 Witness statement of a Detective Constable I, MPS035995001, p3, 07 August 1990.

393 Interview of DC Peter Foley on 03 April 1987, PNL000052001, pp317-318, 03 April 1987.

394 Interview of DC Peter Foley, MPS010609001, pp64 and 68, 03 April 1987.

395 '*Result of A1881*', MPS068415001, 08 April 2008.

396 Panel interview with former DS Malcolm Davidson, PNL000196001, p10, 20 October 2015.

397 Intelligence report, MPS099714001, p315, 02 November 2009.

398 Officers report, MPS008801001, 02 December 1988.

399 Officers report, MPS008801001, 02 December 1988.

400 Panel interview with former DC Kinley Davies, p4, 12 June 2016.

401 Witness statement of Police Officer N21, MPS077976001, p2, 02 February 2007.

402 The report of Wagstaff, para 9, 05 November 1987.

403 The report of Wagstaff, para 319, 05 November 1987.

404 Interview of Jonathan Rees, MPS011591001, p56, 03 March 1988.

405 Interview of Jonathan Rees, MPS011591001, p56, 03 March 1988.

406 Information report, MPS099613001, p679, 24 January 2000.

located) and he was insistent that his team should be vetted by the Complaints Investigation Bureau, and that enquiries should be made as to whether the officers were Freemasons, which in DCI Zinzan's view would '*preclude them from being on the enquiry team*'.⁴⁰⁷

469. In 2007, a statement to the Abelard Two Investigation by former Police Officer N21, who had worked on the Catford Crime Squad at the time of the murder of Daniel Morgan, highlighted the significance of Freemasonry in the Catford Crime Squad:

*'In relation to the hierarchy DCI Wallis was in charge however I believe he was very much influenced by Sid [DS Sidney Fillery]. It was well known that membership to the masons was rife in the police especially in the CID. Sid and DCI WALLIS were masons. Sid held a higher position in the same lodge as DCI WALLIS. Later on in my career when Sid had actually left the police he got me to drive him to a lodge meeting where I remember seeing a lot of police officers. They appeared to still show Sid respect even after the murder of Daniel Morgan.'*⁴⁰⁸

470. The Panel has received information from a former police officer in the Metropolitan Police at the time of Daniel Morgan's murder. He stated that he believed that '*the corruption of freemasonry influenced every attempt at seeking the truth in the initial Morgan criminal investigation and subsequent enquiries*'.⁴⁰⁹ He wrote about the adverse influence of Freemasonry on Operation Countryman, about prosecuted police officers' associations with criminals and about officers who were protected by Freemasonry during investigations conducted in Operation Countryman, investigations that were alleged by some to have been obstructed and flawed (see paragraph 60).

471. The question as to whether Masonic membership is incompatible with a police officer's duty to serve all citizens impartially was systematically reviewed in a report, *Freemasonry in the Police and the Judiciary*, from the Home Affairs Committee of the House of Commons in March 1997. Some commentators have argued that ruling Masonic membership incompatible with the position of a police officer would breach human rights principles. The Committee did not find membership of the Freemasons to be '*incompatible*' with the holding of public office, but the Committee did conclude that the fact of membership should be known.⁴¹⁰

472. Some prominent police spokespersons continue to believe that Masonic membership has a corrupting influence within the police. For example, in 2017 Steve White, outgoing Chair of the Police Federation, publicly expressed the view that certain police reforms were being blocked by police officers who were members of the Freemasons. Their influence in the service was, he felt, thwarting the progress of women and officers from black and minority ethnic communities. He stated that:

'[w]hat people do in their private lives is a matter for them. When it becomes an issue is when it affects their work. There have been occasions when colleagues of mine have suspected that Freemasons have been an obstacle to reform.'

407 Report by DCI David Zinzan, MPS054322001, p2, 14 March 2001.

408 Witness statement of former Police Officer N21, MPS077976001, p2, 02 February 2007.

409 Letter from a Detective Sergeant, PNL000271001, p3, 26 September 2019.

410 *Freemasonry in the Police and the Judiciary*, Home Affairs Committee of the House of Commons, March 1997.

*'We need to make sure that people are making decisions for the right reasons and there is a need for future continuing cultural reform in the Fed [sic], which should be reflective of the makeup of policing.'*⁴¹¹

473. Steve White was not in favour of prohibiting officers from being Freemasons but thought that they should have to declare their membership. There was an inequity. Police officers were prohibited by law from being members of trade unions and political parties because of a possible conflict of interests,⁴¹² but there is/was no such regulation/rule against membership of the Freemasons which demands an oath of secrecy and obedience to the organisation above all else.

474. The former Metropolitan Police officer (referred to at paragraph 470 above) contacted the Panel in 2018 and said that the notion that the influence of Freemasonry was now *'peripheral'* in the police was *'laughable'*. Officers, particularly Criminal Investigation Department (CID) officers, joined the Freemasons as a means to *'get on in the job'*. Their seniority in the Freemasons meant that their influence within the police was sometimes at odds with their rank in the police. He cited the example from his own experience of a uniformed Police Constable driver being able to challenge a senior officer.⁴¹³

475. Public trust, and trust between police officers, is vital for the operational effectiveness of the police. It is for this reason, following the Nolan Principles of Public Life, in particular Principles 4 and 5 – Accountability and Openness⁴¹⁴ – that the College of Policing Code of Ethics stipulates that:

'[m]embership of groups or societies, or associations with groups of individuals, must not create an actual or apparent conflict of interest with police work and responsibilities.

*'The test is whether a reasonably informed member of the public might reasonably believe that your membership or association could adversely affect your ability to discharge your policing duties effectively and impartially.'*⁴¹⁵

476. At the time of Daniel Morgan's murder, there was no official record of whether or not a police officer was a member of the Freemasons. This is still the position in the Metropolitan Police, unless officers volunteer the information. After the introduction of a voluntary register of Freemason membership in 1999, the Home Office reported on the database of voluntary responses by police officers, indicating that *'only 37% of police officers and support staff declared whether or not they were Freemasons'*⁴¹⁶ compared with a 96 per cent reply rate by judges and an 88 per cent reply rate by magistrates.

411 Vikram Dodd, 2017, 'Freemasons are blocking reform, says Police Federation leader' *The Guardian*, 31 December, <https://www.theguardian.com/uk-news/2017/dec/31/freemasons-blocking-reform-police-federation-leader>.

412 Panel interview with Steve White, p3, 07 March 2018.

413 Panel interview with a former Detective Constable who related information about an alleged Flying Squad practice, pp2-3, 12 June 2018.

414 Principles of Public Life, Committee of Standards in Public Life, 1995, commonly known as the "Nolan Principles" after Lord Nolan, first chairperson of the Committee.

415 College of Policing, Code of Ethics, p10, paras 6.3-6.4, July 2014.

416 *'Freemasonry in the Police Service'*, Note by the Home Office, 17 January 2002, p.2 in Metropolitan Police Service document compilation MPS109461001, p22, 17 January 2002.

477. On the issue of whether the voluntary registration information is disclosable, the Home Office concluded that the information would be disclosable, taking into account security considerations: *‘[o]ur understanding is that, because the consent is both explicit and informed, then the data has been processed and is held fairly in line with the requirements of Data Protection legislation and ECHR [European Convention of Human Rights]’*.⁴¹⁷

478. The Panel has considered the legal implications of a requirement to declare membership and, in particular, whether it would conflict with the rights to privacy and freedom of association of police officers and staff. The Panel is not persuaded that it would. In its consideration, the Panel has taken into account both domestic and European law and reviewed the relevant guidance issued by the European Court of Human Rights.⁴¹⁸ Declarations of membership could be held by the relevant Chief Officer of Police (the Commissioner or Chief Constable) or, in the case of a Chief Officer, by the relevant Police and Crime Commissioner⁴¹⁹ and could be discoverable from them on the making of a complaint that the suspected connection called into question the proper exercise of the functions of a constable or other police force employee as required by the Police Regulations Act 2003. The Regulations state the following:

*‘A member of a police force shall at all times abstain from any activity which is likely to interfere with the impartial discharge of his duties or which is likely to give the impression amongst members of the public that it may so interfere.’*⁴²⁰

RECOMMENDATION

479. All police officers and police staff should be obliged to register in confidence with the Chief Officer of their police force, at either their point of recruitment to the police force or at any point subsequent to their recruitment, their membership of any organisation, including the Freemasons, which might call their impartiality into question or give rise to the perception of a conflict of loyalties.

8.2 Lessons not learned

480. In 2013 Lord Condon, Commissioner between 1993 and 2000, assessed the Metropolitan Police’s approach to confronting corruption in relation to the murder of Stephen Lawrence, saying:

‘it would have been better in terms of the Met as a whole if there had been an individual officer who was corrupting the inquiry.’

‘[t]he irony is that I actually think it would have been not damaging to the Met, in a way it would actually have been far better for the Met, because the notion of one rogue’

417 *‘Freemasonry in the Police Service’*, Note by the Home Office, 17 January 2002, p.2 in Metropolitan Police Service document compilation MPS109461001, p22, 17 January 2002.

418 European Court of Human Rights, Guide on Article 8 of the European Convention on Human Rights, Right to respect for private and family life, home and correspondence, updated 31 August 2019; European Court of Human Rights, Guide on Article 11 of the European Convention on Human Rights, Freedom of assembly and association, first edition 31 May 2020; European Court of Human Rights, Guide on Article 14 of the European Convention on Human Rights, Prohibition of Discrimination, first edition 31 December 2019.

419 In the Metropolitan Police area of London, the Mayor of London is the Police and Crime Commissioner although this function is undertaken by the Deputy Mayor responsible for the Mayor’s Office of Policing and Crime.

420 The Police Regulations 2003, sch1, para 1.

officer corruptly sabotaging the inquiry would have been less damaging than the notion that there was [sic] systematic failures in that inquiry.

*'I actually think it would have been better in terms of the Met as a whole if there had been an individual officer who was corrupting the inquiry.'*⁴²¹

481. The Panel has identified the following lessons not learned over the years:

- i. **The 'rotten apple approach' to dealing with corruption does not meet the needs of a police service seeking to minimise, and even prevent corruption, in its ranks:** The Metropolitan Police's focus on corruption as a '*debilitating*' factor in the Morgan One investigation and a '*significant factor*' in preventing the Metropolitan Police from bringing those responsible for Daniel Morgan's murder to justice, mainly centred on the alleged corrupt behaviour of one officer, DS Sidney Fillery. This has had the effect of deflecting attention from multiple wider organisational failings.
- ii. **The failure to acknowledge corruption means that associated management issues are not dealt with:** Had the Metropolitan Police admitted in the 1980s and 1990s that it believed that corruption had played a part in the failure of the investigation to bring to justice those responsible for the murder of Daniel Morgan, safeguards against corruption could have been improved, including for example, better management and oversight of individual officers.
- iii. **National and local policing policies should be complied with unless there is reasonable justification for non-compliance recorded in a reasoned decision:** There has been a failure or inability to ensure compliance with national and Metropolitan Police policies and procedures for investigation over much of the 34 years since the murder of Daniel Morgan (see Chapter 1, The Morgan One Investigation; and Chapter 8, The Abelard Two Investigation).
- iv. **Proper oversight and management are essential to the effective conduct of investigations:** By 2006 there were national standards and procedures for the management and oversight of police investigations, yet those procedures were not adhered to during the Abelard Two Investigation. AC John Yates was determined to retain control of the investigation, and he overruled all attempts to introduce proper governance, yet he did not provide the necessary control of the investigation. The consequence of this was that the integrity of the investigation was irreparably damaged, despite the best efforts of many of those who worked on it.
- v. **Those who oversee investigations must in their turn be subject to scrutiny:** There is a need for oversight of senior officers to prevent the kind of situation which evolved during Abelard Two. The Panel has seen no evidence of any oversight of AC John Yates in the context of his role in the Abelard Two Investigation. His stature within the Metropolitan Police made it impossible even for senior officers to challenge him successfully, though some less senior officers did their best to manage the situation and limit the damage caused. Had his performance been appraised effectively, it is probable that DCS Cook would have been removed as Senior Investigating Officer and proper governance would have been introduced.

⁴²¹ Lord Condon interview with Mark Ellison, p2, 08 October 2013.

- vi. **Any review of an investigation, particularly where there have been identified failures in that investigation, must be conducted in a manner which is calculated to identify, explain and provide remedies for any defects:** During 2011-2012, the Metropolitan Police and the Crown Prosecution Service carried out a review of the Abelard Two Investigation to identify the lessons which might be learned from what had happened. There were multiple instances in the review report of situations in which many of the failures in the Abelard Two Investigation were not clarified and the opportunities to learn from them were lost. These included not dealing:
- a. adequately with the lack of governance, particularly after 2008, in the Abelard Two Investigation, saying merely that it *'had been managed outside the "mainstream" governance systems already in place [...]. Whilst that may have had some merit and maintained confidentiality [...] it resulted in a complex management arrangement.'*⁴²²
 - b. with the detail of the problems consequential upon the multiple roles held by former DCS David Cook both before and after his departure from the Metropolitan Police, and simply saying that the Senior Investigating Officer **'should be employed by the police force that holds primacy'** so that they are **'directly accountable to the GOLD Group and associated governance arrangements'** (bold emphasis in original).⁴²³
 - c. with the delayed disclosure of material relevant to witness James Ward which was a critical factor in the collapse of the criminal proceedings against the Defendants who were acquitted.

The way in which the detailed facts were presented in the review report of the Abelard Two Investigation (in a number of appendices) had the effect of simplifying and minimising the content of the main review document and did not assist the reader to learn from the failures of the past. The consequence of the lack of a fully reasoned analysis of what went wrong was that further opportunities to prevent such situations recurring were lost.

- vii. **The statutory arrangements under which the Independent Police Complaints Commission was operating**⁴²⁴ **did not enable it to make representations to the Serious Organised Crime Agency (now the National Crime Agency) or the Metropolitan Police about possible organisational learning which might derive from the investigation which had been conducted.** There was therefore no opportunity for the Independent Police Complaints Commission to alert these agencies to the damage potentially caused by the unauthorised disclosure, nor to the opportunity for organisational learning about the Metropolitan Police's process for and controls over the disclosure of information to journalists.

422 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p25, May 2012.

423 Crown Prosecution Service/Metropolitan Police, *'Review into Operation Abelard II'*, MPS109655001, p25, May 2012.

424 Police Reform Act 2002, s26.

9 Conclusion

482. It is generally acknowledged that corruption is endemic in policing across the world. History shows that its recurrence is cyclical: new structures, training, policies and practices are introduced, and there is a period during which significant attention is paid to the risks of corruption, to preventing it from re-establishing itself in a particular policing organisation. Then gradually the focus diminishes, attention turns to other valid and pressing problems, and the time is ripe once more for corruption to grow.

483. During the years since Daniel Morgan was murdered, the Metropolitan Police has made attempts to limit corruption within its ranks. Most importantly, the anti-corruption drive of Lord Condon in the 1990s and the establishment of a new anti-corruption initiative in the late 1990s are testament to the recognition by senior officers that corruption is a very serious problem which will only be defeated in particular circumstances if there is robust and determined action.

484. Policing has as its primary purpose the protection of life and property. Its targets are those who engage in crime. Criminals need the help of corrupt police officers and police civilian staff to counter the activities of those good officers who seek to investigate and prosecute crime. Corruption can take the simplest of forms – the provision of a name, maybe even an address to someone who wants it for nefarious purposes, the decision not to issue a speeding ticket in return for some benefit. These are crimes and what is needed, if the anti-corruption strategy is to succeed, is an ability to recognise and deal with corrupt activities on every occasion on which they occur. A zero-tolerance approach to corruption sends a very serious message to those who contemplate ‘bending the rules’ or ‘doing someone a good turn’ by the corrupt use of the powers which attach to the office of constable.

RECOMMENDATION

485. Security clearance processes for police officers and police staff are fundamental to any anti-corruption strategy. Regular updating of the security status of each individual is essential to identify any concerns and to enable action to be taken in respect of such concerns. Notwithstanding the assurance received by the Panel from the Metropolitan Police in December 2020, the Metropolitan Police should remain vigilant at all times to ensure not only that it vets its employees in accordance with its new measures, but also that it has adequate and effective processes to establish whether its staff are currently engaged in crime.

486. Such are the means of those engaged in more serious crime, and particularly of those engaged in organised crime, that they can devote very significant resources to corrupting individual officers. Once corrupted, such officers are on a downward slope and are susceptible to blackmail and other criminality. It is for this reason that the fight against corruption must be ever present in policing, and that every police officer, regardless of rank, should comply with the primary obligation to uphold the Rule of Law at all times.

487. The Panel has not found any evidence in any of the investigations conducted over the past 34 years, capable of proving police involvement in the murder of Daniel Morgan. It is accepted that this does not demonstrate that there was no involvement by a police officer or officers in the planning and execution of the murder. However, the Rule of Law demands that there can

be no conclusions about guilt unless they are evidence-based and proved in a court. No such trial has ever occurred despite the repeated arrests of individuals and the carrying out of four investigations.

488. The Panel has, however, found evidence of police corruption in relation to the investigation of Daniel Morgan's murder.

489. The Metropolitan Police placed its concern for its own reputation above the public interest, when it concealed from the family of Daniel Morgan and from the wider public the failings in the first murder investigation and the role of corrupt officers in the lack of success in gathering evidence to convict those responsible.

490. The lack of candour displayed by the Metropolitan Police in relation to the investigation of the murder Daniel Morgan over so many years constitutes a barrier to the proper accountability of the Metropolitan Police (see subsection 5.3 above, *Lack of candour*).

491. In calling the Metropolitan Police and other relevant agencies of the Criminal Justice System to account, the Panel has experienced significant impediments.

492. While the appropriate protection of investigation materials is obviously important and necessary, the way in which material was released to the Panel was unsatisfactory and slow. The Panel began work in September 2013 but did not begin to receive the investigation documentation held by the Metropolitan Police until January 2015.

493. The Panel's offices were fully secured and equipped for the storage of sensitive and secret material, in accordance with Government rules. However, the Metropolitan Police imposed additional and restrictive conditions on how sensitive material could be accessed and, in most cases, would not allow copies of such material to be held at the Panel's offices, even when that material comprised complex, bulky and lengthy documents, which demanded careful analysis (see Chapter 11, *The Challenge of Securing Cooperation*). Instead, on each occasion on which a Panel member needed to access information classified as 'Secret', a lengthy journey to Metropolitan Police premises situated on the outskirts of East London was required. This caused considerable delay.

494. The problem was compounded by the fact that some material was excessively and inconsistently redacted before being placed on the Panel's database. On occasion the redactions were found to be clearly unnecessary. This also contributed to delay, as the unredacted versions of the documents were held in the Metropolitan Police premises in East London.

495. There was not insignificant obstruction to the Panel's work. At times the contact between the Panel and the Metropolitan Police resembled police contact with litigants rather than with a body established by the Home Secretary to enquire into the case, and to which the Metropolitan Police had promised to make '*exceptional and full disclosure*'.⁴²⁵ The Panel concludes that, despite the express commitment by the Metropolitan Police in the Terms of Reference to support the Panel's work, the Metropolitan Police did not approach the Panel's scrutiny with candour, in an open, honest and transparent way, making exceptional and full disclosure of relevant documents. The way in which material was disclosed or withheld had the effect of making the Panel's work more difficult (see Chapter 11).

⁴²⁵ Terms of Reference, para 5(c).

RECOMMENDATION

496. In the interest of transparency and public accountability, all public institutions should be under a duty to cooperate fully with independent scrutiny bodies created by Government, such as the Panel.

497. Institutional defensiveness and lack of transparency is not unique to the investigation of the murder of Daniel Morgan. In 2013, the Francis Report⁴²⁶ referred to defensiveness and lack of openness to criticism among the negative aspects of the culture identified in the healthcare system in Mid Staffordshire. The Gosport Independent Panel referred in its report published in June 2016 to *'the tendency of individuals in organisations, when faced with serious allegations, to handle them in a way that limits the impact on the organisation and its perceived reputation'*.⁴²⁷ Again the context was the healthcare system. In relation to the Hillsborough disaster, the Right Reverend James Jones wrote of *'an instinctive prioritisation of the reputation of an organisation over the citizen's right to expect people to be held to account for their actions'*.⁴²⁸

498. Concern about the lack of transparency linked to institutional defensiveness has led to the establishment of a statutory duty of candour in the National Health Service. There have been calls for a similar duty in relation to the police. In 2017, a Bill was introduced⁴²⁹ in the House of Commons which sought to require public institutions, public servants and officials to act in the public interest with candour and frankness. The Bill fell after first reading, with the calling of the 2017 General Election, but the concerns that inspired the 2017 Bill remain.

499. The Panel recognises the complex challenges of guaranteeing public accountability of an organisation such as the police, not least because of the requirement to protect information in accordance with the law. However, the challenges should not prevent frank and prompt accounts to the public about mistakes and wrongdoing. Rather than undermining public trust in the police, such candour would in the long run restore and maintain public confidence, which is essential for effective policing. The Panel agrees with other independent inquiries about the need for a duty of candour for public services, including the police. Such a duty of candour would not result in any compromise of the necessary protection of information in accordance with the law.

426 Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, Sir Robert Francis QC (The Francis Report), pp85-86, para 1.116, 2013.

427 Report of the Gosport Independent Panel, p321, para12.51, 20 June 2016.

428 The Right Reverend James Jones, *'The Patronising Disposition of Unaccountable Power'*, HC 511 2017-18, 01 November 2017.

429 The Public Authority (Accountability) Bill 163 2016-17, introduced as a Private Members' Bill by Andy Burnham, Member of Parliament for Leigh, 29 March 2017.

500. Following the Report of the Hillsborough Independent Panel and the attempt to introduce the Hillsborough Bill, the Right Reverend James Jones proposed a charter to which organisations such as the police service should commit themselves, which would include a duty to *'approach forms of public scrutiny – including public inquiries and inquests – with candour, in an open, honest and transparent way, making full disclosure of relevant documents, material and facts'*.⁴³⁰

RECOMMENDATION

501. The Panel recommends the creation of a statutory duty of candour, to be owed by all law enforcement agencies to those whom they serve, subject to protection of national security and relevant data protection legislation.

502. The family of Daniel Morgan suffered grievously as a consequence of the failure to bring his murderer(s) to justice, the misinformation which was put into the public domain, and the denial of failings in investigation, including failures to acknowledge professional incompetence, individuals' venal behaviour, and managerial and organisational failings. Unwarranted assurances were given to the family, and the Metropolitan Police placed the reputation of the organisation above the need for accountability and transparency. The lack of candour and the repeated failure to take a fresh, thorough and critical look at past failings are all symptoms of institutional corruption, which prioritises institutional reputation over public accountability.

Most people become police officers to serve the public, not to engage in corrupt activities. They do very difficult and, at times, dangerous work without compromising their integrity. It is accepted that the management of policing is a very complex process, but there has been a failure over decades to tackle police corruption effectively and to resource anti-corruption work properly.

There is evidence that, despite efforts over many years, a culture still exists that inhibits both organisational and individual accountability. The response to corruption in all its forms must comply with the law and demonstrate candour and adherence to the Police Code of Ethics. The internal and external structures designed to ensure integrity and ethical conduct must be properly resourced, in order for policing to be truly accountable, for corrupt officers to be confronted and for honest officers to be affirmed.

⁴³⁰ The Right Reverend James Jones, *'The Patronising Disposition of Unaccountable Power'*, HC 511 2017-18, p7, 01 November 2017.

Chapter 11: The challenges of securing cooperation and lessons for future Panels

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1 Introduction

1. The Panel's Terms of Reference required it to '*obtain and examine all relevant documentation from all relevant bodies, governmental and non-governmental alike, including but not limited to papers held by;*

- *The Metropolitan Police;*
- *The Hampshire Police;*
- *The Crown Prosecution Service and the Attorney General's Office;*
- *The Police Complaints Authority (as it was then);*
- *The Independent Police Complaints Commission;*

- *Southwark Coroner's Court; and*
- *The Home Office.*'

and to 'interview and receive relevant information from individuals who are willing to provide that information'.

2. The Panel commenced work formally on 17 September 2013. The Terms of Reference stated that '[i]t is envisaged that the Panel will aim to complete its work within 12 months of the documentation being made available'. This created an expectation that the Panel's work would be done within a year. There was, however, no anticipation of the very significant difficulties and delays which would be encountered in accessing documentation, in all its forms, nor of the large volume of material (in excess of a million pages) which would have to be considered. The Panel was acutely aware of that expectation and of the distress caused to the family of Daniel Morgan by the length of time which has been necessary to do this work. In fact, the final documents were not received from the Metropolitan Police until March 2021.

RECOMMENDATION

3. Prior to the establishment of any future non-statutory inquiries or panel, there should be an honest and full discussion between the relevant police force(s) and the sponsoring Government department, to enable a realistic, informed assessment of the nature and volume of documentation in all its forms, and of the scope and depth of the work required. Framework procedures, capable of being customised, for the disclosure of material to such panels should be available, so as to avoid excessive delays in reaching agreement for access to material. Deadlines should only be established when the relevant inquiry or panel has had the opportunity to review the programme of work it is required to do. Any such deadline should be supported with an analysis explaining how the projected deadline has been identified, and why that is a reasonable time within which the work should be completed.

2 The Metropolitan Police, Home Office and the Panel: Securing access to documents and other important material

4. In July 2013, after the formation of the Panel was announced, but before the Panel itself was established, discussions were initiated between the Home Office, the Metropolitan Police and Sir Stanley Burnton, who was appointed as the first Chair of the Panel in May 2013, about the disclosure arrangements necessary to enable the Panel to start its work in September 2013. These arrangements included ensuring the Panel had access to the vast amount of materials (including documents, exhibits and evidence in other forms)¹ held by the Metropolitan Police and other organisations.² The great majority of the material required by the Panel was held by

¹ The Panel was established by the Home Secretary, Theresa May MP, following the precedent of the Hillsborough Independent Panel and was intended largely to involve a review of documentation. Unlike the Hillsborough Independent Panel, the Panel was not charged with establishing an archive.

² Including but not limited to the Metropolitan Police, the Hampshire Constabulary, the Crown Prosecution Service, the Attorney General's Office, the Police Complaints Authority, the Independent Police Complaints Commission, the Southwark Coroner's Court and the Home Office; see Terms of Reference, para 4(b).

the Metropolitan Police. It included both material originating within the Metropolitan Police and material held by the Metropolitan Police but originating from other police forces and organisations.

5. During these preliminary discussions, the Metropolitan Police favoured sole access by the Chair of the Panel, Sir Stanley Burnton, to highly sensitive documents, relating to ongoing enquiries, informants and other issues. The Metropolitan Police envisaged that the Chair of the Panel alone would review these documents and make decisions about their relevance on behalf of the Panel. AC Cressida Dick, the senior officer in the Metropolitan Police with responsibility for supporting the Panel's work, believed she had reached agreement with Sir Stanley Burnton at a meeting on 13 July 2013 as to how to proceed. This was not reflected in documents produced by the Panel or the Home Office at the time, and the proposed approach was rejected by the Chair and the other members of the Panel as being inconsistent with the concept of a Panel reviewing material together. The arrangement was unworkable.

6. It was necessary to prepare a Disclosure Protocol to set out the terms, responsibilities and expectations of both the Panel and the Metropolitan Police, about sending and receiving the documents required for the Panel to be able to do its work.

7. On 29 August 2013, a draft Disclosure Protocol was sent by the solicitor acting for the Panel to the Metropolitan Police solicitor. The draft Protocol said the Panel would need access to all documents in unredacted form, except where this was prohibited by law, and that special provisions might be necessary for the most sensitive documents. Provision was also made for the ultimate publication of documents with the Report, with the final decision as to publication resting with the Panel. Any documents published without the owner's consent would have had to be redacted, which would mean some content would be blacked out within the Panel's Report. The Panel decided it would keep any content which was redacted in the final published Report, so that the public would know content had been redacted. The Panel reserved the right to bring the full unredacted contents of the Report to the attention of the Home Secretary.

8. On 27 September 2013, the Panel's solicitor met lawyers for the Metropolitan Police and stressed that all the members of the Panel had agreed that they must view the most sensitive material in unredacted form, so as to be able to confer and decide on its relevance. The Panel was not willing to proceed on the basis that the Chair of the Panel alone would decide on the relevance of the most sensitive material. The meeting concluded with a proposal for work on the Disclosure Protocol to focus on speeding up delivery of the overwhelming majority of documents which were not considered to be highly sensitive, and for further consideration of whether a separate Disclosure Protocol was needed for the most highly sensitive material.

9. On 09 October 2013, AC Cressida Dick wrote to the Chair of the Panel that *'we have now reached an impasse'*. She affirmed that *'the Metropolitan Police is absolutely committed to demonstrating transparency and assisting the Home Office appointed Independent Panel'*. She described an approach *'whereby you, as Chairman of the Panel, are able to see all the sensitive documentation and pass to the remaining members what you feel appropriate (broadly mirroring the statutory position in respect of public inquiries)'* as *'absolutely necessary given the risk issues associated with the revelation of sensitive information'*.³

³ Letter from AC Cressida Dick to Sir Stanley Burnton, 09 October 2013.

10. In order to achieve better clarity as to what was proposed by the Metropolitan Police in respect of disclosure to the Panel, the Panel's lawyers sent a revised draft of the Disclosure Protocol to the Metropolitan Police on 23 October 2013 which provided for disclosure of sensitive material to be made in the first instance only to the Panel Chair. This was then followed by a further amended draft of the Disclosure Protocol by the Panel's lawyers which was sent to the Metropolitan Police on 28 October and provided for sensitive disclosure to be made to the entire Panel in redacted form. The Metropolitan Police responded on 12 November 2013, rejecting the revised Protocol of 28 October, but confirming its agreement to the revised draft Protocol sent on 23 October.

11. Consequently, and after further discussion, on 19 November 2013, the Panel advised the Home Office Senior Responsible Officer for the Daniel Morgan Independent Panel that it was the unanimous view of the Panel members that disclosure must be to the Panel in its entirety and not just to the Chair of the Panel. The letter was sent just after the resignation of Sir Stanley Burnton as the Chair of the Panel,⁴ but was agreed by the Panel, including the Chair, prior to his departure.

12. On 23 November 2013, AC Cressida Dick met the Home Office Senior Responsible Officer, and confirmed the Metropolitan Police's commitment to the principle of full and exceptional disclosure to the Panel as a whole.

13. On 04 December 2013, the Home Office Senior Responsible Officer advised the Panel that AC Cressida Dick was no longer insisting on the approach to disclosure which she had previously described. On 05 December 2013, following a meeting between Michael Kellett, the lead Panel member, the Home Office Senior Responsible Officer, and AC Dick to address the practicalities relating to disclosure of material to the Panel,⁵ the Panel and all its staff signed confidentiality agreements to ensure the security of the material disclosed to it by the Metropolitan Police.

14. On 13 December 2013, the Panel sent a full outline of the work it had undertaken to obtain documentation from the Metropolitan Police to both the Metropolitan Police solicitor and to the solicitor representing members of the family of Daniel Morgan.⁶ It sought disclosure of material. It had already agreed to reimburse the Metropolitan Police for the services of the officers appointed to assist the Panel. On 18 December 2013, the Metropolitan Police responded, and provided a catalogue of documents and initial reading materials to the Panel. This was to enable the Panel to identify more easily the sequence in which materials to be disclosed by the Metropolitan Police should be prioritised for indexing and digitisation,⁷ and to begin refining its strategy for starting work on the substantive material. The Panel was grateful to the Metropolitan Police for the provision of initial reading material and the catalogue of documents. The Metropolitan Police had still not agreed to the Disclosure Protocol. The Panel at this time did not have a Chair.

15. While waiting for the Disclosure Protocol to be agreed, and the actual provision of the documents, the Panel employed staff and a team of data-indexers (also sometimes known as 'box-loggers')⁸ to review the material in the hundreds of crates identified as relevant by the Metropolitan Police (originally identified as 613 crates) so that the contents of each crate could

4 Sir Stanley Burnton resigned from the Panel for personal reasons on 13 November 2013.

5 Metropolitan Police minute of 5 December 2013 (in email of 13 October 2020).

6 Letter from Panel members to Raju Bhatt, 13 December 2013.

7 Digitisation on Lextranet could be carried out at a rate of 20,000 pages per week. Report from the Home Office box-logging manager, September 2013.

8 Employed under contract with the legal firm Fieldfisher LLP.

be catalogued in preparation for scanning onto Lextranet.⁹ The task of the data-indexers was to index and code each item in each of the crates in preparation for its digitisation and transfer to Lextranet, which would be the point when the Panel would be able to access the documents and commence its work. The Metropolitan Police team were helpful and professional in their cooperation with the indexers employed to assist the Panel.

16. The data-indexing was conducted systematically after an initial review by the Metropolitan Police to identify material too sensitive to be made available to the data-indexers and digitised onto Lextranet. Any such sensitive material was either redacted or removed by the Metropolitan Police, and markers were inserted in the documentation indicating where redaction or removal of material had occurred.

17. On 29 April 2014, in preparation for taking up her work and to help inform her decisions as to whether to accept the post of the Chair of the Panel, Baroness Nuala O’Loan met with AC Cressida Dick. This was to discuss matters of priority for the Panel including disclosure. At the meeting of 29 April 2014, Baroness O’Loan stated that she and the Panel would require full access to all documentation and to the relevant HOLMES accounts. AC Dick agreed that Panel members and lawyers would have full access, ‘*so long as the Panel were security cleared to the appropriate level*’, and that there should be standalone access to the Daniel Morgan HOLMES accounts.¹⁰ On the basis of these assurances, Baroness O’Loan confirmed to the Home Secretary that she would agree to become the Chair of the Panel. However, she was receiving medical treatment and was unable to start work in London until September 2014. The Panel became fully operational at that point having been restricted in its work at the request of the family of Daniel Morgan since March 2014.

18. On 05 September 2014, the Panel sent a revised version of the draft Disclosure Protocol to the Metropolitan Police, based on the discussions previously held and reflecting AC Cressida Dick’s agreement to all members of the Panel having access to all documents, as agreed with Baroness O’Loan in April 2014.

19. On 17 September 2014, at a further meeting between members of the Panel and AC Cressida Dick to discuss disclosure, the Metropolitan Police said that, while they accepted that they needed to make arrangements for the disclosure of material, an agreement still needed to be reached as to who in the Panel should have access to the most sensitive documents. This was not acceptable to the Panel and Baroness O’Loan emailed AC Dick on 18 September to say this, and to highlight the difference between what was now being offered and what had been said in the meeting in April 2014, before she had agreed to become Chair.¹¹

20. Two months later, on 18 November 2014, the Panel’s solicitor informed the Panel that he had reached agreement on the Disclosure Protocol with the Metropolitan Police’s Directorate of Legal Services. On 16 December 2014, the Panel received written notification that the Metropolitan Police had agreed the content of the Disclosure Protocol, a Confidentiality Agreement and a Data Processing Agreement with the Panel.¹² The Disclosure Protocol

9 Lextranet is an electronic document management system. It can only hold documents marked to the level ‘Restricted’ in the Government Security Classification system. The Government Security Classification Policy came into force on 02 April 2014 and describes how HM Government classifies information assets to ensure they are appropriately protected. It applies to all information that Government collects, stores, processes, generates or shares to deliver services and conduct business. There are three classifications of material – ‘Official’, ‘Secret’ and ‘Top Secret’. Under the historical Government Protective Marking Scheme material was divided into ‘Unclassified’, ‘Protected’, ‘Restricted’, ‘Confidential’, ‘Secret’ and ‘Top Secret’.

10 Email from Baroness O’Loan to AC Cressida Dick referring back to the meeting, 18 September 2014.

11 Email from Baroness O’Loan to AC Cressida Dick, 18 September 2014.

12 Letter from AC Cressida Dick to Baroness O’Loan, 16 November 2014. (The letter was dated 16 November 2014 but sent in an email on 16 December 2014.)

provided that all members of the Panel and its Counsel should have access to all of the documentation. The agreements were essential to the Panel beginning its work and fulfilling its Terms of Reference, and the delay in getting agreement resulted in a very significant delay to the Panel's ability to start work.

21. The Panel received its first documentation, digitised and accessible on Lextranet, in January 2015. It took almost a year for the process of identifying and cataloguing all the individual documents, available at that time, to be completed. During this period the documents were added to Lextranet incrementally. The material, once uploaded, was then accessible to the Panel and its Secretariat. However, access to sensitive material which could not be placed on Lextranet was only available to the Panel, its Counsel and its Secretary at Metropolitan Police premises on the outskirts of East London. This required two hours travelling time on each occasion for which there was a need to examine such documentation. This inevitably caused delay to the Panel's work. On only a few occasions were such documents made available in Central London.

22. After the Disclosure Protocol and related documents had been agreed with the Metropolitan Police, the Panel was able to enter into similar agreements with the other document providers.

23. The Panel had no statutory powers to compel production of documents by the Metropolitan Police or the other bodies and agencies with whom it dealt. It had, therefore, to proceed with the consent of the organisations concerned, who had been committed in the Panel Terms of Reference to '*exceptional and full disclosure*'¹³ as agreed between each of the relevant organisations and the Home Secretary.

24. Both the Panel and the Metropolitan Police had a duty to ensure that the material disclosed to the Panel was treated appropriately at all times, and that no harm to individuals potentially at risk should occur as a result of disclosure to the Panel. The Panel was, and has continued to be, fully aware of the security implications of its work and has done everything in its power to ensure the safe handling of all the information disclosed.

However, the Panel considers it was neither necessary nor proportionate for the processes for disclosure and document handling to have taken such a long time to be agreed with the Metropolitan Police. The Panel, having been announced by the Home Secretary in May 2013, did not have access to all the initial documentation, and thus was unable to commence its work properly, until December 2015.

RECOMMENDATION

25. Arrangements must be made in future to ensure that any Panel has timely access to the material required to do its work. Organisations that promise to make '*exceptional and full disclosure*' should be prepared to do so both within the letter and the spirit of such a promise.

¹³ Terms of Reference of the Independent Panel, para 5(c).

2.1 Requests for further information and the Metropolitan Police response

26. Once the Panel was able to start looking at and understanding the contents of the material disclosed to it by the Metropolitan Police, it began to make necessary requests for additional disclosure of documents and other material relevant to its Terms of Reference. In addition, it had become clear that the Panel needed a single point of contact in the Metropolitan Police to act as a 'clearing house' for answers to the questions that the Panel had as it worked through the material now uploaded onto Lextranet. To this end, the Panel and Metropolitan Police agreed on an '*additional disclosure and information request*' process to enable this to happen effectively.

27. By 13 May 2015, the Panel had already submitted 63 Additional Disclosure and Information Requests, which required cooperation from a range of different departments in the Metropolitan Police. By May 2016, the total of Additional Disclosure and Information Requests had increased significantly to 253. The following list provides examples of the range of requests the Panel submitted, once material had started to be disclosed and uploaded to Lextranet:

- i. Disclosure of personnel files, professional standards records, and intelligence held in relation to former and serving Metropolitan Police officers of interest to the Panel.
- ii. Requests for the disclosure of specific documents referred to in the material disclosed that could not be found within the documentation provided.
- iii. Disclosure of historical policy documents, guidelines and standard operating procedures relating to murder investigations, murder reviews, exhibit-handling, informant-handling, public affairs and media liaison, family liaison, liaison with coroners and freemasonry.

The Panel asked, in 2015, for policy documents relating to murder investigations and did not receive anything specific to the Metropolitan Police.

- iv. Disclosure of documents from the Directorate of Legal Services.
- v. Clarification of the context of police investigations referred to in the material disclosed, including investigation suspects, offences being investigated and investigation outcomes.
- vi. Disclosure of investigation reports and advice reports to the Crown Prosecution Service and, where relevant, underlying investigation material.
- vii. Requests for clarification of the information management aspects of historical and contemporary anti-corruption intelligence-gathering and investigations.
- viii. Disclosure of intelligence reports provided to Mark Ellison QC for his review of police corruption in connection with the investigation into Stephen Lawrence's murder (these were requested because there had been a suggestion that one or more officers involved in the Morgan One Investigation had also been involved in the Lawrence investigation, although that later proved not to be the case).

- ix. Requests for explanatory notes from the Metropolitan Police in terms of (i) how the most recent investigation into Daniel Morgan's murder, Abelard Two, reviewed historical probe material and the quality assurance mechanisms in place, (ii) all forensic activities that have been conducted since the withdrawal of the Prosecution case during the pre-trial proceedings in 2011, and (iii) all non-forensic lines of enquiry that had been pursued since the withdrawal of the Prosecution's case in 2011.
- x. Administrative requests to locate material.

In total, the Panel had submitted 415 Additional Disclosure and Information Requests to the Metropolitan Police by 2020.

28. The Panel recognises the demands that the Additional Disclosure and Information Requests placed on the Metropolitan Police, and the Panel's work benefited significantly from having a single point of contact in the Metropolitan Police. Where the single point of contact could respond directly, the Panel received prompt acknowledgement of the request made and very often received a substantive response on the same day. It was also most helpful to the Panel that, on occasion, the single point of contact readily volunteered information to assist the Panel and help identify relevant material to meet its requests.

3 Panel access to the Home Office Large Major Enquiry System (HOLMES)

29. The Panel knew that access to the Home Office Large Major Enquiry System (HOLMES) would be essential if it was to fulfil its Terms of Reference effectively and with expedition. HOLMES is a computerised database designed to support the police investigation of major crimes – mainly murders but also any complex serious incident such as stranger rape or even large-scale fraud. It was introduced in the mid-1980s and was one of the consequences of the Yorkshire Ripper investigation, which had demonstrated the inability of the police to manage effectively major investigations of linked crimes across more than one police force area. It is the primary tool used during major and complex criminal investigations in all police forces in the UK.

30. An examination of how HOLMES has been used by the police in an investigation can reveal an enormous amount about the nature of the investigation that would not be revealed simply by reading hard-copy documents from the investigation. The database is searchable using free text, and also searchable by other standard criteria such as name, description, address, etc. People within the system can be linked to addresses, locations, exhibits or any other category within the system. Accounts given by witnesses can be cross-referenced and compared. Documents are also cross-referenced, so that for example, an action (a written instruction to carry out a task in connection with a particular line of enquiry) will be linked to statements, officers' reports, exhibits and follow-on actions. The system is also able to produce useful legal documents such as disclosure schedules and exhibit lists, and management tools such as lists of outstanding actions, completed actions, personnel lists, etc. It is far more effective than the Lextranet system with which the Panel was provided.

31. Access to HOLMES was essential to the Panel's ability to carry out its task efficiently, effectively and fully. Among other things, it can be used to inform a judgement as to whether investigations were carried out in accordance with established policy at the time, to enable the detection of any anomalies in procedures, to help to identify where there might be missing documents, and to establish whether actions were carried out in accordance with instructions.

32. **The Panel notes that the need for access to HOLMES for the purposes of reviewing the investigations into Daniel Morgan's murder was clearly apparent to DAC John Yates when, in 2005, he wrote about the Terms of Reference for the Metropolitan Police Authority's proposed review of the investigations into Daniel Morgan's murder: 'This will require substantial and dedicated resources, accommodation and access to IT (HOLMES) etc.'**¹⁴

33. A central theme of the Panel's enquiries has been an examination of possible police corruption in the investigations of the murder of Daniel Morgan. Had the Panel omitted to investigate the considerable scope for anyone in a police investigation team to divert an enquiry by manipulating the computerised records, it would have failed in its work. The Panel needed to be able to compare what was on the HOLMES accounts with what was in the hard copy documents which had been made available, as the way in which the information flow in the investigation was handled might reveal practices pointing to corruption by police officers. The most effective and expeditious way to examine this risk was by using HOLMES, and the management and audit systems built into it, rather than solely by examining the paper records.

34. The Panel also needed access to the HOLMES accounts to assure itself that all the paper records had been provided by the Metropolitan Police, and to establish whether any relevant documents were missing. From the outset, the Panel had requested both secure access to the relevant HOLMES accounts and disclosure of all the documentation related to the murder of Daniel Morgan, for digitisation and uploading to Lextranet. Ultimately, the Panel found that some documents were only available on the HOLMES accounts and others were only available in hard copy. Without access to the HOLMES accounts, those documents which were not available in hard copy were unavailable to the Panel.

35. Lengthy negotiation with the Metropolitan Police about the Panel's access to HOLMES caused further considerable delay to the Panel's work.

36. In September 2013, at a meeting between the lead Panel member, Michael Kellett, and DCS Mick Duthie, who had lead responsibility within the Metropolitan Police for HOLMES and liaison with the Panel, the Panel formally sought access to the HOLMES database in respect of the investigations into Daniel Morgan's murder. Discussions followed and access to HOLMES appeared to be accepted by the Metropolitan Police. Indeed, on 17 October 2013, in response to Michael Kellett's reply to an email of 11 October, in which he had stated that he was arranging for the Panel's staff to receive training on the use of HOLMES, DCS Duthie stated that the Metropolitan Police could provide the training at cost if required.

37. In October 2013, DCS Mick Duthie sent Michael Kellett an email discussing some of the features of the Daniel Morgan investigation 'accounts' on the HOLMES database. He concluded:

'The accounts are not in a great state to be honest but we would be happy for you to visit us and have a look. We could get an officer, with an in depth knowledge of the

¹⁴ File note by DAC John Yates, MPS109484001, p55, 18 October 2005.

case and accounts to show you them over a day or so and then you might be able to consider how you want to go forward. If you or another researcher etc wanted access then they would need to have been given the necessary training, be up to date on HOLMES and then have a vetting level to view "Confidential" documents. I'm sure we will be able to do all of this if you require it but I think it would be better to have a look at the system first.'

38. Michael Kellett arranged to view the database on 26 November 2013. He was told by former DI Noel Beswick that the Abelard Two account contained 'Confidential' and 'Secret' material. This was contrary to HOLMES conventions, which restrict input of data onto the system to that protectively marked 'Restricted'¹⁵ or below. Michael Kellett agreed that this issue would have to be resolved.

39. On 05 December 2013, Michael Kellett and the Home Office Senior Responsible Officer met with AC Cressida Dick and DCS Mick Duthie to discuss a number of issues. Towards the end of the meeting, access to HOLMES was mentioned in passing by Michael Kellett. AC Dick expressed a strong reluctance to allow the Panel to access the system, although she did not explicitly refuse it at that point. She did not give any explanation for her stance, other than that the Panel was not carrying out a 'review' of the Morgan investigations (in the sense of an internal review as set out in the Major Incident Room Standardised Administrative Procedures (MIRSAP)). The Metropolitan Police minute of the meeting notes her saying, '[The Panel] *is not there to give a view on how well or badly the investigation was run. The [Terms of Reference are] about why people have not been brought to justice.'*

40. On 20 January 2014, in response to an email from Michael Kellett in which the Panel's draft research strategy was shared with the Metropolitan Police, DCS Duthie observed that the strategy appeared to indicate that the Panel was '*again*' seeking access to HOLMES. Michael Kellett replied to the effect that he was unclear why DCS Duthie would have thought that the Panel had changed its view about this at any point.

41. On 13 March 2014, Michael Kellett, the Panel's solicitor and two members of the Panel's Secretariat met DCS Mick Duthie, the Metropolitan Police solicitor and former DI Noel Beswick. DCS Duthie informed the meeting that AC Cressida Dick was '*not supportive*' of the Panel's desire to access HOLMES, primarily because almost the entire database (not just the Abelard Two Investigation) contained 'Secret' classified material in the form of the identities of informants, and the material on the system could not be redacted.¹⁶ This came as a further surprise to the Panel and its representatives, as under national guidelines governing the use of HOLMES, the identity of informants should never be entered into an investigation's HOLMES account. The HOLMES system is not designed to hold secret material. The Panel is aware that redaction of HOLMES accounts is not impossible, although it is time-consuming. It was pointed out that access to HOLMES was a fundamental requirement for the Panel. DCS Duthie requested that the Panel write to AC Dick to that effect.

42. On 20 March 2014, the Panel wrote to AC Cressida Dick pointing out, among other things, that the Panel had received advice that it was possible to redact the HOLMES system in order to protect the security concerns that the Metropolitan Police had, and that it required access to the HOLMES accounts.¹⁷

¹⁵ These were the classifications in use at the time.

¹⁶ Minute of meeting, 13 March 2014.

¹⁷ Letter from Michael Kellett to AC Cressida Dick, 20 March 2014.

43. The Panel was restricted in its work from March to September 2014 (see paragraph 17 above) but in order to prepare for access to HOLMES, basic HOLMES training was provided to the Panel's staff and it purchased a HOLMES user licence. Despite this, the Metropolitan Police maintained its refusal to provide the Panel with access to the HOLMES accounts created in respect of the Daniel Morgan investigations. It did so on the grounds that the Panel had no need to have access to HOLMES as all the information was in the documentation which would be provided to the Panel subject to the agreement being reached on the Disclosure Protocol.

44. Without access to HOLMES, the Panel would have been unable to verify that all the information relating to the various investigations was in the documentation provided, and the Panel would also not have had access to the search functions available on HOLMES.¹⁸ The Panel repeated its explanations about why access to documentation did not equate with access to HOLMES, enumerating the advantages, including the information which HOLMES contained relating to the decision-making process and management of police investigations, such as the investigations into the murder of Daniel Morgan.

45. On 17 September 2014, Baroness O'Loan and Michael Kellett had a meeting with AC Cressida Dick to discuss disclosure (see paragraph 19 above) and access to HOLMES by the Panel and its staff. AC Dick's stance at this meeting appeared to be to restart the negotiations from the very beginning. On 18 September 2014, Baroness O'Loan emailed AC Dick expressing surprise that the matter of access to HOLMES by the Panel was being treated by the Metropolitan Police as if it were a fresh issue, and with no reference to what had been agreed in April 2014 at the meeting she had had with AC Dick.¹⁹ The Panel's position was, consistently, that it required access at the Panel's secure offices to unredacted HOLMES accounts for all materials relating to the murder of Daniel Morgan.

46. On 15 October 2014, Michael Kellett, the Panel's Counsel, the Panel's solicitor and the Panel's consultant expert on HOLMES met the Metropolitan Police's solicitor and others. At this meeting, former DI Noel Beswick queried why the Panel wished to access HOLMES, given that everything that was on HOLMES was in the material being made available via Lextranet but that not everything on Lextranet was on HOLMES. Michael Kellett stated that it was not simply a question of viewing the material but also of checking the integrity of the way HOLMES had been used. Former DI Beswick suggested in that case the Panel could send its own expert to do an integrity check of the system. Michael Kellett said that a 'one-off' check was insufficient and constant access would be needed for the researchers.

47. The Metropolitan Police's solicitor also questioned why the Panel wanted access to HOLMES and why access at New Scotland Yard (the Metropolitan Police headquarters) would not be sufficient. Michael Kellett pointed out that the Panel had been consistent from the outset in requiring access to HOLMES at its offices. The Metropolitan Police solicitor then claimed that this was the first time access had been requested in this way, that it had implications for the Disclosure Protocol, and he would therefore have to take instructions.

48. The Metropolitan Police then offered to provide unrestricted access to HOLMES for Panel members and legal advisors at New Scotland Yard. The effect of what was being offered by the Metropolitan Police was that none of the Panel's staff would have been able to access the HOLMES accounts, which would have seriously disrupted the planned work and caused

¹⁸ The Panel considered it has a duty to check that this is the case, in light of the revelation in Mark Ellison QC's report about shortcomings in disclosure to Sir William Macpherson's Stephen Lawrence Inquiry, to the 2012 Metropolitan Police Corruption Review and to Mark Ellison's Independent Review.

¹⁹ Email from Baroness O'Loan to AC Cressida Dick, 18 September 2014.

further delay. Following the meeting, the Panel's solicitor wrote to the Metropolitan Police with a number of questions and asked for a response within two weeks.²⁰ No reply was received, and a reminder letter was sent.

49. On 30 October 2014, the Panel's solicitor wrote to the Metropolitan Police stating: 'As we made clear at the meeting on 15 October 2014, the Panel requires two things in respect of the relevant HOLMES account(s) in order to complete its task. The first is access to the complete account(s) for members of the Panel and its legal advisers and there is an acceptance that this access is likely to need to take place at MPS premises. The second is access to a standalone copy of the relevant account(s) which has been redacted or sanitised so that it contains material at RESTRICTED/OFFICIAL-SENSITIVE level which may be loaded on to a computer and reviewed by the Panel's research team at the DMIP office.'²¹

50. On 25 November 2014, the Panel agreed to appoint a HOLMES specialist, who would view the HOLMES database at Metropolitan Police premises. **This was solely as an interim measure pending resolution of the requested access to the database at the Panel's secure offices.** That expert was appointed so that the research on Lextranet could be informed by knowledge of the content of the various HOLMES accounts.

51. On 10 December 2014, Michael Kellett had a further meeting with DCS Mick Duthie who said that Metropolitan Police would not agree to the Panel having access to the HOLMES accounts at the Panel's offices and that a great deal of work would be needed to put the database into a state in which there was no material remaining which should not have been stored on HOLMES because of its security classification. **The Metropolitan Police should already have done this work, because, quite apart from the Panel's request for access, by keeping highly sensitive material, including 'Secret' classified material, on the HOLMES system they were breaching the protocols concerning HOLMES.** Michael Kellett reiterated that the Panel needed HOLMES access at the Panel's offices.

52. On 16 December 2014, AC Cressida Dick confirmed by letter the existence of six different HOLMES accounts for the investigations into Daniel Morgan's murder and stated that there were no HOLMES accounts for 11 other investigations which were relevant to the Daniel Morgan murder investigation. AC Dick stated that it was not feasible for the Metropolitan Police to provide access at the Panel's offices to redacted HOLMES accounts for the Panel on the grounds of 'security, cost, time and benefit gained'. Her letter indicated that existing HOLMES accounts could not be effectively edited. The Metropolitan Police could provide Panel members and the Panel's legal advisers with supervised access at Metropolitan Police premises to unredacted HOLMES accounts.²² The Panel rejected the suggestion that there was a need to edit the HOLMES accounts for the Panel's purposes, as the Panel required access only for staff with the appropriate level of security clearance.

53. AC Cressida Dick suggested in her letter of 16 December 2014 that, if the integrity of the accounts was of concern to the Panel, the Metropolitan Police could permit a vetted HOLMES expert to have supervised access to the HOLMES accounts at Metropolitan Police premises. Following representations by the Panel, on 30 December 2014 AC Dick wrote to the Panel confirming that the Panel, its legal representatives and the Panel's HOLMES expert could have

²⁰ Letter from Fieldfisher to the Metropolitan Police, 15 October 2014.

²¹ Email from Fieldfisher to Metropolitan Police solicitors, 30 October 2014.

²² Letter from AC Cressida Dick to Baroness O'Loan, 16 November 2014. (The letter was dated 16 November 2014 but sent in an email on 16 December 2014.)

access to the unredacted material on HOLMES, but only at Metropolitan Police premises.²³ In 2020, Commissioner Dick informed the Panel that her position with regard to the Panel's access to HOLMES was always made on the basis of the expert advice she had received.

54. AC Cressida Dick left the Metropolitan Police at the beginning of 2015 and AC Martin Hewitt was appointed to succeed her. On 27 January 2015, Baroness O'Loan wrote to AC Hewitt accepting the offer for the Panel's HOLMES specialist to attend Metropolitan Police premises and use the unredacted HOLMES databases. In her letter, the Chair emphasised that the Panel was confident, given the HOLMES specialist's background and security clearance, that there was no necessity for supervision while he was undertaking his work at Metropolitan Police premises. The letter also underlined the continuing importance to the Panel of having access to HOLMES at the Panel's secure offices, giving as an example the need to interrogate the Morgan One database on HOLMES in the absence of a coherent murder investigation file.²⁴ The letter said the Panel was seeking access only to the particular HOLMES accounts which related to the investigations concerning the murder of Daniel Morgan and, in the first instance, to the Morgan One database.²⁵ The letter pointed out that it is not uncommon for access to HOLMES to be given to inquiries of this nature.²⁶

55. On 25 February 2015, the Panel's HOLMES specialist was provided with supervised access to the HOLMES database at New Scotland Yard, but only under supervision. The Panel's specialist therefore could only access the HOLMES database in the presence of Metropolitan Police staff. Every transaction he carried out on the database was recorded, as is normal, in the audit log on the computer server. On every occasion on which the HOLMES expert wanted to use the HOLMES system, he had to travel across London and was escorted throughout his visits to the Metropolitan Police premises. On occasion he was told that he could not be accommodated, because there was no-one to supervise him. However, the imperative was getting access to HOLMES, even though the terms on which access was given were unacceptable. The terms were also contrary to the principles of conducting an independent inquiry. The Metropolitan Police subsequently offered to provide a pass for the Panel's HOLMES specialist so that an escort was not required. This offer was accepted, but no pass was provided.

56. On 23 March 2015, in its regular report to the Home Secretary, the Panel explained the very significant difficulties it had experienced including the unacceptable delay in reaching agreement on access to documents and the consequential delay in the Panel's work, and the denial of the requested access to the computerised HOLMES system accounts relating to the murder of Daniel Morgan.

57. On 25 March 2015, Michael Kellett, the Panel's Secretary and its HOLMES expert met DCS Mick Duthie and the head of the Metropolitan Police HOLMES Support Unit to resolve the issue of the Panel's access to the HOLMES database, which by then had been outstanding for 18 months. Michael Kellett reiterated that the Panel wanted access at its offices. The Metropolitan Police HOLMES Support Unit representative said that this was not possible as it was contrary to policy, not just in respect of the Panel, but generally. DCS Duthie said that, in any case, the Panel's offices were not a secure police environment and that this was another

23 Letter from AC Cressida Dick to Baroness O'Loan, 30 December 2014.

24 As stated by AC Cressida Dick, '*confusingly, part 1 of this file is split into two parts and is spread between the Morgan 1 and Hampshire case material*'.

25 The initial Morgan One Investigation account on MICA had been transferred to HOLMES by Hampshire Constabulary in 1988 during its investigation.

26 Letter from Baroness O'Loan to AC Martin Hewitt, 27 January 2015. AC Hewitt took over responsibility for cooperation with the Panel after AC Dick took up a post with the Foreign & Commonwealth Office.

reason that such access would not be possible, despite the fact that security at the building had been approved by the Metropolitan Police, and that the Panel was not the only sensitive body housed there.

58. When asked whether the Metropolitan Police transferred the HOLMES database to the Independent Police Complaints Commission when it was carrying out an investigation into the Metropolitan Police, DCS Duthie confirmed this to be the case, saying the Commission had statutory powers, whereas the Panel did not.

59. The head of the HOLMES Support Unit had earlier stated that she estimated that redacting the 'Secret' and 'Confidential' material on the database would take about ten months to complete. When asked how she had arrived at that estimate, she said that it was a rough estimate and while it was not exactly a case of '*finger in the air*' it was not far off being so. DCS Duthie undertook to have another look at the timescale and to report back as soon as possible.

60. On 05 May 2015, the Metropolitan Police agreed that the Panel could have a HOLMES terminal at the Panel's offices subject to Metropolitan Police satisfaction with regard to security. The Panel's offices had met all Government security requirements and had been assessed by the Metropolitan Police prior to the Panel commencing its work. Enhanced security provision required by the Metropolitan Police had been installed. On 23 June 2015, the Metropolitan Police's Directorate of Legal Services wrote to the Secretary to the Panel, advising that installing HOLMES at the Panel's offices would cost £26,278.31. The costing included almost £18,000 which would be payable to BT for cabling, network design, management of ordering supplies and liaison with suppliers and senior technical assistance. Over £8,200 would be payable to the Metropolitan Police contractor responsible for providing HOLMES, for project management, technical assistance and its site survey (which alone would cost over £700 to do). It was stated that there was also a real possibility that costs would increase further following a site survey of the Panel's offices.

61. In Autumn 2015, the Metropolitan Police undertook the survey of the Panel's offices and provided further estimates of the cost of installing the secure system for HOLMES access. When challenged on the additional work which they had said would have to be carried out, the Metropolitan Police subsequently indicated that it did not require further work after all. At the end of 2015, when the Panel reviewed its outstanding work and estimated timescale for completion, it decided in view of the cost of installing HOLMES, that it could not justify this expenditure of public money at the (then) advanced stage of its research and so decided not to pursue the matter further.

62. However, significant new information and voluminous material about the investigations into the murder of Daniel Morgan continued to come to light. It became clear that the Panel's decision not to pursue the installation of a HOLMES terminal was premature. The Panel subsequently revisited its decision not to proceed, and on 25 January 2018, a new request was made to the Metropolitan Police for a HOLMES terminal to be installed in the Panel's offices.²⁷

63. On 16 March 2018, the Panel was told that the cost of installing a HOLMES desktop at its offices had increased significantly from £26,278.31, as work would need to be done to establish links from the Panel's offices to the Metropolitan Police's IT network. This could add a further £40,000 to the cost. The Panel considered the cost (over £65,000) was now far too high for it to commit to this. On 27 March 2018, the Panel requested a HOLMES laptop, to be used by its

²⁷ Email from the Panel to DS Gary Dalby, 25 January 2018.

HOLMES expert in the Panel's offices. On 27 June 2018, the Metropolitan Police denied this request on the grounds of security at the Panel's offices.²⁸ This was despite the fact that the Metropolitan Police had, as stated previously, approved the Panel's facilities to store 'Secret' material securely in its offices.

64. In view of the rejection of the request for a laptop with access to HOLMES, on the grounds of inadequate security at its offices, on 27 July 2018 the Panel sought another site survey of its offices by the Metropolitan Police and was given a cost for the further site survey of £4,000-5,000. The Panel challenged this relatively high cost for such an exercise in its offices, but on 10 October 2018 approval was granted to commence the survey.

65. The Metropolitan Police completed its survey on 04 December 2018, and its survey report was made available to the Panel on 30 January 2019.²⁹ The report asked for significant structural enhancements to allow a HOLMES laptop to be used in the offices. The enhancements recommended to be made included new strengthened walls, a new stronger secure door and reinforced windows.³⁰ The Panel challenged the structural enhancement requirements identified by the survey, and it was subsequently agreed by the Metropolitan Police that these enhancements would not be required.

66. Finally, on 28 February 2019, the Panel decided, reluctantly, not to pursue HOLMES installation any further due to the timescales for the work needed which was estimated to last months. In view of the stage the Panel had reached with its research for this Report, it was difficult to justify expenditure of over £60,000, especially since the Panel had been advised that the work would take five to six months to complete, and the Panel had been quoted a further £20,000 for the decommissioning of the HOLMES platform in due course, bringing the total cost to £85,000. Additionally, the Panel and Metropolitan Police would have had to come to agreement on a Memorandum of Understanding to provide the basis for access to HOLMES at the Panel's premises before it could be used. In light of the Panel's experience of delays with similar agreements since 2013, it was considered that this would take too long to achieve.

67. The Panel has therefore had to prepare its Report with limited access to the relevant HOLMES databases by its HOLMES specialist visiting Metropolitan Police premises and conducting checks supervised by the Metropolitan Police.

68. During the Covid-19 pandemic in 2020, when staff had to work from home, the Metropolitan Police agreed that the Panel's HOLMES expert could use an encrypted HOLMES laptop to access the relevant HOLMES databases at his home. The laptop was provided on 02 September 2020. It should have been provided in 2013.

69. In December 2020, the Metropolitan Police told the Panel that the facility to provide remote access to HOLMES securely via the Cloud was not available when the Panel first requested HOLMES access. However, from 2005 the Independent Police Complaints Commission (later the Independent Office for Police Conduct) received copies of HOLMES accounts from police forces, including the Metropolitan Police Service, upon request. The accounts were loaded on to their server for use by their staff in their investigations. HOLMES was used on both desktop computers and on secure laptops, although where the material had a Government security

28 Email from Metropolitan Police to Fieldfisher, 27 June 2018.

29 Email from the Metropolitan Police to the Panel, 30 January 2018.

30 Report on the Suitability of the Use of DMIP [...], 05 December 2018.

classification of 'Secret' or above, separate considerations have applied. Moreover, a member of the Panel, while working in a different capacity in 2012 and 2013, was able to have a secure laptop on which HOLMES was available.

70. **There can be little doubt that the Metropolitan Police were determined not to permit access to the HOLMES system which would have enabled the Panel to carry out its work far more efficiently and effectively. Very significant resources had to be spent challenging the continuing Metropolitan Police assertions about the difficulties of enabling the requested access to the HOLMES system. This should not have happened. The Panel would have been greatly helped in its work preparing this Report and would have been able to complete its Report much sooner, had it had access to the HOLMES system in its own offices from September 2013.**

71. **The Panel has never received any reasonable explanation for the refusal over seven years by AC Cressida Dick and her successors to permit proper access to the HOLMES accounts to the Daniel Morgan Independent Panel. The consequential major delays to the Panel's work, which inevitably added to the Panel's costs, caused further unnecessary distress to the family of Daniel Morgan.**

RECOMMENDATION

72. All independent panels and inquiries examining police investigations should be given full access to the associated HOLMES accounts at their secure premises when they begin their work.

4 Obtaining historic and current police policy documentation

73. When assessing the behaviour of the police, and what they did or did not do to investigate or review the murder of Daniel Morgan, it was necessary to consider the law, relevant police policies, guidelines and standing orders as they existed in 1987 and as revised during the subsequent investigations and reviews of the case. The Panel had significant difficulty in accessing these documents.

74. Historical policing documentation is held by a variety of organisations, many of which, like the Association of Chief Police Officers (ACPO), have ceased to exist or have been replaced by other organisations. Many of the relevant policy documents for the Metropolitan Police were archived at its Heritage Centre in West Brompton, London, which was most helpful to the Panel. Other organisations such as the College of Policing, The National Archives, the National Crime Agency and the Crown Prosecution Service have also been of assistance to the Panel in its work.

75. The National Crime Agency was particularly helpful in searching for and providing the Panel with documentation originating with its predecessor organisation, the Serious Organised Crime Agency. It also readily agreed to carry out research of the National Injuries Database and the Home Office Homicide Index, so as to provide the Panel with a report concerning the frequency and circumstances of homicides in which axes have been used.

76. The material sought by the Panel included guidance manuals produced by the Association of Chief Police Officers (ACPO) – now the National Police Chiefs’ Council – which were restricted documents and not publicly available. The first request for such material – the Guidance on Debriefing Assisting Offenders, which was essential for the Panel’s full understanding of the issues surrounding the debriefing in the Abelard Two Investigation – was made in December 2013. The request and a follow-up reminder were not acknowledged. Therefore, on 11 March 2014, the Panel sent a letter to the President of ACPO, Sir Hugh Orde, explaining the Panel’s attempts to date to obtain documentation from ACPO and requesting his personal assistance in the matter.³¹ The Panel was referred to the ‘ACPO lead’, a senior officer in Merseyside Police. Over the next few months, the Panel was referred in turn to Nottinghamshire Police, the Metropolitan Police, West Midlands Police and then back to the Metropolitan Police. Only in December 2014 was the document finally made available to the Panel, a year after it was first requested.

5 Obtaining material from other criminal justice agencies

77. Hampshire Constabulary conducted the second investigation of Daniel Morgan’s murder. Following agreement of the Disclosure Protocol with the Metropolitan Police in December 2014, Hampshire Constabulary entered into a Disclosure Agreement in May 2015, and documents were received between July 2015 and January 2017.

78. In September 2014, the Panel’s Counsel contacted the Crown Prosecution Service seeking assistance to obtain Crown Prosecution Service documentation relevant to the Panel’s work. Although the Disclosure Protocol and the Data Protection Agreement were designed to enable the different providing organisations to release documentation to the Panel, it was understood that the Crown Prosecution Service might face problems as regards its obligations under section 19 of the Regulation of Investigatory Powers Act 2000. After lengthy discussions, agreement on disclosure was reached in June 2015.

79. The Panel received the first documentation from the Crown Prosecution Service in November 2015. It sought from the Crown Prosecution Service only documentation which had not already been provided by the Metropolitan Police or Hampshire Constabulary, but the Crown Prosecution Service has limited archives, and document retrieval was, on occasion, very difficult.

80. In the course of its work, it became necessary for the Panel to seek documentation from the Criminal Cases Review Commission. However, under the terms of the legislation governing its activities, the Commission is not permitted to share material with non-statutory inquiries.³² It was therefore necessary for a Statutory Instrument to be passed by Parliament to enable disclosure by the Criminal Cases Review Commission. The process of getting agreement, drafting, and passing the Statutory Instrument into law took 13 months from June 2018 to July 2019. There was some delay in passing the necessary Statutory Instrument because of the priority given to Brexit-related work. However, disclosure by the Criminal Cases Review Commission happened rapidly once the necessary legislative change had been made.

81. When the Panel was appointed, there was limited awareness of all the facts surrounding the case. As the situation unfolded, more and more documentation was sought by and made available to the Panel over several years. The Panel had no expectation when it started that

³¹ Letter from Panel to Sir Hugh Orde, 11 March 2014.

³² The Criminal Appeal Act 1995.

court hearings and criminal investigations relating to the conduct of the investigation of Daniel Morgan's murder and associated issues would continue until April 2020. However, this is what happened. As a consequence of the ongoing criminal investigations, the Panel was temporarily denied access to documentation relevant to its work on a number of occasions. Its final receipt of documentation occurred in March 2021.

RECOMMENDATION

82. In order to avoid most of the delays and difficulties inherent in this case, and in so many other unsolved cases, there is a need for a review of the processes for archiving historic material with a view to creating a system which can produce national and local documents as required.

6 Access to retired and serving Metropolitan Police officers

83. During its work, the Panel found it necessary to contact serving and former police officers to assist the Panel. Once the Panel began to access Metropolitan Police documentation in December 2014 (the initial briefing pack and catalogue), and subsequently actual documentation from January 2015 onwards, the Panel was in a position to identify the police officers who had been involved with the investigations into the murder of Daniel Morgan, and to consult with the Metropolitan Police about appropriate arrangements for confidential communications from the Panel to be forwarded by the Metropolitan Police to relevant former and serving police officers.

84. On 17 December 2014, the Panel became aware that the Metropolitan Police had circulated a notice requiring any Metropolitan Police personnel who wished to contact the Panel to do so through a Metropolitan Police single point of contact '*to ensure that we have a full record of these requests and any potential responses*'. The Chair of the Panel wrote to AC Cressida Dick that same day (17 December) asking the Metropolitan Police to '*make it clear to all Metropolitan Police officers and staff that it is open to them to contact the Panel directly and to provide it with any information they consider relevant, in confidence and without reference to the single point of contact or anyone else in the Metropolitan Police*'.³³

85. On 18 December 2014, a procedure was agreed with the Metropolitan Police for them to forward confidential correspondence, under sealed cover, to retired police officers whom the Panel wished to contact. Accordingly, the Panel provided the Metropolitan Police with letters to two former officers, with a request for the letters to be delivered in the New Year.

86. On 06 January 2015, the Panel was informed that an email had been circulated to all Metropolitan Police officers and staff stating that staff could contact the Panel directly, rather than going through the Metropolitan Police's Panel support team. The Panel's solicitor arranged a single point of contact and dedicated phone number for Metropolitan Police staff who wished to contact the Panel.

³³ Letter from Baroness O'Loan to AC Cressida Dick, 17 December 2014.

87. On 16 January 2015, the Metropolitan Police's solicitor, by email, asked that the Panel provide assurances that natural justice principles would be followed by the Panel in its contact with potential interviewees. Attached to the email was a draft letter which the Metropolitan Police proposed to send to current and former employees in tandem with the Panel's private correspondence (such as the two letters handed to the Metropolitan Police in December 2014, which remained undelivered to the former officers). This draft letter included a statement of the duty of care of the Metropolitan Police to current and former employees, and a set of questions to be put by the Metropolitan Police to any officer whom the Panel might decide to approach. The Panel viewed the contents of the Metropolitan Police letter as an attempt by the Metropolitan Police to interfere with the independence of the Panel and to warn off potential interviewees.

88. While reiterating its commitment to complying with all of its obligations with regard to fairness at every stage of the process, the Panel insisted that no Metropolitan Police correspondence should be sent with any letter from the Panel. Baroness O'Loan also spoke to AC Martin Hewitt about the matter, and he arranged for the letters to be forwarded immediately without any accompanying correspondence by the Metropolitan Police to the two former officers.

89. On 27 January 2015, after Metropolitan Police consultation with the Panel, a message was sent to all Metropolitan Police staff inviting anyone with information to contact the Panel directly. Baroness O'Loan welcomed this but stated that *'the Panel finds the deliberate withholding of correspondence by the Metropolitan Police destined for retired officers to be in contravention of the agreement made on 18 December 2014, to be unacceptable and completely without justification. The Panel does not expect such a failure to be repeated'*.

7 Access to sensitive Metropolitan Police documents

90. The processes agreed for the Panel to receive documents from the Metropolitan Police did not include access to sensitive material. Separate arrangements for access to such material required the Panel to visit Metropolitan Police premises on the outskirts of East London which entailed a two-hour return journey from the Panel's offices in Central London. On 13 May 2015, Baroness O'Loan wrote to AC Martin Hewitt about this issue. In earlier discussions, it had been suggested that material might be moved to New Scotland Yard, or to alternative Metropolitan Police premises, for viewing by Panel members.

91. On 01 June 2015, AC Martin Hewitt replied to Baroness O'Loan stating that he could facilitate Panel members' access to this material at police headquarters. However, he said:

- i. Two police officers would be required to convey sensitive material to and from New Scotland Yard, to avoid the risk of such highly sensitive material, including that relating to threats to life, being lost or misplaced during its move between locations. This would have resource implications and could delay other work, including preparing material for the Panel.
- ii. The quantity of sensitive redacted material would increase as more documents were disclosed, so the frequency of transportation to New Scotland Yard would inevitably increase.

- iii. The sensitive material was required for reference, during the preparation of the less sensitive material for data-indexing and digitalisation for the Panel. Relocation of these documents away from the bulk of the papers could cause delays.
- iv. Access would only be permitted at New Scotland Yard to the sensitive material. As a consequence, Panel members would have been unable to check the surrounding material which was sometimes helpful when viewing the sensitive documents.³⁴

92. The Panel concluded eventually that it would have to continue with the existing arrangements of viewing sensitive documents at the Metropolitan Police premises in East London. This was far from satisfactory, and significant time continued to be wasted.

93. All staff employed by the Panel received appropriate security clearance before starting work. That clearance was reviewed as required by the appropriate authorities. This is a very necessary part of any strategy to prevent corruption. However, the Panel discovered that the Metropolitan Police officer responsible for providing documents to the Panel, who had full access to all the material held by the Metropolitan Police relating to the investigations into Daniel Morgan's murder, was not cleared to a level which allowed him to have access to all the material he was handling. The situation was severely aggravated by the fact that, as part of his role, he was allocating security classifications to documents (some of which were 'Secret') and redacting sensitive material contained in them. It was he who was deciding which documents should be redacted before being downloaded onto the Panel's database, and which documents Panel members would have to view in unredacted format in East London. When it discovered this at a late stage, the Panel had to arrange for the Home Office to conduct security clearance of the police officer, a task that ought to have been carried out by the Metropolitan Police many years earlier.

94. Some material was excessively and inconsistently redacted before being placed on the Panel's database, necessitating trips to the outskirts of East London to examine the original unredacted documents. On occasion, the redactions were found to be clearly unnecessary. While appropriate protection of investigation materials is obviously important and necessary, the way in which material was released to the Panel was unsatisfactory. There was not insignificant obstruction to the Panel's work.

RECOMMENDATION

95. In any future Panel inquiry, arrangements should be made for the storage of sensitive material in the Panel's premises, in a similar manner to provision made for inquiries being conducted under the Inquiries Act 2005.

7.1 Access to Operation Othona material

96. The report by Mark Ellison QC for the Stephen Lawrence Independent Review, published in March 2014, looked at possible corruption and the role of undercover policing in the Stephen Lawrence case. The report included details of Operation Othona, a Metropolitan Police anti-corruption initiative established in 1994, which sought to assess how serious corruption was within pockets of the Metropolitan Police, and in particular some of the specialist squads.

³⁴ Letter from AC Martin Hewitt to Baroness O'Loan, 01 June 2015.

97. Mark Ellison QC said that the Stephen Lawrence Independent Review was unable to see documentation in connection with Operation Othona as it could not be located by the Metropolitan Police. The only information related to Operation Othona was intelligence that was discovered on a computer hard drive in 2013. Mark Ellison QC commented in his report that *'[i]f the MPS [Metropolitan Police Service] searches for all relevant material cannot reveal such reports of central significance to the issue of police corruption in the Stephen Lawrence murder investigation, there must be serious concerns that further relevant material has not been revealed'*.

98. In Summer 2013, Mark Ellison QC made enquiries of the Daniel Morgan Independent Panel because the Panel's Terms of Reference required it to examine the role that police corruption played in the murder of Daniel Morgan. He was concerned that there was *'a real possibility that the Daniel Morgan Independent Panel may hold or acquire material relevant to our review of the corruption issue'*. The Metropolitan Police were therefore alerted to the possible importance of the Operation Othona documentation to the work of the Panel.

99. Following the publication of the report by Mark Ellison QC, the Metropolitan Police created the Assistant Commissioner's Public Inquiry Team to investigate, among other matters, allegations of missing or destroyed historical anti-corruption intelligence. On 15 July 2016, AC Martin Hewitt wrote to the Panel confirming that significant progress had been made in locating and digitising historical anti-corruption intelligence. A computer hard drive had been found in a cardboard box in November 2013, containing a standalone intelligence database (Bawsdey) covering material from 18 July 1994 to 24 January 2003. On 07 September 2016, the Panel sought disclosure of all material relevant to its Terms of Reference. It was particularly interested in the electronic database, Bawsdey. The Panel did not understand why digitisation was essential before material could be examined.

100. On 16 February 2017, the Panel's solicitor wrote to the Metropolitan Police's solicitor indicating that the Panel would shortly be concluding its review of the papers before it and would be seeking to finalise any conclusions drawn from them. It was important therefore to ensure that the Panel had had sight of all potentially relevant material held by the Metropolitan Police. The Panel asked for written confirmation that no further disclosure, as required under the Panel's Terms of Reference and as agreed in the Disclosure Protocol, was anticipated.

101. In this letter, the Panel's solicitor referred to the volume of materials from Operation Othona, which might be relevant to the Panel's work.³⁵ It asked the Metropolitan Police to keep it fully appraised of the potential for future disclosure and asked for confirmation of:

- i. the scope of both digitised and non-digitised material held in respect of Operation Othona;
- ii. the steps taken by the Metropolitan Police to identify any digitised materials potentially relevant to the Panel's work and for written confirmation of the method(s) of searching, the outcome of any searches to date, whether this review was ongoing and the anticipated date of completion; and
- iii. whether any review had been undertaken to identify any non-digitised materials potentially relevant to the Panel's work, and if the material had been indexed or catalogued in some way, and whether consideration had been given to prioritising

³⁵ Letter from Fieldfisher to Metropolitan Police solicitors, 16 February 2017.

the review of those documents/boxes which were more likely to contain material potentially relevant to the work of the Panel. The Panel asked when the work would be completed.

102. On 19 June 2017, AC Martin Hewitt assured the Panel that the Metropolitan Police *'has continuously searched for Daniel Morgan related documents to ensure that everything possible is done to try and locate them'* and that, were any newly discovered material falling within the Terms of Reference to be found, the Metropolitan Police would notify the Panel. He referred to the size and complexity of the Operation Othona documentation and the probability that the material did not represent the entirety of the Metropolitan Police Operation Othona records.

103. AC Martin Hewitt said that the Metropolitan Police had identified 600 crates holding material of interest to the Panel, which were being transferred to Lextranet for review. He also said that the estimated date for completion for this work was May 2018. The process of data-indexing was completed in December 2018 when some material became available to the Panel.

104. In view of the sensitivity of this documentation, the Panel and its Secretariat could only access and view documents at the Metropolitan Police's premises in East London.

8 Support from the Home Office

105. The Home Office is the sponsoring department for the Panel. A senior civil servant in the Home Office is given the role of Senior Sponsor to the Panel as part of their wider set of responsibilities. The relationship with the different officials who have been Senior Sponsor (also referred to as Senior Responsible Officer) since 2013 has been positive, but the relationship with the Home Office as a department has been more challenging.

106. An Inquiry or Panel looks to its sponsoring department to provide effective support in the form of good IT systems and office equipment, and to recruit staff. Without these, a Panel cannot perform its role effectively. Since 2013, the Panel has experienced some slowness in responses, lack of communication, delay in the delivery of computer equipment, and delay in vetting staff. Initial delay in the provision of desktop computers and laptops when the Panel was first established meant that the Panel did not have the essential computers to do its early work. This damaged the confidence of members of Daniel Morgan's family in the Panel process in the crucial initial stages.

107. The Panel has, throughout, communicated the difficulties and delays it has experienced in accessing documentation and the HOLMES system to the Home Office. However, although on occasion it was most helpful, the Home Office did not always advocate in support of the Panel's requirements.

108. Without access to the HOLMES database for its research staff, the Panel had to rely entirely on Lextranet, which was supplied by DIT, the service recommended by the Home Office. However, the Panel was informed in 2018 that risks to security of data held on the system could only be addressed by moving to a new platform, Relativity, run by EPIQ.

109. Discussions between the Home Office, EPIQ and the Panel's Secretariat about the transfer of material from Lextranet to Relativity began in April 2018 and lasted 12 months. The transfer of data started in April 2019 and was completed by the end of September 2019. However, in December 2019, the Home Office identified security issues with Relativity which had to be resolved through a system upgrade by EPIQ. Relativity was only given its security accreditation

by the Home Office in July 2020, and shortly after that, Lextranet became unavailable. Moving to a different digital management system, and then working on two digital management systems for 15 months from April 2019 to July 2020, further delayed the Panel's work.

110. In November 2020, the Home Secretary, Priti Patel MP, acknowledged to the Panel that, although there may have been some initial delays in establishing the necessary infrastructure for the Panel's work, '*lessons have been learned since the Panel was set up*', which includes the establishment of a central Home Office Sponsorship Unit including a dedicated Inquiry Sponsorship Team, with processes which now exist to support the setup of new inquiries.

9 Conclusion

111. The events around the murder of Daniel Morgan and the subsequent police investigations are very complex. However, the Panel faced major, unnecessary problems in accessing material and systems. While it received great assistance from organisations such as the National Crime Agency, the Independent Office for Police Conduct, and the Criminal Cases Review Commission, it did not experience, particularly from the Metropolitan Police, the necessary level of cooperation. Many of the difficulties described here could have been anticipated and resolved before the Panel was established in 2013. This was not the case, and the Panel has had to deal with them as best it could, but, as a non-statutory Panel, it has done so without the powers accorded to statutory inquiries.

112. The Panel received its first set of documents from the Metropolitan Police in January 2015, and it received its final documents from the Metropolitan Police in March 2021. The Panel has presented its Report to the Home Secretary within 12 months of receipt of the final set of documents.

It is important that lessons are learned about planning and preparation before the appointment of panels and similar public scrutiny bodies, to avoid unnecessary distress to the families of those affected, and unnecessary delays and cost to the public purse.

RECOMMENDATION

113. It is recommended that, whenever a major incident remains under investigation or inquiry, documents should be retained in digitised form, subject to appropriate security measures and made available to those who subsequently and justifiably require access to them.

RECOMMENDATION

114. In the interest of transparency and public accountability, all public institutions should be under a duty to cooperate fully with independent scrutiny bodies, created by Government, such as the Panel.

Chapter 12: The Treatment of the Family

Contents

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- 2 Introduction**
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- 6 The Abelard One/Morgan Two Investigation**
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- 8 The Abelard Two Investigation**
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1 The Panel's approach to this chapter

1. The treatment of members of Daniel Morgan's family by the police and other parts of the criminal justice system is central to the Panel's Terms of Reference.¹ The Panel's Report is intended to provide the family with answers to their questions as well as an opportunity for them to voice their perspectives on the handling of the investigation of Daniel Morgan's murder. The next two chapters are closely linked as they both focus on the family of Daniel Morgan: this chapter looks at the treatment of the family by the criminal justice system, especially the police, since the murder of Daniel Morgan in 1987; and the next chapter focuses explicitly on the personal perspectives of their experience by members of the family.

2. How a family is treated by those investigating the murder of a loved one is vitally important. The trauma experienced by the family as a consequence of the murder can be seriously exacerbated by adverse experiences of the investigation. Such adverse experiences can also rapidly diminish trust between the family of a murder victim and the police. The views expressed by members of the family in this and the next chapter reflect the experiences which they had

¹ Terms of Reference, para 2.

over the decades. They should not be taken as those of the Panel. Panel findings, here as elsewhere, highlighted in green boxes, reflect instances where the research into the concerns of the family has produced evidence upon which the Panel has felt compelled to comment.

3. Since its formation, the Panel has met members of the family on a regular basis in accordance with its 'family first' principle. There have been at least 40 meetings and multiple telephone calls and email exchanges with members of the family in which the Panel has discussed its Report and the work underway. The Panel conducted interviews with members of Daniel Morgan's family, and used comments and notes made by members of the family; records retained by Daniel Morgan's brother, Alastair Morgan; as well as contemporaneous police records. However, the Metropolitan Police have produced no records for many of their meetings with Daniel Morgan's family. The Panel has found the insights of the family to be very helpful in preparing this Report.

Family Liaison Policy throughout this period

Today, the relationship between police officers and a bereaved family is considered vitally important, with clear policies, processes and structures regulating family liaison activities. However, at the time of Daniel Morgan's murder, the provision of family liaison was not formalised. The responsibility for communicating with the family of a victim rested with the Senior Investigating Officer. Beyond the initial contact with the family, there was little systematic liaison, unless the investigation required it, or there was significant information to pass on. Prior to its formalisation, family liaison has been described as '*something that a few committed investigators did on an ad hoc basis*'.

Family Liaison Policy in the 1990s

In the 1990s, Family Liaison Policy became more formalised. This was recognised in the Association of Chief Police Officers 'Murder Investigation Manual 1998', which stated that '*it is recognised good practice to appoint Family Liaison Officers to work very closely to and support the immediate family of the deceased*'.²

Family Liaison Policy in 2001

Sir William Macpherson's inquiry report on Stephen Lawrence's murder, published in February 1999, had included six recommendations relating to family liaison practices in the police,³ and on 23 March 2001 the Metropolitan Police introduced its 'Family liaison policy and fundamental guidelines'.⁴ With this, the role of Family Liaison Officer in the Metropolitan Police became formalised, training was provided and family liaison logs were introduced.^{5,6} The mission statement of the Metropolitan Police policy reads:

2 Association of Chief Police Officers (ACPO) Crime Committee, Murder Investigation Manual, MPS109705001, p180, September 1998.

3 Sir William Macpherson, The Stephen Lawrence Inquiry, pp377-378, 24 February 1999.

4 Metropolitan Police, Family liaison policy and fundamental guidelines, MPS109906001, 2001.

5 Metropolitan Police, Family liaison policy and fundamental guidelines, MPS109906001, p6, 23 March 2001.

6 Metropolitan Police, Family liaison policy and fundamental guidelines, MPS109906001, p23, 23 March 2001.

*'One of the most important considerations throughout any investigation into a sudden, violent or unexplained death is the relationship between the family and police. Families will be considered as partners in an investigation. Families must be treated appropriately, professionally, with respect and in accordance with their diverse needs. This principle must be reflected at all levels of the police service.'*⁷

The policy established a management coordination role and defined processes for selection and training. The importance of the guidance was reinforced in the foreword by then Deputy Commissioner Ian Blair.^{8,9,10}

T/D/Supt David Zinzan, in a report to his management on 07 May 2002, demonstrated his familiarity with the Metropolitan Police's family liaison guidance when he described the relationship with Daniel Morgan's family as *'assessed as level 2 bordering on level 3'*.¹¹

The levels of assessment are summarised in the 2001 'Family liaison policy and fundamental guidelines' as follows:

'Level 1 – *The police/family relationship is stable with no ongoing or anticipated problems.*

Level 2 – *The police/family relationship is or is anticipated to give cause for concern.*

Level 3 – *The police/family relationship is consistently unstable or non-existent and may require the involvement of an intermediary, mediator and/or crisis intervention.'*¹²

In February 1999, the Stephen Lawrence Public Inquiry, headed by Sir William Macpherson, published its findings. The report highlighted the failings in family liaison strategies employed by the Metropolitan Police and produced recommendations to tackle these apparent failings.¹³

2 Introduction

4. Daniel Morgan was married to Iris Morgan and they had two children, Sarah Morgan and Daniel Morgan, whom we refer to as Dan Morgan. Daniel Morgan was also survived by his mother, Isobel Hülsmann, who very sadly died during the preparation of this report, his brother, Alastair Morgan, and his sister, Jane Morgan. The family's grief has been compounded since the murder by their treatment at the hands of some police officers and representatives of other organisations.

7 Metropolitan Police, Family liaison policy and fundamental guidelines, MPS109906001, p5, 23 March 2001.

8 Metropolitan Police, Family liaison policy and fundamental guidelines, MPS109906001, pp19-22, 23 March 2001.

9 Metropolitan Police, Family liaison policy and fundamental guidelines, MPS109906001, pp6-8, 23 March 2001.

10 Metropolitan Police, Family liaison policy and fundamental guidelines, MPS109906001, p3, 23 March 2001.

11 Report from T/D/Supt David Zinzan to DCS Shaun Sawyer, *'Re: Operation Abelard formation of Gold Group'*, MPS047329001, p1, 07 May 2002.

12 Metropolitan Police, Family liaison policy and fundamental guidelines p9, 23 March 2001.

13 Sir William Macpherson, The Stephen Lawrence Inquiry, pp377-378, 24 February 1999.

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5. Many of the interactions between police officers and Daniel Morgan's wife, his mother and brother, were not well managed, during the first hours, days and weeks following the murder; the way in which Iris Morgan and Isobel Hülsmann were informed of Daniel Morgan's murder was particularly regrettable.
6. In the year following the murder, the Inquest was held. This was a difficult and traumatic time for the family.
7. During the 1990s, developments directly related to the murder of Daniel Morgan were few and far between. Members of the family had the attention of some key officers, such as the Commissioner, Sir Paul Condon, who met and gave positive assurances to Isobel Hülsmann and Alastair Morgan, but there was a scarcity of new and tangible information. It was a time of continuing frustration for the family.
8. The decade closed with a significant development, Operation Nigeria/Two Bridges, which sought to expose corruption within Law & Commercial, the successor of Southern Investigations, the private detective agency which Daniel Morgan had run with Jonathan Rees. Its objectives also included seeking further information about the murder of Daniel Morgan.
9. The 2000 Murder Review, which was conducted by DI Steve Hagger, gave rise to a new and focused covert operation in 2001, referred to as Abelard One, led by DCI, later T/D/Supt, David Zinzan. By March 2001, the Metropolitan Police had introduced 'Family liaison policy and fundamental guidelines', which formalised the appointment and role of Family Liaison Officers in investigations. For members of Daniel Morgan's family, this proved to be a significant new era in their relationship with the Metropolitan Police and their involvement in matters relating to the murder.
10. In 2002, DCS David Cook became Senior Investigating Officer of Morgan Two, the overt arm of the joint operation referred to here and throughout this Report as the Abelard One/ Morgan Two Investigation. Together, DCS Cook and T/D/Supt David Zinzan were determined to do all they could do to bring the perpetrator(s) to justice. The ultimate decision of the Crown Prosecution Service that there were insufficient grounds to bring a prosecution was a huge disappointment to the family, and their earlier feelings of despair and disillusionment returned.
11. In 2006, the Metropolitan Police Authority required the Metropolitan Police to carry out a review of the investigations into Daniel Morgan's murder and to report to the Authority. Following this, after the emergence of new evidence, a further investigation, Abelard Two, was established. This led to the prosecution of Jonathan Rees, James Cook, Glenn Vian and Garry Vian for murder, and the prosecution of former DS Sidney Fillery for doing an act tending and intended to pervert the course of justice. All the Defendants were acquitted in 2011. Although the family had experienced a much-improved working relationship with the police since 2001, they were extremely disappointed when the Defendants were acquitted. The family received public and official apologies from the Metropolitan Police, but they were still left devastated. They again argued at the highest level for a public inquiry, and in May 2013 the then Home Secretary, Theresa May MP, announced in Parliament the launch of a Panel Inquiry and the appointment of the Daniel Morgan Independent Panel.

3 The murder of Daniel Morgan, its investigation and the Inquest

3.1 Receiving the news of Daniel Morgan's death

12. Iris Morgan's first police contact was in the early hours of Wednesday 11 March 1987, when officers visited her home to break the news of her husband's death.¹⁴

13. D/Supt Douglas Campbell, the Senior Investigating Officer of the first investigation into the murder, the Morgan One Investigation, asked Jonathan Rees, Daniel Morgan's business partner, to confirm Daniel Morgan's home address and whether Iris Morgan would be there. D/Supt Campbell then asked Jonathan Rees, who was already at Catford Police Station because he had been asked to assist the police, if he would inform Iris Morgan of her husband's death.¹⁵

14. Jonathan Rees was taken by PC Laurence Hart and DC Noel Cosgrave to Iris Morgan's home.^{16,17} Both officers subsequently explained that they wanted to ensure that Iris Morgan would not be left alone after she was told of her husband's death, so they relied on Jonathan Rees to advise who should be present.¹⁸ Two of Iris Morgan's friends were contacted and accompanied the police officers and Jonathan Rees to Iris Morgan's home.¹⁹

15. PC Laurence Hart stated that they '*knocked on the door but got no answer*'.²⁰ Jonathan Rees then informed the officers that Iris Morgan kept the back door unlocked when Daniel Morgan was out, and the officers and the two friends of Iris Morgan were able to gain access through the back door.²¹ One of Iris Morgan's friends went into her bedroom, spoke to her and brought her out onto the upstairs landing where DC Noel Cosgrave informed Iris Morgan of her husband's death, as he stated he did not believe it was right for Jonathan Rees to do so. After Iris Morgan had been informed, PC Hart went through the personal telephone index and telephoned some members of Iris Morgan's family.²²

16. After being informed of her husband's death, Iris Morgan was understandably very upset. DC Noel Cosgrave decided to call a doctor and one attended later that morning.²³

17. Iris Morgan has not criticised the way in which the police informed her of her husband's murder. She has, however, said that she does not know why Jonathan Rees attended, and that he was not welcome in the house.^{24,25}

18. Jonathan Rees informed the Panel in November 2020 that he did not wish to attend Iris Morgan's house to inform her of Daniel Morgan's death and did so on instructions from D/Supt Douglas Campbell.

14 Witness statement of a neighbour of Iris Morgan, MPS002154001, pp3-4, 22 April 1987.

15 Witness statement of DC Kinley Davies, MPS028043001, pp2-3, 7 July 1988.

16 Witness statement of DC Noel Cosgrave, MPS003327001, pp1-2, 22 June 1988.

17 Witness statement of PC Laurence Hart, IPC001017001, p4, 17 December 1987.

18 Witness statement of PC Laurence Hart, MPS028066001, p2, 22 June 1988.

19 Witness statement of DC Noel Cosgrave, MPS003327001, p2, 22 June 1988.

20 Witness statement of PC Laurence Hart, IPC001017001, p4, 17 December 1987.

21 Witness statement of PC Laurence Hart, IPC001017001, p2, 17 December 1987.

22 Witness statement of DC Noel Cosgrave, MPS003327001, p2, 22 June 1988.

23 Witness statement of DC Noel Cosgrave, MPS003327001, p2, 22 June 1988.

24 Panel meeting with Iris Morgan, p2, 19 May 2015.

25 Panel meeting with Iris Morgan, Sarah Morgan, and Dan Morgan, p1, 8 August 2016.

19. WDS Christine Fowles became the primary police contact for Iris Morgan²⁶ effectively fulfilling the role of Family Liaison Officer. DC Richard Davis worked with WDS Fowles. DC Davis stated that they were given the task of '*looking after*' Iris Morgan and the immediate family, including Alastair Morgan.²⁷

20. It was appropriate to have someone present who knew Iris Morgan in order to comfort her when the police left, and her two friends fulfilled that role. It was also appropriate that the police asked Jonathan Rees to identify such people. However, it was inappropriate that Jonathan Rees went with the police into the Morgan's home, as he was the last known person to see Daniel Morgan alive.

21. Isobel Hülsmann, Daniel Morgan's mother, lived in Wales at the time of her son's death. She was informed of his death during a telephone call from a member of the Metropolitan Police at 4.00 am on 11 March 1987.²⁸ She was not informed of the circumstances of his death.²⁹

22. Isobel Hülsmann should not have been told of her son's death during a telephone call from the police at 4.00 am. The police should either have asked a member of her family to tell her, or they should have asked a local police officer to inform her in person.

3.2 Early interactions between family members and the police

23. At the time of Daniel Morgan's murder, police family liaison was less developed. Some of the effort made by individuals to inform and support members of Daniel Morgan's family was appreciated, such as the support provided to Iris Morgan by WDS Christine Fowles. Nevertheless, at times, members of Daniel Morgan's family felt let down by police failures of communication.

24. Iris Morgan, Isobel Hülsmann, Alastair Morgan and Jane Morgan have all told the Panel that they felt that some members of the first police investigation team were arrogant, unnecessarily distant or offensive, and showed a lack of basic respect and consideration for the family during this period (see Chapter 13, The Morgan Family's Experience: A selection of personal perspectives from the family of Daniel Morgan).

25. Iris Morgan has told the Panel that her experience with the police in the early stages of the first murder investigation '*upset her*'.³⁰ She explained that while she established a good relationship with WDS Christine Fowles, she felt that D/Supt Douglas Campbell should have come to see her.^{31,32} She has recounted to the Panel that it was not until she went to Sydenham Police Station some days after Daniel Morgan's murder that she met D/Supt Campbell.³³

26 Witness statement of WDS Christine Fowles, MPS021582001, p1, 05 July 1989.

27 Witness statement of DC Richard Davis, MPS000188001, p1, 06 June 1989.

28 Witness statement of Isobel Hülsmann, MPS001977001, p1, 26 May 2000.

29 Witness statement of Isobel Hülsmann, MPS000002001, p3, 17 March 1987.

30 Panel meeting with Iris Morgan, p1, 19 May 2015.

31 Witness statement of WDS Christine Fowles, MPS021582001, p1, 05 July 1989.

32 Witness statement of DC Richard Davis, MPS000188001, p1, 06 June 1989.

33 Panel meeting with Iris Morgan, p1, 19 May 2015.

26. It would have been courteous, professional and consistent with best practice for D/Supt Douglas Campbell, as the Senior Investigating Officer, to have travelled to Iris Morgan's home to introduce himself to her, as she was an important witness as well as Daniel Morgan's widow.

27. DI Allan Jones, D/Supt Douglas Campbell's deputy, made a similarly poor first impression on Iris Morgan. On 17 March 1987, Iris Morgan provided a statement noting that Daniel Morgan had been wearing a Rolex watch on the day that he was murdered.³⁴ No watch was retrieved from Daniel Morgan's body.³⁵ She described DI Jones as abrupt, adding that his demeanour when discussing her husband's missing Rolex watch upset her.³⁶ Daniel Morgan's missing Rolex watch became an important issue for the family and one which caused them a great deal of distress. The police searched for Daniel Morgan's watch because its disappearance was potentially linked to the murder. In addition to this, D/Supt Campbell recognised the importance of the lost Rolex watch to the family (see Chapter 1, The Morgan One Investigation).

28. Alastair Morgan's first contact with the police was a meeting with DI Allan Jones.³⁷ Alastair Morgan told the Panel that DI Jones treated him like a suspect when asking where he was at the time of the murder, (he was in Wales) and that DI Jones made a poor first impression by the manner of his questioning.³⁸ When interviewed by the Panel, former DI Jones accepted that he had asked Alastair Morgan about his whereabouts on the night of the murder, and that Alastair Morgan had been offended by this and their relationship never improved.³⁹ Former DI Jones expressed regret that he had made a poor impression on Alastair Morgan and said that asking him about his whereabouts on the night of the murder may have unintentionally made him feel like a suspect. DI Jones also told the Panel that DS Malcolm Davidson accompanied him to subsequent discussions with Alastair Morgan, as he felt DS Davidson had a '*calming influence*'.⁴⁰ While it is legitimate for everyone to be questioned about their whereabouts in connection to a murder, such questions must be handled with sensitivity.

29. Alastair Morgan has spoken to the Panel about a meeting with DI Allan Jones and DS Sidney Fillery on 12 or 13 March 1987, where he said he explained his concerns about the Belmont Car Auctions robbery (which occurred on 18 March 1986 and involved the theft of auction takings from Jonathan Rees) and how it could provide a '*probable motive for murder*'.⁴¹ He said that neither DI Jones nor DS Fillery took notes of the discussion, and he '*didn't see a notebook, or a pen the whole interview*', which struck him as odd and '*unprofessional*'.⁴² Former DI Jones stated to the Panel in November 2020 that notetaking when speaking to family members of the deceased was not always appropriate, and at the stage that Alastair Morgan was spoken to, the aim was to give him reassurance and establish a relationship.

34 Witness statement of Iris Morgan, MPS000006001, p7, 17 March 1987.

35 Witness statement of DS Graham Frost, MPS018107001, p2, 26 April 1989.

36 Panel meeting with Iris Morgan, p1, 19 May 2015.

37 Witness Statement of Alastair Morgan, MPS001922001, p17, 16 May 2000.

38 Panel meeting with Alastair Morgan, p17, 23 February 2015.

39 Panel interview with DI Allan Jones, PNL000201001, p2, 04 March 2015.

40 Panel interview with DI Allan Jones, PNL000201001, p2, 04 March 2015.

41 Panel meeting with Alastair Morgan, p6, 23 February 2015.

42 Panel meeting with Alastair Morgan, p7, 23 February 2015.

30. Alastair Morgan has told the Panel that he thinks former DS Fillery deliberately gave him the impression that he knew nothing about Belmont Car Auctions.⁴³ At the Inquest DI Jones, when asked, did not recall the meeting on 12 or 13 March 1987, to which Alastair Morgan had referred.⁴⁴ However, DS Malcolm Davidson confirmed to the Coroner during the Inquest that he had had an *'informal conversation'* with Alastair Morgan on 12 March 1987 with DS Fillery, but that DI Jones was not present.⁴⁵ Former DS Fillery described the meeting in response to questioning at the Inquest as a brief two or three minute conversation in which the Belmont Car Auctions robbery was not mentioned.⁴⁶ As there is no contemporaneous record of the Belmont Car Auctions issue being raised by Alastair Morgan before 1988, it has not been possible to verify the date and extent to which Alastair Morgan first communicated this to the Metropolitan Police (see Chapter 1, The Morgan One Investigation).

31. Members of Daniel Morgan's family have described to the Panel how, on 13 March 1987, Iris Morgan's brother-in-law received a telephone call which they were told was from a police officer urging the family to persuade Alastair Morgan to leave London.^{47,48} Alastair Morgan later interpreted this to have been an attempt to prevent him from giving the police investigation further information about the Belmont Car Auctions robbery, and the related pending civil proceedings.⁴⁹ Alastair Morgan has told the Panel he believed that former DS Sidney Fillery was trying to contain suspicions connected to Belmont Car Auctions, because it would involve DC Alan Purvis and DC Peter Foley, two officers allegedly 'moonlighting' at Belmont Car Auctions.⁵⁰ Members of Daniel Morgan's family later reported this matter to the police, and Alastair Morgan testified about it at the Inquest.^{51,52}

32. This phone call was important to members of Daniel Morgan's family and caused them a great deal of concern.^{53,54} The Panel sought to interview Iris Morgan's brother-in-law, but was unable to contact him despite numerous attempts. Furthermore, the Panel has been unable to locate any evidence, within the available material, as to who made the call and what motivated it, and nor has the Panel found any evidence that the matter was investigated.

33. DCI Paul Blaker, Deputy Senior Investigating Officer of the Hampshire/Police Complaints Authority Investigation, later wrote that the *'Hampshire Enquiry was aware of the alleged phone call but it was not pursued, it being considered non material'*.⁵⁵

43 Panel meeting with Alastair Morgan, p6, 23 February 2015.

44 Transcript of Inquest into the death of Daniel Morgan, Inquest Day Six, INT000006001, p15, 18 April 1988.

45 Witness DS Malcolm Davidson, examined by the Coroner, Inquest Day Five, INT000005001, p23, 15 April 1988.

46 Transcript of Inquest into the death of Daniel Morgan, Inquest Day Six, INT000006001, p105, 18 April 1988.

47 Witness statement of Alastair Morgan, MPS001922001, p22, 16 May 2000.

48 Witness statement of Isobel Hülsmann, MPS001977001, p4, 26 May 2000.

49 Witness statement of Alastair Morgan, MPS001922001, p24, 16 May 2000.

50 Panel meeting with Alastair Morgan, p1, 15 April 2015.

51 Panel meeting with Iris Morgan, p2, 19 May 2015.

52 Transcript of Inquest into the death of Daniel Morgan, Inquest Day Five, INT000005001, pp24-31, 15 April 1988.

53 Panel meeting with Jane Morgan, p3, 16 November 2015.

54 Panel meeting with Alastair Morgan, pp17-18, 23 February 2015.

55 Letter from DCI Paul Blaker to D/Supt Colin Smith, MPS020684001, p7, 09 May 1995.

34. The allegation by members of Daniel Morgan's family that a police officer had called the family and suggested that Alastair Morgan should leave London should have been fully investigated. Moreover, it was also relevant for the Hampshire/Police Complaints Authority Investigation, and it should have been investigated to establish whether a police officer was acting unprofessionally or criminally by attempting to obstruct the investigation of Daniel Morgan's murder.

3.3 News of the arrests of six people on 03 April 1987

35. On 03 April 1987, six people were arrested in connection with the murder of Daniel Morgan, three of whom were serving police officers.^{56,57,58,59} The arrest of serving police officers for Daniel Morgan's murder caused great concern to members of his family. The family were not informed of the arrests by the police: Alastair Morgan found out about the arrests through a telephone call from a friend who had heard about them on the news. Isobel Hülsmann also saw a report of the arrests on the television news.^{60,61,62} Their concern was increased by the fact that DS Sidney Fillery, one of the police officers arrested, had been involved during the early days of the murder investigation.⁶³

36. These events affected the way in which members of Daniel Morgan's family perceived the police. Iris Morgan told the Panel that she had been brought up to respect the police, and had seen no reason not to, until her experience of them after Daniel Morgan's murder. Alastair Morgan has described his view of the police as '*smashed to bits*'⁶⁴ within three weeks. Isobel Hülsmann explained her view in a letter to the Prime Minister's Private Secretary on 21 April 1987:

*'I had always held the police in great esteem and felt that the tasks set them were almost impossible in view of manpower shortage and the tremendous rise in crime of all types. To the great majority of their members my feelings remain the same. However, in view of the facts which have emerged from the Incident Room at Sydenham, press and television reports on the murder enquiry I am to say the least very disturbed to be informed that C.I.D officers and policemen were detained for some considerable time in connection with the murder and in fact were quoted as being "arrested". Three officers were subsequently released. A situation such as this quite naturally, I find exceedingly unnerving and makes me seriously doubt the integrity of the police.'*⁶⁵

56 Witness statement of D/Supt Douglas Campbell, MPS006082001, pp2-3, 24 May 1990.

57 Witness statement of DC Kinley Davies, MPS016925001, pp1-2, 09 April 1987.

58 Sylvia Jones and Georgina Walsh, 'Three Cops Quizzed Over Axe Murder', *Daily Mirror*, 4 April, MPS014827001, p69, 04 April 1987.

59 Message M545, MPS008172001, p1, 02 November 1987.

60 Witness statement of Alastair Morgan, MPS001922001, p24, 16 May 2000.

61 Panel meeting with Alastair Morgan, p9, 23 February 2015.

62 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p56.

63 Policy file for the case of Daniel Morgan (Morgan One Investigation), MPS004821001, p4, 11 March 1987 to 07 February 1989.

64 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p65.

65 Letter from Isobel Hülsmann to the Prime Minister's Private Secretary, MPS015324001, p42, 21 April 1987.

37. It was not appropriate for members of Daniel Morgan's family to learn of the arrests of the police officers from the media. Notwithstanding the operational considerations and need for confidentiality, members of the family should have been informed by the Metropolitan Police immediately after the arrests had taken place in order to lessen the shock and worry that these arrests caused.

To have made no effort to inform members of Daniel Morgan's family of the arrests for the murder, including the arrest of police officers, was indefensible. When the individuals who had been arrested were released from custody without charge, Daniel Morgan's family should also have been informed by the police.

3.4 The media's portrayal of Daniel Morgan

38. During an episode of BBC One's *Crimewatch*, on 23 April 1987, a reconstruction and discussion of Daniel Morgan's murder was screened in a public appeal for information.⁶⁶ It was an important event for the investigation, but the portrayal of Daniel Morgan in the programme caused members of his family distress.^{67,68} The family had not been consulted about the programme, nor were they aware of its content.

39. The profile of Daniel Morgan was physically inaccurate, and family members feared its depiction of his profession appeared unnecessarily 'seedy'.^{69,70} Only hours after the programme had been aired, a message was recorded by police from Isobel Hülsmann in which she said that she was 'disgusted' at the portrayal of Daniel Morgan in *Crimewatch* as it was 'false and distasteful' and that she would complain to the Prime Minister about the BBC.⁷¹ Alastair Morgan also told the Panel how the family were upset by Daniel Morgan's portrayal in *Crimewatch*.⁷² They could not understand why *Crimewatch* had not consulted anyone in the family about his life and interests.⁷³

40. The portrayal of Daniel Morgan and the manner in which he conducted his business, on *Crimewatch* upset his family. Had the family of Daniel Morgan been consulted family consulted about the possible content of the *Crimewatch* programme, the portrayal of Daniel Morgan would have been more balanced and may have resulted in a better intelligence-gathering opportunity.

41. On the first anniversary of the murder, 10 March 1988, an article in the *Evening Standard* described Daniel Morgan as a 'sexual braggart with dozens of enemies'.⁷⁴ Alastair Morgan recorded that the author of the article told him that the description of Daniel Morgan had been

66 Letter from BBC to D/Supt Douglas Campbell enclosing briefing notes, MPS011208001, pp9-10, 16 April 1987.

67 Panel meeting with Alastair Morgan, pp10-11, 23 February 2015.

68 Message 197, MPS083124001, p370, 24 April 1987.

69 Panel meeting with Alastair Morgan, p10, 23 February 2015.

70 Message M197, MPS083124001, p370, 24 April 1987.

71 Message M197, MPS083124001, p370, 24 April 1987.

72 Panel meeting with Alastair Morgan, pp10-11, 23 February 2015.

73 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p58.

74 Peter Wilson, 'New bid to solve murder', *Evening Standard*, 10 March, MPS060785001, 10 March 1988.

given to him by the police. Alastair Morgan had then called the incident room and spoken to DS Malcolm Davidson, who denied that the quote had come from the police.^{75,76} The Panel has seen no corroborating evidence that the quote originated from the police.

3.5 The family's experience of the Inquest

42. The Inquest into the death of Daniel Morgan took place on Monday 11 April 1988, more than a year after his murder.⁷⁷ It was initially scheduled for June 1987 but was postponed several times. It appears, from D/Supt Douglas Campbell's report which informed the Coroner's conduct of the Inquest, that the Crown Prosecution Service hoped that the Inquest might generate further evidence.⁷⁸

43. Iris Morgan has told the Panel that she did not feel well informed about what would happen at the Inquest.⁷⁹ In the months leading up to the Inquest, members of Daniel Morgan's family experienced a growing sense of frustration at what they perceived to be a lack of progress.^{80,81}

44. Daniel Morgan's family were not warned about the evidence that the former bookkeeper for Southern Investigations, Kevin Lennon, was to give at the Inquest.^{82,83} On the first day, Kevin Lennon testified that Jonathon Rees had persistently asked him to kill Daniel Morgan. He had refused to do so. Kevin Lennon also alleged that Jonathan Rees had told him that police officers from Catford Police Station would either be involved in the murder or would arrange it and that DS Sidney Fillery would retire from the police and join Jonathan Rees as a business partner. Kevin Lennon's evidence stunned Daniel Morgan's family and caused them great distress. It attracted a great deal of interest from the local and national media. By the time of the Inquest, DS Fillery had, indeed, resigned from the Metropolitan Police (see Chapter 2, The Inquest).

45. The failure to warn and inform members of Daniel Morgan's family of Kevin Lennon's testimony before they heard it at the Inquest indicated a lack of care, consideration and respect for the family. As with the arrests that had occurred in April 1987 (see paragraph 35), this testimony attracted significant public attention, which focused not only on the murder itself, but also on the integrity of the police because of the alleged possible involvement of police officers in the planning and execution of the murder. It was very wrong that no member of Daniel Morgan's family was given any warning before hearing Kevin Lennon's testimony in the Coroner's Court.

75 Morgan, A, and Jukes. P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p78.

76 Message M780, Telephone call from Alastair Morgan to DS Malcolm Davidson, MPS012840001, 10 March 1988.

77 Transcript of Inquest into the death of Daniel Morgan, Inquest Day One, INT000001001, p1, 11 April 1988.

78 Report by D/Supt Douglas Campbell, '*Murder of Daniel Morgan*', MPS016005001, p1, 12 May 1988.

79 Panel meeting with Iris Morgan, p2, 19 May 2015.

80 Message M422, Telephone call from Alastair Morgan to DS Malcolm Davidson, MPS012482001, 06 August 1987.

81 Message M425, Telephone call from Alastair Morgan to a Detective Constable, MPS012485001, 11 August 1987.

82 Panel meeting with Iris Morgan, p2, 19 May 2015.

83 Report by Alastair Morgan, '*A report on police involvement in the murder of my brother Daniel Morgan and police activities designed to conceal this from the public*', MPS020707001, p6, 29 July 1994.

46. The Inquest finished on 25 April 1988,⁸⁴ and members of Daniel Morgan's family were left wondering what would happen next. Alastair Morgan described it as follows: *'The vacuum after the inquest was frightening. I'd never felt as exhausted physically and mentally as I did after those three weeks of hell.'*⁸⁵

47. On 22 July 1988, it was agreed by the Metropolitan Police and Crown Prosecution Service that, as no fresh evidence had emerged, the likelihood of securing a conviction against Jonathan Rees for murder was *'extremely remote'*, and therefore no prosecution would occur.⁸⁶ On 26 July 1988, DS Malcolm Davidson telephoned Alastair Morgan to advise him of the decision.⁸⁷ On the same day, Isobel Hülsmann telephoned DS Davidson to notify him that Alastair Morgan had informed her of the decision not to prosecute.⁸⁸ As was normal at the time, there was no formal letter from the Crown Prosecution Service to any member of the family of Daniel Morgan in relation to this decision. (See Chapter 1, The Morgan One Investigation.)

48. There were some positive interactions between the family and members of the police during the investigation, but there was also thoughtless treatment of members of Daniel Morgan's family by the police during the year following the murder. This, combined with an absence of progress in solving the murder, generated a lack of trust and confidence in the investigation among family members. This negatively affected the relationship between members of the family and the police in the years to follow.

4 The Hampshire/Police Complaints Authority Investigation and its report

49. On 12 May 1988, following the Inquest and subsequent press attention, Gabb & Co solicitors, acting on behalf of Isobel Hülsmann and Alastair Morgan, wrote to the Police Complaints Authority, stating that there were:

*'certain matters of various public concern that appear to have surfaced as a result of the unlawful killing of Mr Daniel Morgan and we write on behalf of our Clients to make a formal complaint against the Metropolitan Police.'*⁸⁹

50. The letter went on to say that their clients trusted:

*'that the appropriate machinery for investigating this matter which our Clients would prefer to be undertaken by officers outside the Metropolitan Police Force could [...] be put into operation.'*⁹⁰

51. Roland Moyle, Deputy Chair of the Police Complaints Authority, wrote to DAC Peter Winship, Director of the Metropolitan Police Complaints Investigation Bureau (CIB), asking him to consider whether the contents of the letter from Gabb & Co should be registered as a

84 Transcript of Inquest into the death of Daniel Morgan, Inquest Day Eight, INT000008001, 25 April 1988.

85 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p93.

86 Witness statement of D/Supt Douglas Campbell, MPS015272001, p46, 05 February 1991 (unsigned).

87 Message M913, Telephone call from DS Malcolm Davidson to Alastair Morgan, MPS012973001, 26 July 1988.

88 Message M914, Telephone call from Isobel Hülsmann to DS Malcolm Davidson, MPS012974001, 26 July 1988

89 Letter from Gabb & Co solicitors to the Police Complaints Authority, MPS030019001, 12 May 1988.

90 Letter from Gabb & Co solicitors to the Police Complaints Authority, MPS030019001, 12 May 1988.

complaint.⁹¹ On 30 May 1988, AC John Smith, DAC Peter Winship's line manager, decided that Hampshire Constabulary should be asked to investigate (see Chapter 3, The Hampshire/Police Complaints Authority Investigation).⁹²

52. On 24 June 1988, Commander Kenneth Merton of the Metropolitan Police sent a memorandum to DCS Alan Wheeler of Hampshire Constabulary appointing him Senior Investigating Officer with the following Terms of Reference: '*[t]o investigate allegations that police were involved in the murder of Daniel MORGAN and any matters arising therefrom*'.⁹³

53. During this period, there were four separate, concurrent police enquiries into issues related to or arising from the investigation of Daniel Morgan's murder. The Morgan One Investigation was still in progress, as was the Hampshire/Police Complaints Authority Investigation. DCS David Lamper of the Metropolitan Police was investigating complaints against the police relating to the investigation of the murder made by Jonathan Rees;⁹⁴ D/Supt Alec Button of the Metropolitan Police was investigating matters of alleged police wrongdoing relating to Belmont Car Auctions.⁹⁵

4.1 Interaction between family members and the Hampshire/Police Complaints Authority Investigation

54. Alastair Morgan has recorded that he '*couldn't help feeling hopeful*' about this new independent enquiry by the Hampshire Constabulary which was supervised by the Police Complaints Authority.⁹⁶ At the outset, DCS Alan Wheeler told the family that they should contact the office at Fareham Police Station, where the investigation was based, with '*any information which may assist our enquiry*'. At a meeting on 26 August 1988, DCS Wheeler explained to Isobel Hülsmann and her solicitor, Glyn Maddocks, that he could not tell them '*lines of enquiry or the finer points of our investigation*'.⁹⁷

55. The Hampshire/Police Complaints Authority Investigation sought to obtain information from members of Daniel Morgan's family, while members of the family were in turn trying to obtain information from the Hampshire/Police Complaints Authority Investigation. Both sides became frustrated when the information that they sought from each other was not forthcoming.

56. A Detective Sergeant wrote a short report on 29 September 1988, on the evidence previously provided by Alastair Morgan. He concluded, '*[i]n a nutshell, Alistair [sic] Morgan has plenty to say about the case, but little, if any, of it amounts to actual hard evidence*'.⁹⁸

57. On 07 December 1988, DCI Paul Blaker made a note that Isobel Hülsmann was anxious due to a lack of information: '*Mrs Hulsman [sic] expressed her anxiety since she had wondered what was happening. Explained to her that enquiries were continuing but the detail of such enquiries must remain with the investigation team alone at this stage*'.⁹⁹ DCS Alan Wheeler then spoke with Isobel Hülsmann, who told him: '*I am concerned because I have heard nothing from you. I don't even know whether you are still working on Daniel's murder*'.¹⁰⁰

91 Letter from Roland Moyle to DAC Peter Winship, MPS026448001, 18 May 1988.

92 Letter from AC John Smith to DAC Peter Winship, MPS030002001, p4, 30 May 1988.

93 Memorandum from Commander Kenneth Merton to D/Supt Alan Wheeler, HAM000168001, 24 June 1988.

94 This became the Report of DCS David Lamper, Complaint against Police, MPS005459001, 17 November 1988.

95 Report of D/Supt Alec Button, Complaint against Police, MPS038384001, pp 3-4, 07 October 1988.

96 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p94.

97 Note of meeting between DCS Alan Wheeler, Isobel Hülsmann and Glyn Maddocks, MPS040016001, p1, 26 August 1988.

98 Report by a Detective Sergeant, MPS031812001, p2, 29 September 1988.

99 Message M461, Telephone call from DCI Paul Blaker and DCS Alan Wheeler to Isobel Hulsman, MPS030416001, p1, 07 December 1988.

100 Message M461, Telephone call from DCI Paul Blaker and DCS Alan Wheeler to Isobel Hulsman, MPS030416001, pp1-2, 07 December 1988.

58. A Woman Police Constable took a note of her telephone conversation with Alastair Morgan on 13 December 1988, after he had called to speak to DCI Paul Blaker.¹⁰¹ She recorded '[m]uch ramblings', the 'basis of which appears to be that he is concerned about the lack of communication between SIO/DSIO [Senior Investigating Officer/Deputy Senior Investigating Officer] and Mrs Hulsmann [sic] or her solicitor'.¹⁰²

59. According to files provided by Alastair Morgan and police notes, between July 1988 to September 1989, a period of 15 months, there were 17 meetings between the Hampshire/Police Complaints Authority Investigation and members of Daniel Morgan's family. Members of the family made 80 calls to the investigation team, while they received 24 calls from the team.¹⁰³

60. Alastair Morgan told the Panel that, during this time, the Hampshire/Police Complaints Authority Investigation did not tell him anything. Although the Panel has seen records of contact between Alastair Morgan and members of the Hampshire/Police Complaints Authority Investigation,¹⁰⁴ Alastair Morgan has told the Panel that he felt as though they did not keep him sufficiently informed as he '*did not know anything about what Hampshire were doing*'.¹⁰⁵

61. The fact that DCS Alan Wheeler had taken the decision to distance his investigation from members of Daniel Morgan's family contributed to the family's lack of confidence in the police investigation.

62. The extent to which information about a murder investigation can be shared with the family of a murder victim is limited by a significant number of factors, not least the need to preserve the integrity of the investigation for the purposes of any future prosecution. While the family had the right to bring to the attention of the police matters about which they had concerns and in respect of which they sought answers, and while DCS Alan Wheeler was entitled to preserve the integrity of his investigation, it would have been possible to have facilitated more constructive engagement. This would have helped to mitigate the levels of distrust which emerged as the investigation continued.

4.2 The arrests and charging of three people

63. On 31 January 1989, Jonathan Rees,¹⁰⁶ Paul Goodridge¹⁰⁷ and Jean Wisden¹⁰⁸ were arrested. Alastair Morgan found out about the arrests from the local television news just as he had heard of the six arrests on 03 April 1987.^{109,110} He had understood the police to be investigating police officers in accordance with their terms of reference. The arrest of Jonathan Rees and others was completely unexpected.

101 Message M467, Telephone call from Alastair Morgan to a Woman Police Constable, MPS028840001, p1, 13 December 1988.

102 Message M467, Telephone call from Alastair Morgan to a Woman Police Constable, MPS028840001, p1, 13 December 1988.

103 Analysis of police documentation and files provided by members of Daniel Morgan's family.

104 Witness statement of Alastair Morgan, MPS001922001, pp35-36, 16 May 2000.

105 Panel Meeting with Alastair Morgan, pp4-5, 15 April 2015.

106 Custody record for Jonathan Rees, HAM000307001, p2, 31 January 1989.

107 Custody record for Paul Goodridge, HAM000302001, p3, 31 January 1989.

108 Charge sheet for Jean Wisden, MPS021624001, 02 February 1989.

109 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p96.

110 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p56.

64. On 02 February 1989, Jonathan Rees¹¹¹ and Paul Goodridge¹¹² were charged with the murder of Daniel Morgan, and Jean Wisden¹¹³ with doing an act tending and intended to pervert the course of justice, but members of Daniel Morgan's family were not told immediately after the event. The solicitor for Isobel Hülsmann and her family, was told of the charges a day later, on 03 February 1989.¹¹⁴

65. Following the arrests and charging of the suspects, Alastair Morgan made further attempts to discuss the case with the investigation team.¹¹⁵ In a call on 06 March 1989, DCI Paul Blaker told Alastair Morgan that he could not discuss the case with him because he was a 'prosecution witness'. A message noting the call described a '[l]engthy conversation' in which Alastair Morgan:

'stated he was preparing a brief for Richard Livesay [sic] MP and he would continue to pursue matters to bitter end, no matter what.

*'DCI: told him he was a prosecution witness and matters could not be discussed. Rees being on bail. Police governed by rules of evidence. Enquiry not yet complete.'*¹¹⁶

66. The subsequent decision by the Director of Public Prosecutions to discontinue the proceedings against Jonathan Rees, Paul Goodridge and Jean Wisden was communicated by telephone to Isobel Hülsmann and Iris Morgan on 10 May 1989, the day before the relevant Magistrates' Court hearing.¹¹⁷ Iris Morgan was recorded as being 'clearly upset' but agreed to DCI Paul Blaker's suggestion that he would 'attend court on 1105 and then drive to her home and tell her of the decision personally'.¹¹⁸

67. As agreed, on 11 May 1989, after the court hearing at which the proceedings were discontinued, DCI Paul Blaker and DI Rex Carpenter visited Iris Morgan at her home address to inform her of the reasons behind the Director of Public Prosecutions' decision to discontinue proceedings.¹¹⁹

68. In a record of this meeting, dated 12 May 1989, DI Rex Carpenter noted that Iris Morgan said to them that 'her initial reaction to the news of the decision was one of anger and hostility'.¹²⁰ DCI Paul Blaker explained the decision 'in some depth', and also told her that 'the police did not agree' with the Director of Public Prosecutions' decision, but had to accept it. Iris Morgan was recorded as being 'thankful for all the hard work the police had done'.¹²¹ DCI Paul Blaker also discussed the possibility of a private prosecution against Jonathan Rees by members of Daniel Morgan's family. The note of their meeting read: 'Mr Blaker also mentioned that the Hulsmans [sic] and Alistair [sic] Morgan were considering taking out a private

111 Charge sheet for Jonathan Rees, MPS033010001, 02 February 1989.

112 Charge sheet for Paul Goodridge, MPS021442001, 02 February 1989.

113 Charge sheet for Jean Wisden, MPS021624001, 02 February 1989.

114 Message M565, MPS028742001, 02 February 1989.

115 Message M707, Telephone call from DCI Paul Blaker to Alastair Morgan, MPS029014001, p1, 02 March 1989.

116 Message M707, Telephone call from DCI Paul Blaker to Alastair Morgan, MPS029014001, p1, 02 March 1989.

117 Message M859, Telephone call from DCS Alan Wheeler to Isobel Hülsmann, MPS029221001, 10 May 1989.

118 Message M858, Telephone call from DCI Paul Blaker to Iris Morgan, MPS029222001, 10 May 1989.

119 Note of meeting between DI Rex Carpenter, DCI Paul Blaker and Iris Morgan, MPS039698001, 11 May 1989, pp1-2.

120 Note of meeting between DI Rex Carpenter, DCI Paul Blaker and Iris Morgan, MPS039698001, p1, 12 May 1989.

121 Note of meeting between DI Rex Carpenter, DCI Paul Blaker and Iris Morgan, MPS039698001, p3, 12 May 1989.

prosecution against Rees. Mrs [Iris] Morgan then became very tearful and said that she didn't think she could be put through that ordeal.¹²² However, later that month, Iris Morgan did express an interest in pursuing a private prosecution but found the likely costs to be prohibitively high.¹²³

69. Alastair Morgan's concerns that he did not know what was happening were correct – for example, the arrests or that Hampshire Constabulary had acted further to their Terms of Reference – and he should have been informed that the investigation had widened to incorporate matters other than police involvement in the murder.

4.3 Concerns about the effectiveness of the Hampshire/Police Complaints Authority Investigation

70. In a letter to Roland Moyle, Deputy Chair of the Police Complaints Authority: Alastair Morgan expressed the view, shared by his mother, that DS Sidney Fillery's role in the Morgan One Investigation had never been satisfactorily investigated or explained.¹²⁴

*'We believe that there is overwhelming evidence supporting our suspicions that Det. Sergeant Sidney Fillery, a member of the murder squad who originally investigated Daniel's killing, actually conspired with those recently charged to murder my brother, and that after the killing he actively perverted the course of the inquiry [...] I have spoken to D.C.I. Blaker of Hampshire concerning this issue and have received the repeated answer that "they do not have enough evidence to charge Fillery." I myself, my mother, and our solicitor find this utterly incomprehensible even outrageous [...].'*¹²⁵

71. DS Sidney Fillery's role was examined by the Hampshire/Police Complaints Authority Investigation. In his report to the Police Complaints Authority dated 04 September 1989, DCS Alan Wheeler acknowledged that DS Fillery's close association with Jonathan Rees compromised his '*professional policing*', and that the statement DS Fillery had taken from Jonathan Rees on 11 March 1987 was '*not acceptable*'.¹²⁶ However, DCS Alan Wheeler concluded that this was '*not sufficient to show Fillery deliberately assisted Jonathan Rees*'.¹²⁷

72. The report by DCS Alan Wheeler did not address the issue of the Belmont Car Auctions file allegedly taken by DS Sidney Fillery on 11 March 1987 (see Chapter 1, The Morgan One Investigation). Alastair Morgan had raised this issue in his statement to DCI Earnest Anderson who was involved in the investigation of alleged police wrongdoing relating to Belmont Car Auctions,¹²⁸ on 05 May 1988.¹²⁹

122 Note of meeting between DI Rex Carpenter, DCI Paul Blaker and Iris Morgan, MPS039698001, p2, 12 May 1989.

123 Note of meeting between DI Rex Carpenter, DCI Paul Blaker and Iris Morgan, MPS022747001, p2, 31 May 1989.

124 Letter from Alastair Morgan to Roland Moyle, PNL000127001, p1, undated.

125 Letter from Alastair Morgan to Roland Moyle, PNL000127001, pp1-2, undated.

126 Report of DCS Alan Wheeler to the Police Complaints Authority, MPS020651001, p21, 04 September 1989.

127 Report of DCS Alan Wheeler to the Police Complaints Authority, MPS020651001, p21, para 344(k), 04 September 1989.

128 Report of D/Supt Alec Button, Complaint against Police, MPS038384001, pp 3-4, 07 October 1988.

129 Witness statement of Alastair Morgan, MPS026450001, pp1-2, 05 May 1988.

73. DCS Alan Wheeler's report also did not address the phone call urging the family to persuade Alastair Morgan to leave London, despite members of Daniel Morgan's family raising specific concerns about it.^{130,131} Iris Morgan had asked members of the Hampshire/Police Complaints Authority Investigation in May 1989 why she had been called by '*the murder squad*' asking her to '*come and get Alastair because he was being a nuisance to the investigation*'.¹³²

74. Following the Hampshire/Police Complaints Authority Investigation, in March 1990, Alastair Morgan expressed concern that the problem of police corruption, and alleged police involvement in his brother's murder, had not been adequately investigated.¹³³ On 27 March 1990, the Police Complaints Authority wrote to Alastair Morgan informing him that '*[t]he extensive and very thorough enquiry carried out by the Investigating Officer from the Hampshire Constabulary has revealed no evidence of involvement by any police officer in the murder of your brother*'.¹³⁴ On 28 March 1990, Alastair Morgan replied to the Police Complaints Authority raising a number of points relating to former DS Sidney Fillery, concluding that '*[m]y family and I have, in view of developments lost all hope of seeing fair play done by the police, and like many other cases had to resort to the media as a last ditch attempt at having the truth brought out*'.¹³⁵

75. Alastair Morgan and the Police Complaints Authority continued to correspond. Alastair Morgan wrote on 01 April 1990 informing the Police Complaints Authority that:

*'my mother and I are less than pleased with the final outcome of all that has taken place. As far as we can see the result of it all has been absolutely nothing. Over the past three years we have observed with increasing concern the ineffectuality of police investigations into police malpractice. We don't think this is ever going to work.'*¹³⁶

76. Alastair Morgan had complained about police corruption in relation to the murder itself and the possible role of DS Sidney Fillery in undermining the Morgan One Investigation. Given the Terms of Reference of the Hampshire/Police Complaints Authority Investigation, the family's expectation was that it would focus on the possible role of DS Fillery and other officers in the murder of Daniel Morgan. The members of Daniel Morgan's family were not informed of DCS Alan Wheeler's change of focus in his investigation in November/December 1988. They subsequently became aware that the focus of the investigation had changed but could not find out what was happening. Understandably, this compounded their suspicions that the police would not investigate their allegations properly.

4.4 Family access to the investigation report

77. Isobel Hülsmann had asked DCS Alan Wheeler whether they would be informed of the outcome of the Hampshire/Police Complaints Authority Investigation,¹³⁷ to which DCS Alan Wheeler replied:

130 Witness Statement of Isobel Hülsmann, MPS001977001, pp4-5, 26 May 2000.

131 Panel meeting with Alastair Morgan, p13, 15 April 2015.

132 Note of meeting between DI Rex Carpenter, DCI Paul Blaker and Iris Morgan, MPS022747001, p2, 31 May 1989.

133 Letter from Alastair Morgan to the Police Complaints Authority, PNL000133001, p2, 28 March 1990.

134 Letter from the Police Complaints Authority to Alastair Morgan, PNL000099001, pp284-285, 27 March 1990.

135 Letter from Alastair Morgan to the Police Complaints Authority, PNL000133001, p2, 28 March 1990.

136 Letter from Alastair Morgan to the Police Complaints Authority, PNL000134001, 01 April 1990.

137 Note of meeting between DCS Alan Wheeler, Isobel Hülsmann and Glyn Maddocks, MPS040016001, p1, 26 August 1988.

*'I explained that I would not be in a position to do so. But it may be that [the solicitor] will be told by the Police Complaints Authority. I also explained that if he had any queries then they should be routed to Mr Roland Moyle of the PCA [Police Complaints Authority] [...].'*¹³⁸

78. On 04 September 1989, DCS Alan Wheeler provided his final report to the Police Complaints Authority.¹³⁹ Some members of Daniel Morgan's family had assumed that they would have access to the report as well as details of any decision in relation to *'the officer or officers to whom [the family's] complaint was directed'*.¹⁴⁰

79. The letter from solicitor acting for Isobel Hülsmann and her family to the Police Complaints Authority illustrated clearly why his clients were dissatisfied and confused. They had made a complaint. The matter had not been discussed further with them. An investigation had ensued. It was not in fact an investigation of their complaint, but they were unaware of the fact. The Terms of Reference for the investigation had indicated that it was an investigation into police involvement in the murder, but they could see no evidence of any such investigation. The relationship between the family and the police was at a very low ebb as a consequence of this situation. This could have been avoided through more precise and fulsome communication with the family.

80. On 27 March 1990, the Police Complaints Authority wrote to Gabb & Co Solicitors explaining that they were unable to supply them or their clients, with a copy of the Hampshire/ Police Complaints Authority Investigation report because it was protected by public interest immunity.¹⁴¹ The explanation was as follows:

*'With regard to the report itself, I should point out that reports and statements made for the purpose of Part IX of the Police and Criminal Evidence Act 1984 are protected by public interest immunity which cannot be waived by either the Authority or the police. In addition, under Section 98 of the Act it is made a criminal offence for a member, officer or servant of this Authority to disclose such information except in very limited circumstances. For this reason I am afraid that I am unable to supply you or your clients with a copy of the report of the investigation.'*¹⁴²

81. It is regrettable that the Police Complaints Authority had not explained at an earlier juncture that there was no automatic right to have access to the report of the Hampshire/ Police Complaints Authority Investigation.

138 Note of meeting between DCS Alan Wheeler, Isobel Hülsmann and Glyn Maddocks, MPS040016001, p1, 26 August 1988.

139 Report of DCS Alan Wheeler to the Police Complaints Authority, MPS020651001, 04 September 1989.

140 Letter from Gabb & Co Solicitors to the Police Complaints Authority, MPS039301001, p2, 06 March 1990.

141 Letter from Police Complaints Authority to Gabb & Co Solicitors, MPS039301001, p3, 27 March 1990.

142 Letter from Police Complaints Authority to Gabb & Co Solicitors, MPS039301001, p3, 27 March 1990.

5 Campaigning for further investigation, the 1996 Review, Operation Nigeria/Two Bridges and the 2000 Murder Review

82. By 1989 there had been two investigations into Daniel Morgan's murder. During the decade which followed members of his family campaigned for further investigation.

83. On 29 July 1994, Alastair Morgan produced a report, entitled '*A report on police involvement in the murder of my brother Daniel Morgan and police activities designed to conceal this from the public*'.¹⁴³ This set out Alastair Morgan's understanding of the case history, as well as his interpretation of the evidence of police involvement in the murder. In his concluding paragraphs, he wrote:

*'I want the case into my brother's murder to be re-opened. I know that neither inquiry was serious in its intention to bring my brother's murderers to justice whatever the police or PCA [Police Complaints Authority] say. I shall not rest until this has been done.'*¹⁴⁴

84. Chris Smith MP forwarded Alastair Morgan's report to the Home Secretary, Michael Howard MP,¹⁴⁵ and the Metropolitan Police.¹⁴⁶

85. In October 1994, Alastair Morgan attended a meeting with a Detective Inspector and a Detective Constable.¹⁴⁷ The Detective Constable's subsequent report of the meeting provided a detailed account of Alastair Morgan's concerns at that time. It concluded:

*'MORGAN strongly feels that police officers were involved in the conspiracy to murder his brother and that police officers conspired to pervert the course of justice ensuring that his brother's murderers would never be brought to trial.'*¹⁴⁸

86. In November 1994, Isobel Hülsmann wrote to the Commissioner of the Metropolitan Police, Sir Paul Condon, and again in January 1995, in an attempt to achieve further interest in her son's murder.¹⁴⁹ In her letter of January 1995, she wrote:

*'My sole aim in writing to you personally as Commissioner was that you would attempt to attend to this grievous case at top level and in particular with an urgent view that the case be re-examined [...].'*¹⁵⁰

87. Three weeks later, a memorandum from A/DCS Roger Gaspar was sent to Commander Ian Quinn of the Metropolitan Police Complaints Investigation Bureau, setting out three options for responding to the requests made by Isobel Hülsmann.¹⁵¹ He wrote:

'There seem to be three possible ways forward:

143 Report by Alastair Morgan, '*A report on police involvement in the murder of my brother Daniel Morgan and police activities designed to conceal this from the public*', MPS020707001, 29 July 1994.

144 Report by Alastair Morgan, '*A report on police involvement in the murder of my brother Daniel Morgan and police activities designed to conceal this from the public*', MPS020707001, p10, 29 July 1994.

145 Letter from Chris Smith MP to the Home Secretary, MPS020706001, 11 August 1994.

146 Letter from Chris Smith MP to Commissioner Sir Paul Condon, MPS020703001, 19 October 1994.

147 Meeting with Alastair Morgan, MPS020716001, p1 11 October 1994.

148 Meeting with Alastair Morgan, MPS020716001, p5, 11 October 1994.

149 Letter from Isobel Hülsmann to Commissioner Sir Paul Condon, MPS062336001, p4, 18 November 1994.

150 Letter from Isobel Hülsmann to Commissioner Sir Paul Condon, MPS062338001, p4, 05 January 1995.

151 Memorandum from A/DCS Roger Gaspar to Commander Ian Quinn, MPS022188001, 26 January 1995.

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- *Respond to Mrs Hulsmann [sic] that her letter raises no new information or evidence upon which a fresh enquiry should be commenced;*
- *Scan the two sets of case papers [original murder investigation papers and the Hampshire papers] to see whether there are viable lines of enquiry, based upon what is now being said; or*
- *Conduct a major review of all the evidence in both enquiries.*¹⁵²

88. There is no record among the papers available to the Panel of any decision made on this issue. However, two months later, on 16 March 1995, D/Supt Colin Smith wrote to DCI Paul Blaker, the Deputy Senior Investigating Officer on the Hampshire/Police Complaints Authority Investigation, asking that he review copies of the correspondence with members of Daniel Morgan's family and provide a written response.¹⁵³ DCI Paul Blaker responded two months later, on 09 May 1995:

'Throughout the course of the Hampshire Enquiry, Alistair [sic] Rodric MORGAN, the brother of the deceased, kept in contact with the incident room and there were numerous conversations between Mr WHEELER and myself with him. He constantly sought reassurance that all issues he raised were being actively pursued and would/could not accept that much of what he said was not evidential, was speculative, was uncorroborated and could not evidentially advance the enquiry.

'His stance throughout our enquiry was that there was malpractice within the Metropolitan Police, that the actions of Detective Sergeant FILLERY in particular were pivotal to any successful prosecution and that the intelligence/supposition he imparted would be of evidential value. He could not be dissuaded from that view.

'His intimate knowledge of the Hampshire investigation was extremely limited and whilst he was privy to the generality of the progress, he was not made aware of it in detail.

'One of the reasons for not allowing him to be privileged to detail is that he was considered what could best be described as a "loose cannon" and as such could possibly compromise the investigation.

*'Alistair [sic] MORGAN I confidently believe will not be satisfied by any explanation other than that which he wishes to hear and will go to any lengths to enlist help to further his belief.'*¹⁵⁴

89. DCI Paul Blaker concluded that the correspondence from members of Daniel Morgan's family contained *'no evidence or information which was not available during the course of the Hampshire Constabulary investigation'*, and *'there appears to be no information which indicates any fresh line of enquiry into the murder of Daniel MORGAN'*.¹⁵⁵

90. Two weeks later, on 22 May 1995, Commander Ian Quinn wrote to Isobel Hülsmann in the following terms:

152 Memorandum from A/DCS Roger Gaspar to Commander Ian Quinn, MPS022188001, pp4-5, 26 January 1995.

153 Letter from D/Supt Colin Smith to DCI Paul Blaker, MPS060689001, p3, 16 March 1995.

154 Letter from DCI Paul Blaker to D/Supt Colin Smith, MPS062325001, p2, 09 May 1995.

155 Letter from DCI Paul Blaker to D/Supt Colin Smith, MPS062325001, pp7-8, 09 May 1995.

*'I have to say that an exhaustive review of the investigations, conducted in [sic] Daniel's tragic death, show that all matters now raised have been properly considered and dealt with. The two major enquiries that have taken place, the second by an outside Constabulary supervised by the independent Police Complaints Authority, were as thorough as is possible.'*¹⁵⁶

In November 2020, former Commander Ian Quinn told the Panel that the review included a consideration of the papers in the Morgan One and Hampshire/Police Complaints Authority Investigations, in order to establish whether the concerns expressed by members of Daniel Morgan's family in their letter of 05 January 1995 were *'viable'*.

91. The claim that *'an exhaustive review of the investigations'* was conducted refers to the exchange of letters between D/Supt Colin Smith and DCI Paul Blaker. This did not constitute *'an exhaustive review'*. Commander Ian Quinn's assertion that the *'two major enquiries that have taken place, the second by an outside Constabulary supervised by the independent Police Complaints Authority'*, were *'as thorough as is possible'* is not supported by the facts. Neither investigation was as thorough as possible, and the Hampshire /Police Complaints Authority Investigation was not independent.

5.1 The 1996 Review

92. Alastair Morgan wrote to Commander Ian Quinn on 21 November 1995 expressing his dissatisfaction.¹⁵⁷ Two meetings occurred between Alastair Morgan and Commander Quinn, and Alastair Morgan was informed by him that the Morgan One and Hampshire/Police Complaints Authority investigations were being re-examined to see if there were *'any avenues worth pursuing'*.¹⁵⁸

93. The re-examination was conducted by Inspector Geoffrey Pierce, Commander Quinn's staff officer, and appears to have concluded by 11 April 1996.¹⁵⁹ The re-examination report identified one avenue of enquiry relating to former Police Officer Z31 (see Hampshire/Police Complaints Authority Investigation).¹⁶⁰ This was investigated but no further action was recommended.¹⁶¹ Commander Quinn wrote to Alastair Morgan on 22 May 1996 informing him that there were *'no further avenues of enquiry open'*.¹⁶² The letter concluded that Commander William Griffiths would assume responsibility for the case, but that he would not be able to *'take the case any further in the absence of new information'*.¹⁶³

156 Letter from Commander Ian Quinn to Isobel Hülsmann, MPS020683001, p1, 22 May 1995.

157 Letter from Alastair Morgan to Commander Ian Quinn, MPS020681001, 21 November 1995.

158 Branch note by Inspector Geoffrey Pierce, MPS020677001, 21 March 1996.

159 Briefing note re 4 area crime OCU confidential inquiry, MPS040114001, p1, 11 April 1996.

160 Report by DCI Thomas Smith, MPS007382001, 8 May 1996.

161 Report by DCI Thomas Smith, MPS007382001, p11, 8 May 1996.

162 Letter from Commander Ian Quinn to Alastair Morgan, MPS040052001, p1, 22 May 1996.

163 Letter from Commander Ian Quinn to Alastair Morgan, MPS040052001, p1, 22 May 1996.

5.2 From 1997 to 2000, Operation Nigeria/Two Bridges

5.2.1 DAC Roy Clark's briefing note to Commissioner Sir Paul Condon

94. Alastair Morgan continued to seek answers, and a meeting was arranged between Alastair Morgan and his Member of Parliament, Chris Smith, and DAC Roy Clark and the Commissioner, Sir Paul Condon, to discuss the Metropolitan Police's handling of the investigation into Daniel Morgan's murder.¹⁶⁴ A briefing note for the Commissioner was produced by DAC Roy Clark, on 28 October 1997. It stated:¹⁶⁵

'He [Alastair Morgan] wishes to discuss police failure to identify the person/people responsible for the murder of his brother – Daniel MORGAN – in 1987. The meeting will be difficult. Alistair [sic] MORGAN is obsessed with the thought that police officers were either directly responsible for his brother's murder, were aware it was to happen or responsible for a cover up. I have spoken to him on a number of occasions in recent weeks and consider he is exhibiting signs of paranoia.'

'He makes it absolutely clear that he has no regard whatsoever for the Police Service and the Metropolitan Police in particular. He has spoken to a number of senior officers over the years and will imply that since they have failed to solve his brother's murder they in turn must be part of the cover up.'

*'There can be little doubt that he will quickly make the content of your meeting public and every possibility that he may covertly tape record the proceedings.'*¹⁶⁶

95. The briefing note also referenced Alastair Morgan's report (see paragraph 83 above), which DAC Roy Clark described as *'a document in which all [Alastair Morgan's] bitterness at every and anybody who has not seen things his way becomes apparent'*.¹⁶⁷ The briefing note made no attempt to engage with the information and concerns put forward in Alastair Morgan's report.

96. The briefing note concluded with the following recommendation:

*'Whilst the meeting with Alistair [sic] MORGAN will need careful handling I feel we have no option but to indicate there is no possibility of progressing this case in the absence of new evidence. Obviously if new lines of enquiry become known they will be rigorously pursued.'*¹⁶⁸

97. The following day, Alastair Morgan telephoned DAC Roy Clark and *'asked if there was evidence his brother was murdered because he was about to reveal police corruption'*.¹⁶⁹ DAC Clark replied that, from his knowledge of the papers, there was *'no evidence or indication that Daniel MORGAN was murdered because he was about to reveal police corruption'*.¹⁷⁰ DAC Clark also noted that Daniel Morgan *'must have been aware that his company "Southern Investigations" had been profiting from the services of a small number of police officers contrary to their duty'*, but that although *'these matters amounted to discipline offences under the Police Discipline Regulations they do not amount to corruption'*.¹⁷¹

164 Briefing note by DAC Roy Clark, MPS046679001, p52, 25 June 1998.

165 Briefing note by DAC Roy Clark, MPS046679001, pp73-80, 28 October 1997.

166 Briefing note by DAC Roy Clark, MPS046679001, p73, 28 October 1997.

167 Briefing note by DAC Roy Clark, MPS046679001, p79, 28 October 1997.

168 Briefing note by DAC Roy Clark, MPS046679001, p80, 28 October 1997.

169 Witness statement of DAC Roy Clark, MPS054304001, pp2, 30 October 1997

170 Witness statement of DAC Roy Clark, MPS054304001, pp2, 30 October 1997

171 Witness statement of DAC Roy Clark, MPS054304001, pp2-3, 30 October 1997.

98. At the meeting attended by the Commissioner, DAC Roy Clark, Chris Smith MP and Alastair Morgan on 07 November 1997, it was agreed by the Commissioner that that *‘senior officers would “review” the case’*.¹⁷²

5.2.2 Briefing for the Parliamentary Under-Secretary of State at the Home Office

99. Eighteen months later in May 1999, Alastair Morgan wrote to Kate Hoey MP, Parliamentary Under-Secretary of State at the Home Office, telling her that he was *‘quite certain’*,

‘a) that there was police involvement in the murder

b) that police efforts to catch my brother’s killers were inadequate

*c) that information I have had about the activities of the suspects before and after the murder was systematically suppressed by two investigating squads (primarily because it incriminated a Met Detective Sergeant).*¹⁷³

100. In his letter, Alastair Morgan noted that despite Commissioner Sir Paul Condon’s agreement that the case would be reviewed, no effort had been made by police to take a statement from him until February 1999 following an intervention by Chris Smith MP.¹⁷⁴

101. Alastair Morgan’s letter also stated that he had received a death threat and claimed that his request to the Metropolitan Police for *‘minimum security steps’* had *‘received no response whatsoever’*.¹⁷⁵ In fact, the Metropolitan Police had responded to concerns raised by Alastair Morgan about incidents which occurred in 1996 and 1999. An offer of security measures was subsequently declined by Alastair Morgan on 10 May 2000.

102. In Alastair Morgan’s expressed view, *‘DAC Roy Clark’s behaviour throughout has been scandalously negligent and irresponsible.’*¹⁷⁶

103. This comment does not reflect fairly the work done by DAC Roy Clark in the matter of the investigation of the murder of Daniel Morgan.

104. DAC Roy Clark then wrote a briefing note, dated 11 May 1999, *‘to assist Rt Hon Kate HOEY MP respond to a letter from Alistair [sic] MORGAN’*.¹⁷⁷ The briefing note did not address a number of issues raised by Alastair Morgan in his letter (as set out above). Further, the briefing note concluded:

‘It is appropriate to indicate that Alistair [sic] MORGAN has a long history of vilifying those with whom he comes into contact during his (understandable) campaign to keep the investigation of his brother’s murder alive. For example of his former MP he wrote “...whom I regard as unspeakably arrogant, self interested and corrupt”. The relevance

172 Letter from Alastair Morgan to Kate Hoey MP, MPS071715001, p1, 04 May 1999.

173 Letter from Alastair Morgan to Kate Hoey MP, MPS071715001, p1, 04 May 1999.

174 Letter from Alastair Morgan to Kate Hoey MP, MPS071715001, p1, 04 May 1999.

175 Letter from Alastair Morgan to Kate Hoey MP, MPS071715001, p2, 04 May 1999.

176 Letter from Alastair Morgan to Kate Hoey MP, MPS071715001, p2, 04 May 1999.

177 Update Note to the Metropolitan Police Committee Secretariat from DAC Roy Clark, MPS071712001, p1, 11 May 1999.

*of including this fact is that he regards it as a legitimate tactic and all with whom he comes into contact can expect to be denigrated in due course.*¹⁷⁸

105. The briefing note did sympathise with members of Daniel Morgan's family at points. It noted that Alastair Morgan had '*rightly and understandably kept up a campaign to ensure everything is done to bring the murderers to justice*'.¹⁷⁹ It also noted that while an enquiry had concluded that DS Sidney Fillery had committed disciplinary offences in relation to the Belmont Car Auctions matter, no proceedings could be brought against him as he was no longer a police officer.¹⁸⁰ The briefing note stated that '*[i]t is clear the effect this must have had upon Alistair [sic] MORGAN and his family*'.¹⁸¹

106. The briefing note further stated that a '*decision not to take Mr MORGAN into full confidence on some matters was taken as he is in regular contact with journalists and may reveal the secret detail in error*'.¹⁸² Initial enquiries were made to inform the Minister, Kate Hoey MP, but she was moved from the Home Office and there is no evidence that anything further occurred.

5.2.3 02 July 1999: The article in the Daily Telegraph

107. On 02 July 1999, members of Daniel Morgan's family were shocked and distressed to see an article in the *Daily Telegraph* concerning the murder. The Metropolitan Police had placed a 'trigger' article in the *Daily Telegraph* to assist in an intelligence-gathering exercise. The article began:

*'One of the most perplexing unsolved murder inquiries to face the Metropolitan Police – the axe murder 12 years ago of a private detective – has been re-opened following the emergence of what the force describes as “crucial” new information. Daniel Morgan, 37, was bludgeoned to death with an axe in a pub car park on March 10, 1987. The Daily Telegraph understands that the new information concerns the hiding and disposal of the getaway car.'*¹⁸³

108. Members of the family had not been informed prior to the article's publication. While they had been told by Commander Ian Quinn that '*no unsolved murder is ever closed*',¹⁸⁴ they had not been informed of new evidence from Person F11 which had prompted the article, nor had they been told of the ongoing and covert Operation Nigeria/Two Bridges.

109. Alastair Morgan has expressed strong dissatisfaction that he was not informed of the covert operation either in advance of its commencement or prior to the publication of the *Daily Telegraph* article.¹⁸⁵ When the existence of Operation Nigeria/Two Bridges was made known to the family as a consequence of the newspaper article, they were informed that it was a covert investigation into Daniel Morgan's murder. However, this was not the case. Ongoing anti-corruption activities by the Metropolitan Police had resulted in intelligence indicating corrupt associations between Jonathan Rees and former DS Sidney Fillery and serving and former police officers and criminals. Southern Investigations/Law & Commercial then became the

178 Update Note to the Metropolitan Police Committee Secretariat from DAC Roy Clark, MPS071712001, p2, 11 May 1999.

179 Update Note to the Metropolitan Police Committee Secretariat from DAC Roy Clark, MPS071712001, p1, 11 May 1999.

180 Update Note to the Metropolitan Police Committee Secretariat from DAC Roy Clark, MPS071712001, p1, 11 May 1999.

181 Update Note to the Metropolitan Police Committee Secretariat from DAC Roy Clark, MPS071712001, p1, 11 May 1999.

182 Update Note to the Metropolitan Police Committee Secretariat from DAC Roy Clark, MPS071712001, p2, 11 May 1999.

183 John Steele, 'Car clue to 12-year-old axe death mystery', *Daily Telegraph*, MPS040636001, p2, 02 July 1999.

184 Letter from Commander Ian Quinn to Alastair Morgan, MPS040052001, p1, 22 May 1996.

185 Morgan, A, and Jukes, P, 2017, *Untold: The Daniel Morgan murder exposed*, Blink Publishing, p213.covert

subject of Operation Nigeria/Two Bridges, the purpose of which was to gather intelligence about those corrupt associations, and it was also hoped, in the process, to secure further information which might assist a further investigation of the murder of Daniel Morgan.

110. The covert nature of Operation Two Bridges was a proper factor for the Metropolitan Police to consider when deciding whether and when to brief members of Daniel Morgan's family. The Panel makes no criticism of the decision not to inform the family of the operation's initiation. However, the family should have been briefed before the article appeared in the *Daily Telegraph*, so that the important new information which it contained did not come as a shock to them. They should also have been informed of the true nature of Operation Nigeria /Two Bridges – that it was an intelligence gathering exercise, not an investigation into the murder of Daniel Morgan.

111. Following publication of the *Daily Telegraph* article, at the request of the family, a briefing meeting was arranged for 15 July 1999.¹⁸⁶ In the event, because of confusion as to dates, Alastair Morgan, who was to have attended was not present, and the meeting took place between his solicitor and DAC Clark. A note of the meeting taken by the police read as follows:

'DAC Clark said we had [...] now gained what we believed to be a true picture of what happened the night that Daniel Morgan was murdered. He stated I believe we have identified the man who used the Axe in the murder of Daniel Morgan. We believe we can also say who else was there. The murder appears to have arisen from a serious fallout between Daniel Morgan and Jonathan REES over business matters. One being the Belmont Car Auction incident but other matters as well.'

*'As Daniel Morgan left the Pub associates of REES were waiting in the car park [and] one of them struck Daniel Morgan with an axe. This man left the scene in a getaway car driven by another man. [The] getaway car was left in a garage for some time to conceal it. After some time the car was destroyed. We now have information about the people who dealt with the car. This is not evidence at the moment but credible intelligence.'*¹⁸⁷

112. The role of the police was also discussed:

*'DAC Clark states that the information available at this time indicates that no police officers appear to have been involved or on the fringes of this crime. There is also no evidence that FILLERY gave information to REES when he was on the squad investigating the murder although the possibility cannot be discounted.'*¹⁸⁸

113. A further comment made in the meeting was recorded as follows:

*'DAC Clark explained that although Alastair Morgan would not agree, his assessment of the original MPS [Metropolitan Police Service] investigation was that it was good. It had showed a motive for REES and other circumstantial evidence. He felt the investigation was honest and thorough but perhaps not innovative.'*¹⁸⁹

186 Note of meeting between DAC Roy Clark and Raju Bhatt MPS054182001, p1, 15 July 1999.

187 Note of meeting between DAC Roy Clark and Raju Bhatt, MPS054182001, p1, 15 July 1999.

188 Note of meeting between DAC Roy Clark and Raju Bhatt, MPS054182001, p1, 15 July 1999.

189 Note of meeting between DAC Roy Clark and Raju Bhatt, MPS054182001, p2, 15 July 1999.

114. Further meetings took place in the remaining months of 1999 and throughout 2000.¹⁹⁰ For the most part, the Metropolitan Police appears to have briefed the family members openly and in detail in these meetings.

115. The evidence available does not support DAC Roy Clark's positive assessment of the Morgan One Investigation. However, it is clear that there was an unprecedented and necessary development in police engagement with members of Daniel Morgan's family after the publication of the *Daily Telegraph* article.

5.2.4 Corruption and conspiracy to pervert the course of justice

116. Intelligence gathered during Operation Nigeria/Two Bridges led to 11 arrests and the prosecution of Jonathan Rees and others including a serving police officer in a case unrelated to Daniel Morgan's murder (see Chapter 4, Operation Nigeria/Two Bridges). During this time, Daniel Morgan's family were routinely updated on the progress of these matters. Late in September 1999, DAC Roy Clark gave some members of Daniel Morgan's family an outline of progress.¹⁹¹ Further details were given to family members in meetings held in November and December 1999.^{192,193}

117. In November 1999, Jonathan Rees and Simon James were tried on charges of conspiracy to commit acts tending and intended to pervert the course of justice, because Simon James had paid Jonathan Rees £11,000 to secure custody of his child from his wife by planting drugs in her car.¹⁹⁴ A serving police officer DC Austin Warnes was charged with conspiracy to supply Class A drugs, conspiracy to supply Class B drugs, conspiracy to pervert the course of justice in a Criminal Court, and conspiracy to pervert the course of justice in a Civil Court. In return for payment,¹⁹⁵ he had put false information into the police intelligence system that Simon James's wife was dealing in drugs in night clubs. James Cook had planted 15 wraps of cocaine in Simon James' wife's car. They had been removed by police and she had been arrested. The drugs were removed by officers from CIB under evidential conditions.¹⁹⁶ He pleaded guilty and was sentenced to four years' imprisonment. Jonathan Rees and Simon James were convicted and sentenced to six years' imprisonment on 15 December 1999.¹⁹⁷ James Cook was acquitted. Members of the family were given daily updates on the trial's progress through Alastair Morgan.¹⁹⁸

118. Following the trial, Isobel Hülsmann was '*not optimistic about a successful outcome to or continuance of the investigation by police into her son's murder*'.¹⁹⁹ She was informed that DCI Barry Nicholson was anxious for an early meeting with members of Daniel Morgan's family to discuss a way forward.²⁰⁰

190 Notes of meetings with the family of Daniel Morgan, MPS046679001, various dates between 1999 and 2000.

191 Note of meeting between DAC Roy Clark and the family of Daniel Morgan, MPS046659001, p16, 28 September 1999.

192 Note of meeting between DAC Roy Clark and the family of Daniel Morgan, MPS054292001, pp1-4, 04 November 1999.

193 Note of meeting between DAC Roy Clark the family of Daniel Morgan, MPS054290001, p1, 13 December 1999.

194 Report by a Detective Sergeant, MPS099294001, p46, 20 July 2001.

195 £1,500 MPS04899001

196 Note of meeting between DAC Roy Clark and Isobel Hülsmann and Alastair Morgan, MPS054186001, 13 December 2000.

197 Jonathan Rees's sentence was increased to seven years when he appealed.

198 Family liaison update report, MPS048914001, p4, 05 January 2001.

199 Family liaison update report, MPS048914001, p4, 05 January 2001.

200 Family liaison update report, MPS048914001, p4, 05 January 2001.

5.3 The 2000 Murder Review

119. On 23 May 2000, DCI Barry Nicholson briefed DCS Barry Webb on potential leads identified during Operation Nigeria/Two Bridges. DCI Nicholson recorded that DCS Webb *'agreed to review the MORGAN murder and treat the investigation as a "Special Investigation"'*.²⁰¹

120. DI Steve Hagger was appointed to conduct the 2000 Murder Review of the investigations of Daniel Morgan's murder.

121. The review was completed on 06 October 2000. In relation to family liaison, the report found that in the original investigation, *'contact with the family was less structured and more focused on the needs of the investigation rather than on the requirements of the family'*.²⁰² One of the recommendations it made was that a Level 2 trained Family Liaison Officer should be appointed to the family.²⁰³

122. There was effective communication and reporting between officers involved in commissioning the 2000 Murder Review. Although DI Steve Hagger had no contact with the family, he clearly was aware of the regrettable history of liaison with the family, and made the recommendation, welcomed by the Panel, that Family Liaison Officers trained to manage more complex issues should be appointed in the future.

5.4 1999 to 2001: Safety and risk

123. After giving a witness statement to police in March 1999, Alastair Morgan became concerned for his safety and was unwilling to sign his statement. This prompted a Detective Constable to write a report on 07 April 1999 to DAC Roy Clark, headed *'Request by Alistair [sic] MORGAN to be a protected witness'*, and explaining the following:

*'One main concerns [sic] that Alistair [sic] MORGAN has is that he believes that REES and FILLERY are aware of the fact that he knows of their involvement in his brothers [sic] murder [...]. [H]e is of the opinion that if REES and FILLERY were to gain the knowledge that he had made a statement giving evidence against them he too would be murdered. MORGAN believes that his statement will be the one thing that will provide the evidence to convict REES and FILLERY of the murder.'*²⁰⁴

124. Alastair Morgan related two incidents to the Detective Constable that *'caused him concern'*.²⁰⁵ In around 1996, he had *'received a telephone call from a female with a foreign accent who said "Hello, we're going to kill you like we killed your brother[.]" The caller then hung up.'*²⁰⁶ Alastair Morgan believed this may have been prompted by a recent newspaper article discussing the murder of another private detective.²⁰⁷

201 Letter from DCI Barry Nicholson to DCS Robert Quick, MPS049767001, p1, 02 August 2000.

202 2000 Murder Review report by DI Steve Hagger, MPS020525001, p77, para 9.3, 06 October 2000.

203 2000 Murder Review report by DI Steve Hagger, MPS020525001, p79, para 9.15, 06 October 2000.

204 Report regarding request by Alastair Morgan, MPS046832001, p3, 07 April 1999.

205 Report regarding request by Alastair Morgan, MPS046832001, p4, 07 April 1999.

206 Report regarding request by Alastair Morgan, MPS046832001, p4, 07 April 1999.

207 Report regarding request by Alastair Morgan, MPS046832001, p4, 07 April 1999.

125. The second incident had occurred in 1998 when Alastair Morgan was living in Glasgow. Alastair Morgan,

*'returned to his home one evening and saw two men standing on the street corner looking towards his house. [...] When he relayed these details to his mother she stated a man had been outside her address the previous day with a camera. He then contacted his sister, who lives in GERMANY, and she told him that on the same day a man was lying in a ditch near her house and he also had a camera. Alistair [sic] MORGAN states that he believes these incidents are all linked.'*²⁰⁸

126. Alastair Morgan told his Family Liaison Officer that he felt that *'these incidents were connected and also understood that they were orchestrated by Hampshire Constabulary, who he believed were motivated by revenge over adverse publicity he had generated in the light of their failure to convict his brother's killers'*.²⁰⁹

127. Alastair Morgan refused to sign the draft of his witness statement *'until an alarm had been fitted to his flat and he had a designated CIB [Complaints Investigation Bureau] liaison officer'*.²¹⁰

128. DAC Roy Clark wrote to Alastair Morgan on 29 April 1999 thanking him for his unsigned witness statement,²¹¹ noting that *'[w]e did agree to meet at this stage to discuss matters but I understand that you now only want to be contacted through your Solicitors'*.²¹² DAC Clark also asked Alastair Morgan to get in touch.²¹³

129. On 10 May 2000, Alastair Morgan's solicitor was informed by the Complaints Investigation Bureau 3 (CIB3) that a risk assessment would be conducted regarding the safety of Alastair Morgan and his family.²¹⁴ Alastair Morgan was offered a review of his security.²¹⁵ The offer was declined by Alastair Morgan following discussion with his partner.²¹⁶ Alastair Morgan signed his witness statement on 16 May 2000.²¹⁷ The family liaison log, dated 19 May 2000, recorded that Alastair Morgan *'was asked if he had current fears for his safety or that of his family and agreed that he didn't'*.²¹⁸

130. On 26 May 2000, it was recorded that Isobel Hülsmann told the Family Liaison Officer that *'she had no fears for her safety'*. However, the officer noted that *'several comments she made raised fears for her emotional welfare'*. She had received a number of unpleasant telephone calls which she had reported some months previously, but no more had been recorded since the installation of a British Telecom call-monitoring system.²¹⁹

131. Iris Morgan was contacted by the family liaison team in June 2000 following an expression of concern for her wellbeing from Alastair Morgan. She explained that she did not feel vulnerable but talking to the team reminded her of the murder of her husband.²²⁰ In mid-October 2000, Iris Morgan contacted the family liaison team to inform them that her son, Dan Morgan, had been

208 Report regarding request by Alastair Morgan, MPS046832001, p4, 07 April 1999.

209 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p2, undated.

210 Report regarding request by Alastair Morgan, MPS046832001, p4, 07 April 1999.

211 Letter to Alastair Morgan from DAC Roy Clark, MPS046831001, 29 April 1999.

212 Letter to Alastair Morgan from DAC Roy Clark, MPS046831001, 29 April 1999.

213 Letter to Alastair Morgan from DAC Roy Clark, MPS046831001, 29 April 1999.

214 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p2, undated.

215 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p2, undated.

216 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p2, undated.

217 Witness statement of Alastair Morgan, MPS001922001, 16 May 2000.

218 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p2, undated.

219 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p2, undated.

220 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p2, undated.

assaulted in an incident unrelated to Daniel Morgan's murder. The family liaison team assured Iris Morgan they *'would monitor the investigation'* into Dan Morgan's assault and recorded that she was *'very appreciative'* of their intervention.²²¹

132. The family liaison team discussed Alastair Morgan's risk assessment with him in late November 2000.²²² Alastair Morgan was satisfied that he was not under further threat.²²³ A few days later Alastair Morgan, despite being told to stay away from Jonathan Rees's trial (see Chapter 4, Operation Nigeria/Two Bridges), was recorded as having *'attended the Central Criminal Court in a disguise to see if he could see REES leaving the court [...] He was advised as to how potentially dangerous this was both in terms of compromising the case but also to his own safety.'*²²⁴

133. While the police had legitimate concern for the safety of Alastair Morgan if he attended the trial, in the circumstances described it was not appropriate to ask him to stay away from the trial. The Panel rejects the contention that the presence of Alastair Morgan at the trial could have compromised the Prosecution case against the Defendants.

134. On 19 December 2000, Alastair Morgan informed the family liaison team that he was,

*'concerned about his family's safety, specifically Iris Morgan and her children Sarah and Daniel. He believed that the situation had changed and those connected with REES would interfere with or cause distress to the Morgan family. He was asked whether he felt that he was in fear of any reprisal or under threat. He assured police that he was comfortable, as were his immediate family, Isobel [Hülsmann] and Jane [Morgan]. He did not feel in danger.'*²²⁵

135. On the same date, Alastair Morgan contacted DAC Roy Clark to express his concern that the level of threat to his family had increased. Although he was on leave, DCI Barry Nicholson was contacted by DAC Clark and told of Alastair Morgan's concerns.²²⁶ DCI Nicholson advised DAC Clark that the threat against members of Daniel Morgan's family had not changed, and this message was conveyed back to Alastair Morgan.²²⁷ Alastair Morgan was again offered a review of his security, which he again declined.²²⁸

136. When contacted by police, Iris Morgan expressed no concerns for her safety or that of her children and reported that she was *'extremely satisfied with the contact and service police had provided'*.²²⁹

221 Family liaison update report, MPS048917001, p4, 19 October 2000.

222 Family liaison update report, MPS048933001, p9, 24 November 2000.

223 Family liaison update report, MPS048933001, p9, 24 November 2000.

224 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p4, undated.

225 Family liaison update report, MPS048914001, p5, 05 January 2001.

226 Telephone call between DAC Roy Clark and Alastair Morgan, MPS046678001, p8, 19 December 2000.

227 Telephone call between DAC Roy Clark and Alastair Morgan, MPS046678001, p8, 19 December 2000.

228 Fax to DAC Roy Clark from DS Richard Oliver, MPS049773001, p4, undated.

229 Family liaison update report, MPS048914001, p5, 05 January 2001.

137. During the period from late 1999 to 2001, officers in the Metropolitan Police responded well to concerns raised by members of the family about their personal safety. Risk assessments were carried out, some level of personal protection was offered and, generally, a more considerate and professional approach was adopted by the Metropolitan Police than had previously been the case.

5.5 Further attempts to get access to the Hampshire/Police Complaints Authority Report

138. In February 1999, the Stephen Lawrence Inquiry, headed by Sir William Macpherson, had published its findings.²³⁰ Recommendation 10 of the report was '*[t]hat Investigating Officers' reports resulting from public complaints should not attract Public Interest Immunity as a class. They should be disclosed to complainants, subject only to the "substantial harm" test for withholding disclosure.*'²³¹ This provided new grounds for members of Daniel Morgan's family to seek access to the Hampshire/Police Complaints Authority Investigation report.

139. On 21 March 2000, Alastair Morgan informed Chris Smith MP that, following recommendation 10 of the Macpherson Report, he would again be seeking access to the Hampshire/Police Complaints Authority Investigation report.²³² On 29 March 2000, Chris Smith MP wrote a letter to DAC Roy Clark expressing Alastair Morgan's desire to have access to the Hampshire/Police Complaints Authority Investigation report.²³³

140. On 04 April 2000, members of Daniel Morgan's family met DAC Roy Clark and DCS Robert Quick. At the meeting, DAC Clark said he would consider the family's request to view the Hampshire/Police Complaints Authority Investigation report but noted that '*the issue for the police is if reports are disclosed routinely candour between the investigating officer and the Police Complaints Authority will no longer be possible*'. He added that another point of consideration was Alastair Morgan's position as a potential witness.²³⁴ Between 17 April 2000 and 19 May 2000, Alastair Morgan telephoned DAC Clark a number of times to ask about gaining access to the Hampshire/Police Complaints Authority Investigation report and to express his anxiety over the delay.^{235,236,237}

141. On 06 June 2000, Alastair Morgan made several calls to Hampshire Constabulary.²³⁸ DAC Roy Clark called Alastair Morgan back that evening and informed him that Hampshire Constabulary had agreed to let him read the report but not to have a copy. However, before he could read it, they required '*an indemnity*' to the effect that he would '*not use the contents of the report in a civil action against them*'. Alastair Morgan found these conditions '*outrageous*' and did not accept this offer to read the report.²³⁹

230 Sir William Macpherson, The Stephen Lawrence Inquiry, 24 February 1999.

231 Sir William Macpherson, The Stephen Lawrence Inquiry, p376, 24 February 1999.

232 Fax from Alastair Morgan to Chris Smith MP, PNL000101001, p242, 21 March 2000.

233 Letter from Chris Smith MP to DAC Roy Clark, PNL000101001, p247, 29 March 2000.

234 Note of meeting between members of Daniel Morgan's family, Raju Bhatt, DAC Roy Clark and DCS Robert Quick, PNL000101001, p253, 04 April 2000.

235 Note of telephone call from Alastair Morgan, MPS071654001, 08 May 2000.

236 Note of telephone call from Alastair Morgan, MPS071652001, 15 May 2000.

237 Note of telephone call from Alastair Morgan, MPS054275001, 19 May 2000.

238 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p38, 06 June 2000.

239 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p38, 06 June 2000.

142. The manner of providing the Hampshire/Police Complaints Authority Investigation report to the family was a matter for Hampshire Constabulary to determine. As such, the police were entitled to place conditions upon the provision of the report in June 2000, such as only allowing the family to read the report and not be provided with a copy. However, the restriction proposed by Hampshire Constabulary in June 2000 that, if members of Daniel Morgan's family were to see the Hampshire/Police Complaints Authority Investigation report, then they could not use it in any civil action against Hampshire Constabulary, was inappropriate. Even if the members of Daniel Morgan's family had given this undertaking, it would not have protected the police from any future civil action, since an undertaking preventing an individual from using a document in civil action would not be legally recognised and would not have been enforceable in court. It is not only inappropriate for this undertaking to have been requested, it is also legally and morally questionable, particularly in the circumstances when the police are dealing with the family members of a murder victim.

143. A Family Liaison Officer described Alastair Morgan's reaction to this offer of conditional access to the report: *'His mood [had] ranged between anger; frustration; betrayal; suspicion and the feeling that the relationship that had been painstakingly built up on both his side and from the police had returned to where it had started ie. Distrust.'*²⁴⁰

144. Alastair Morgan continued to contact DAC Roy Clark during June 2000.^{241,242,243} In a call on 08 June 2000, Alastair Morgan was described in the following terms: *'He is very emotional. He says he is very unhappy. He says he wants the Commissioner to be told and to make a decision.'*²⁴⁴ Alastair Morgan said he was determined to see the report because he felt it was the only way to understand what had happened.²⁴⁵

145. Three weeks later, Alastair Morgan received a letter from DAC Roy Clark informing him that the terms of access to the report remained the same, which Alastair Morgan considered *'unacceptable'*.²⁴⁶ According to DAC Clark's note of telephone conversations between them, Alastair Morgan said he would *'do anything he thought was necessary to gain access'*²⁴⁷ to the report, which he clarified to mean *'go to court, lobby parliament, go to the press or do whatever he thought appropriate to get access to the report but he would not reveal anything about the current enquiry'*.²⁴⁸ Alastair Morgan told DAC Clark that the proposed restriction was *'in itself injurious to the family especially when the long history of distrust between the family and the police was considered'*.²⁴⁹

240 Family liaison update report, MPS048919001, p1, 06 June 2000.

241 Note of telephone call from Alastair Morgan, MPS054270001, 06–07 June 2000.

242 Note of telephone call from Alastair Morgan, MPS054271001, 08 June 2000.

243 Note of telephone call from Alastair Morgan, MPS054269001, 15 June 2000.

244 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p39, 08 June 2000.

245 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p37, 15 June 2000.

246 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p36, 6 July 2000.

247 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p34, 07 July 2000.

248 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p34, 07 July 2000.

249 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p31, 13 July 2000.

146. On 08 September 2000, Isobel Hülsmann spoke to DAC Roy Clark, who suggested some terms on which she could see the Hampshire/Police Complaints Authority Investigation report.²⁵⁰ Isobel Hülsmann *'felt that any pre condition to her and her son seeing the report would be a step too far'*.²⁵¹

147. Alastair Morgan continued to call DAC Roy Clark's office regarding access to the Hampshire/Police Complaints Authority Investigation report.^{252,253} A Metropolitan Police family liaison report recorded Alastair Morgan's reasoning that *'if there wasn't something to hide then the pre-conditions would not have been imposed'*. The family liaison report continued, *'[b]oth Alastair and his mother believe that Hampshire Constabulary deliberately covered up Metropolitan Police corruption'*.²⁵⁴

148. Alastair Morgan was angered and dismayed to receive a letter from DAC Roy Clark, dated 13 October 2000,^{255,256} apparently laying down conditions that he felt to be *'even worse than before'*.²⁵⁷ DAC Clark proposed reading the report to members of Daniel Morgan's family, who would not be permitted to record or take notes.²⁵⁸ This was not acceptable to the family.

149. In February 2001, DAC Roy Clark's successor, DAC Andrew Hayman, agreed to provide a response to Alastair Morgan's request for access to the Hampshire/Police Complaints Authority Investigation report. When DAC Hayman's assessment was not forthcoming, Alastair Morgan again became frustrated by the delay in answering his concerns and was *'harbouring the suspicion that MR. HAYMAN was employing delaying tactics'*, and further complained on numerous occasions about lack of access to the report.^{259,260}

150. On 20 June 2001, DAC Andrew Hayman wrote to Alastair Morgan's solicitor explaining his decision not to disclose the Hampshire/Police Complaints Authority Investigation report, because it was subject to public interest immunity. The Hampshire Constabulary did not wish the report to be disclosed, because if material from the report was released, it could compromise the current murder investigation (see Chapter 6, The Abelard One/Morgan Two Investigation). However, DAC Roy Clark's offer to read the report to the family remained open.²⁶¹

151. On 05 November 2002, nearly a year and a half later, solicitors, acting on behalf of Isobel Hülsmann, applied for judicial review of the refusal of the Metropolitan Police to disclose the Hampshire/Police Complaints Authority Investigation report to members of Daniel Morgan's family.²⁶² The judicial review of the claim was listed for hearing on 07 and 08 July 2003.²⁶³

152. On 24 April 2003, Colin Gibbs, a Crown Prosecutor at the Crown Prosecution Service, made a witness statement at the request of the Metropolitan Police, in relation to the judicial review, in which he stated *'[i]t is not possible to anticipate all potential consequences of*

250 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p27, 13 July 2000.

251 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p27, 8 September 2000.

252 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p29, 07 September 2000.

253 DAC Roy Clark's notes of telephone communications with Alastair Morgan and Family, MPS046678001, p31, 13 July 2000.

254 Family Liaison update report, MPS046817001, p1, 12 September 2000.

255 Family liaison update report, MPS048917001, p3, 17 October 2000.

256 Letter from DAC Roy Clark to Raju Bhatt, MPS071630001, 13 October 2000.

257 Family liaison update report, p3, 17 October 2000

258 Letter from DAC Roy Clark to Raju Bhatt, MPS071630001, pp2-3, 13 October 2000

259 Family liaison update report, MPS048904001, 12 April 2001.

260 Minutes of meeting between Abelard One investigation team and Alastair Morgan, MPS040533001, pp3-4, 14 May 2001.

261 Letter from DAC Andrew Hayman to Raju Bhatt, MPS071592001, p2, 20 June 2001.

262 Fax of letter from Bhatt Murphy Solicitors to Hampshire County Council enclosing copy of Judicial Review, HAM000717001, pp3-9, 7 November 2002.

263 Letter from Raju Bhatt to Alastair Morgan, PNL000102001, pp338-339, 17 June 2003.

*disclosing the [Hampshire/Police Complaints Authority Investigation] report. However there might be a potential prejudice to the present consideration of the case and, if there is to be a prosecution, to the case itself, if the report were to effectively enter the public domain.*²⁶⁴

153. In a meeting chaired by DAC Barbara Wilding on 09 June 2003, it was decided that a redacted version of the Hampshire/Police Complaints Authority Investigation report should be disclosed to the family. However, by this time, following the further investigation into Daniel Morgan's murder, the Abelard One/Morgan Two Investigation, a report had been submitted to the Crown Prosecution Service seeking advice as to whether there was sufficient evidence to charge Jonathan Rees, Glenn Vian and James Cook with conspiracy to murder Daniel Morgan. A decision was awaited. Therefore, on 01 July 2003, the Metropolitan Police made an application to adjourn the Judicial Review by Isobel Hülsmann pending the making of that decision.²⁶⁵

154. On 02 July 2003, the Crown Prosecution Service concluded that the disclosure of the Hampshire/Police Complaints Authority Investigation report, with necessary conditions, would not prejudice any future charging decision and therefore the Metropolitan Police decided to share the report with the family.

155. On 04 July 2003, the High Court ordered that disclosure of the report would be subject to the following conditions:

- *'The Hampshire Report may be copied only to the named members of the Claimant's [Isobel Hülsmann's] family, as set out in the Schedule attached hereto (which is not disclosed to the public), her solicitors and counsel.*
- *The Hampshire Report will not be copied further or shown to any other person and its contents will not be made known to any other person, whether orally or in writing or by any other means whatsoever.*
- *The Hampshire Report will not be used for any purpose other than informing the named members of the Claimant's family, as set out in the Schedule attached hereto, her solicitors and counsel of its contents. In particular, no part of the Hampshire Report may be published or provided for publication by others.'*²⁶⁶

156. By 03 August 2003, the report, in redacted form, had been delivered to the family.

157. In March 2005, the solicitor acting for Isobel Hülsmann and her family had made an application to the Metropolitan Police for the unredacted Hampshire/Police Complaints Authority Investigation report, and other documents, to be made available for use by Isobel Hülsmann in proposed Judicial Review proceedings against the Home Secretary because of her refusal to direct a public inquiry into the circumstances of Daniel Morgan's death.²⁶⁷ 18 years after the murder of Daniel Morgan and 17 years after the Hampshire/Police Complaints Authority Investigation had been commissioned, the Metropolitan Police agreed that unredacted access should be granted.

²⁶⁴ Witness Statement of Colin Gibbs quoted within witness statement provided by DLS, HAM000702001, p11, 24 April 2003.

²⁶⁵ Letter to Hampshire County Council from Metropolitan Police Service enclosing Adjournment Application, HAM000702001, 01 July 2003.

²⁶⁶ Order of the High Court, R on the application of H v The Commissioner of Police for the Metropolis, PNL000111001, pp.236-237, 07 July 2003.

²⁶⁷ Letter from Raju Bhatt, HOM000053001, pp1-3, 4 March 2005.

158. Although it is accepted that there was no right of access to the report during the period from 1989 to 2003, the continuing refusal of the Metropolitan Police to grant the full access to the report of the Hampshire/Police Complaints Authority Investigation until 2005 caused members of the family significant anxiety and distress, because they did not know the outcome of the investigation and because of their suspicions about police corruption.

6 The Abelard One/Morgan Two Investigation

159. The Metropolitan Police acted on the 2000 Murder Review's recommendation that a focused reinvestigation should be undertaken,²⁶⁸ and by January 2001, planning had begun for a new and significant investigation (see Chapter 6, The Abelard One/Morgan Two Investigation).²⁶⁹ The operation was initially a covert intelligence operation, Abelard One. Later, an overt murder investigation was created named Morgan Two. Both operated concurrently from this point, forming a single investigation, the Abelard One/Morgan Two Investigation.

160. DCI David Zinzan was asked to attend a meeting with members of Daniel Morgan's family on 16 February 2001 and was²⁷⁰ appointed as Senior Investigating Officer of the covert Abelard One Investigation in early 2001.²⁷¹

161. On 14 March 2001, following his initial reading of the case papers and having met members of Daniel Morgan's family, DCI David Zinzan reported a number of concerns which he believed required consideration prior to any reinvestigation.²⁷² This included consideration of Recommendation 83 of the 2000 Murder Review Report, which advised that the investigation team be recruited '*from outwith the South East London area*'.²⁷³ His report unequivocally stated '*[i]f this advice is not followed then a clear reason at a senior level needs to be documented*'. He continued that, otherwise, '*[t]he suspicion of corruption by the family may be reinforced*'²⁷⁴ (see Chapter 6, The Abelard One/Morgan Two Investigation). DCI Zinzan also wrote, '*this investigation has the potential to damage the reputation of the [Metropolitan Police], conversely, it also has potential to visibly demonstrate our commitment to transparency, rooting out corruption and obtaining justice. It presents a great opportunity and should be viewed as such.*'²⁷⁵

162. By 03 April 2001, former DAC Roy Clark had retired and when Alastair Morgan telephoned the investigation team he was informed that DCI David Zinzan was now in post and would be anxious to meet up with him soon to '*discuss the way forward*'.²⁷⁶ Alastair Morgan replied that he had been advised by his solicitor to communicate with the Metropolitan Police through the Family Liaison Officers.²⁷⁷ This reflected the ongoing tension about the Metropolitan

268 2000 Murder Review Report, MPS020525001, p82, para 10.7, 06 October 2000.

269 File Note review of the Investigation into the murder of Daniel Morgan, MPS094325001, p7, 09 January 2001.

270 Report by DCI David Zinzan, MPS054322001, p1, 14 March 2001.

271 Panel interview with former DCI David Zinzan, PNL000220001, p1, 15 March 2016.

272 Report by DCI David Zinzan, MPS054322001, p1, 14 March 2001.

273 Report by DCI David Zinzan, MPS054322001, p2, 14 March 2001.

274 Report by DCI David Zinzan, MPS054322001, p2, 14 March 2001.

275 Report by DCI David Zinzan, MPS054322001, p1, 14 March 2001.

276 Family Liaison update report, MPS048904001, p5, 12 April 2001.

277 Family Liaison update report, MPS048904001, p5, 12 April 2001.

Police's refusal to grant the family full access to the Hampshire/ Police Complaints Authority Investigation report.²⁷⁸ Alastair Morgan further indicated that *'he was willing to participate in any re-investigation of his brother's murder but would not take any role in a media presentation'*.²⁷⁹ He said that his solicitor would be writing to DAC Andrew Hayman with an ultimatum regarding the Hampshire/Police Complaints Authority Investigation report and that a failure to respond would result in legal action.²⁸⁰

163. On 05 April 2001, a Family Liaison Officer phoned Iris Morgan to provide an update on the latest proposals.²⁸¹ Iris Morgan expressed the opinion to the Family Liaison Officer that she thought the police should be aiming towards a conclusion of the investigation into Daniel Morgan's death.²⁸²

164. The Metropolitan Police 2001 family liaison guidance allowed for different provisions to be made for different family members,²⁸³ and accordingly both DCI David Zinzan and the Family Liaison Officer adopted a largely reactive approach to liaison with Iris Morgan, being available if required. A more proactive approach was taken with other members of Daniel Morgan's family, such as Alastair Morgan and Isobel Hülsmann.

165. The decision to engage with Daniel Morgan's family at different levels was in line with the available guidance at the time and was handled well.

166. DCI David Zinzan attempted to arrange a meeting with Alastair Morgan for 25 April 2001,²⁸⁴ to provide details on current strategy, to allow Alastair Morgan to meet the team and to facilitate contact and meetings between the investigation team and Daniel Morgan's family.²⁸⁵ However, Alastair Morgan cancelled the meeting on the day, due to the ongoing issues of access to the Hampshire/Police Complaints Authority Report.^{286,287} DCI Zinzan subsequently wrote to Alastair Morgan stating that, although he understood the importance of access to the report, it was a separate issue that was out of his control:

*'I would personally like to establish a working relationship between you and my team. I believe that this could bring a positive benefit to my investigations. I feel that by including you, listening to your ideas and giving you personal updates you may feel that progress is being made. I would ask you to reconsider this decision. Trust is something that has to be earned. I would like to be given the opportunity to earn yours.'*²⁸⁸

167. Alastair Morgan replied to DCI David Zinzan on 04 May 2001, stating that *'[r]esolving the issue of the Hampshire inquiry must come first for us'*.²⁸⁹

278 Risk assessment of Alastair Morgan, MPS048905001, p1, 05 April 2001.

279 Family Liaison update report, MPS048904001, p5, 12 April 2001.

280 Family Liaison update report, MPS048904001, p5, 12 April 2001.

281 Family Liaison update report, MPS048904001, p5, 12 April 2001.

282 Family Liaison update report, MPS048904001, p5, 12 April 2001.

283 Metropolitan Police family liaison policy and fundamental guidelines, MPS109906001, p25, 23 March 2001.

284 Letter from DCI David Zinzan to Alastair Morgan, MPS040571001, p2, 25 April 2001.

285 Minutes of office meeting, MPS040530001, p5, 23 April 2001.

286 Letter from DCI David Zinzan to Alastair Morgan, MPS040571001, p2, 25 April 2001.

287 Decision log, MPS040527001, p19, 27 April 2001.

288 Letter from DCI David Zinzan to Alastair Morgan, MPS040571001, p2, 25 April 2001.

289 Letter from Alastair Morgan to DCI David Zinzan, MPS071598001, 04 May 2001.

168. DCI David Zinzan briefed his team that he wanted them to meet Alastair Morgan because *'it has, in the past, proved to be beneficial to the team members to meet relatives in order that they may meet the family for whom they would be striving to get a result'*.²⁹⁰

169. On 14 May 2001, DCI David Zinzan and his team met Alastair Morgan and his partner. DCI Zinzan commenced the meeting by introducing the Abelard One Investigation team. He then provided a detailed update on current lines of enquiry.²⁹¹ The record of the meeting noted:

*'[DCI David Zinzan] points out that trust has to be earned and will do his best to establish good working relationship. Informs Mr Morgan that he will not lie to him and will be honest.'*²⁹²

170. In response to a question from Alastair Morgan, DCI David Zinzan stated that he had read the Hampshire/Police Complaints Authority Investigation report, and not only did he state that it would not answer the questions Alastair Morgan had, but that it also clearly stated there was no evidence of police corruption.²⁹³ He advised Alastair Morgan that he was concerned that if it were released it would set a precedent²⁹⁴ but said that he would seek authority for the family to have access to the report.²⁹⁵

171. Following a request from Isobel Hülsmann for a meeting with senior officers, of which Alastair Morgan informed the investigation team at the meeting on 14 May 2001,²⁹⁶ on 23 May 2001 DCI David Zinzan and DS Richard Oliver met Isobel Hülsmann.²⁹⁷ In a similar manner to the meeting with Alastair Morgan, Isobel Hülsmann was updated on the investigation, and a working relationship was established. At the meeting, DCI Zinzan expressed his intention to be honest with the family of Daniel Morgan and was recorded as stating that, in his experience, it was *'very difficult to recover from a position of mistrust'*.²⁹⁸ DCI Zinzan explained that there would be occasions when, for reasons of security, he would be unable to provide certain information to the family, but that he would tell them when these situations arose.²⁹⁹

172. DCI David Zinzan added that the current investigation of Daniel Morgan's murder was the most difficult investigation he had ever been involved in.³⁰⁰ The Metropolitan Police meeting note recorded that, in reply to a comment from Isobel Hülsmann that there had been a lack of will to solve the murder in the past, DCI Zinzan commented: *'I cannot refute that, you have a point.'*³⁰¹

173. Isobel Hülsmann asked whether a new BBC *Crimewatch* programme would be broadcast, as she believed that the previous one had been based upon biased information supplied by Jonathan Rees. (In October 2020, Jonathan Rees told the Panel that he did not have any input into the original BBC *Crimewatch* programme.) DCI David Zinzan replied that arranging for a new appeal to be broadcast should not be a problem. Isobel Hülsmann then raised the issue of the Hampshire/Police Complaints Authority Investigation report, and her belief that it would

290 Minutes of office meeting, MPS053331001, p1, 14 May 2001.

291 Minutes of meeting with Alastair Morgan, MPS040533001, pp1-2, 14 May 2001.

292 Minutes of meeting with Alastair Morgan, MPS040533001, p3, 14 May 2001.

293 Minutes of meeting with Alastair Morgan, MPS040533001, p3, 14 May 2001.

294 Minutes of meeting with Alastair Morgan, MPS040533001, p3, 14 May 2001.

295 Minutes of meeting with Alastair Morgan, MPS040533001, p4, 14 May 2001.

296 Minutes of meeting with Alastair Morgan, MPS040533001, p6, 14 May 2001.

297 Minutes of meeting with Isobel Hülsmann, MPS071597001, 23 May 2001.

298 Minutes of meeting with Isobel Hülsmann, MPS071597001, p1, 23 May 2001.

299 Minutes of meeting with Isobel Hülsmann, MPS071597001, p1, 23 May 2001.

300 Minutes of meeting with Isobel Hülsmann, MPS071597001, p3, 23 May 2001.

301 Minutes of meeting with Isobel Hülsmann, MPS071597001, p3, 23 May 2001.

never be released to the family. DCI Zinzan replied that the main stumbling block was the issue of public interest immunity, and that if reports such as the Hampshire/Police Complaints Authority Investigation report were routinely released, it would become impossible to claim public interest immunity at other stages. He provided an undertaking that the family of Daniel Morgan would hear of any developments regarding the Hampshire/Police Complaints Authority Investigation report first, and before reading about them in the press. Finally, DCI Zinzan stated that the average posting was for two years and gave an assurance that he would remain in position for *'at least that long'* and that he would *'see it out'*.³⁰²

174. On 28 June 2001, DCI David Zinzan and the Family Liaison Officer met Jane Morgan and, as with her mother and brother, provided an update on the reinvestigation, including those involved and wider issues around the case.³⁰³ DCI David Zinzan stated he felt it was imperative that communication between the investigation team and the family of Daniel Morgan was *'open and honest'*, again adding that in his experience it was *'very difficult to recover from a position of mistrust'*.³⁰⁴

175. Jane Morgan said that she had received a copy of DAC Andrew Hayman's letter, dated 20 June 2001, regarding the Hampshire/Police Complaints Authority Investigation report, and that it thoroughly explained the reasons why the report had not been disclosed to the family.³⁰⁵ However, she was concerned by the final paragraph in the letter, which pointed out that, if the family were to pursue legal action in relation to reading the Hampshire/Police Complaints Authority Investigation report, this could impact on communication with the Metropolitan Police, including the severing of all lines of communication between the family and the investigation team.³⁰⁶ The Panel has noted that DAC Hayman in his letter did not suggest that all lines of communication with the investigation would be severed, but rather that, *'Whilst I can understand why you may wish to take such action, I would ask you to fully consider the negative impact that may have on our investigation and the restriction it would impose on my ability to communicate with you other than through the Metropolitan Police Directorate of Legal Services.'*³⁰⁷ DCI David Zinzan said that he considered the Hampshire/Police Complaints Authority Investigation report to be a totally separate issue from the reinvestigation, and that his team would always be responsive to the family's needs.³⁰⁸

176. DCI David Zinzan and DS Richard Oliver developed a good working relationship with the family, which contrasted with some of the relationships formed with officers investigating the murder previously. They were open with their communication and shared information regarding their plans for the investigation. DCI Zinzan was also honest about the areas that he thought would prove difficult or impossible, such as gaining full access to the Hampshire/Police Complaints Authority Investigation report.

302 Minutes of meeting with Isobel Hülsmann, MPS071597001, p5, 23 May 2001.

303 Minutes of meeting with Jane Morgan, MPS071596001, p1, 28 June 2001.

304 Minutes of a meeting with Jane Morgan, MPS071596001, p1, 28 June 2001.

305 Minutes of meeting with Jane Morgan, MPS071596001, p1, 28 June 2001.

306 Minutes of meeting with Jane Morgan, MPS071596001, p1, 28 June 2001.

307 Minutes of meeting with Jane Morgan, MPS071596001, p1, 28 June 2001.

308 Minutes of meeting with Jane [Morgan], MPS071596001, p2, 28 June 2001.

6.1 The *Crimewatch* broadcast

177. DCI David Zinzan and his team had further meetings with members of the family of Daniel Morgan on 26 July 2001,³⁰⁹ 10 October 2001³¹⁰ and 16 January 2002, in which they provided updates regarding the investigation. During the meeting on 16 January 2002, DCI Zinzan advised that intelligence received by the investigation team had supported his belief that Jonathan Rees had organised the murder, that Glenn Vian had committed the murder, that James Cook had driven the getaway car, and that Person P9 had stored the vehicle before assisting in its disposal. DCI Zinzan also explained that *'he had been successful in the deployment so far of a probe within the home of Glen [sic] VIAN'*.³¹¹

178. DCI David Zinzan went on to detail proposals for a *Crimewatch* appeal, which he hoped would act as a 'trigger' and raise new information on the case by encouraging the suspects to communicate with one another.³¹² Alastair Morgan and Isobel Hülsmann both agreed that they *'had been surprised and heartened by the developments'*.³¹³ Their solicitor said that prior to the meeting, both Alastair Morgan and Isobel Hülsmann had decided they would have nothing further to do with the investigation team. However, following the updates from DCI David Zinzan, *'they have both been heartened and decided to continue'*.³¹⁴

179. At a family liaison meeting on 23 April 2002,³¹⁵ T/D/Supt David Zinzan (as he was now) advised Alastair Morgan and Isobel Hülsmann that the *Crimewatch* programme had been agreed with the BBC for broadcast at the end of June 2002, to be fronted by DCS David Cook. On 17 May 2002, DCS Cook became the Senior Investigating Officer for the Morgan Two Investigation, which was the overt enquiry supporting the covert activities of Abelard One.³¹⁶ T/D/Supt Zinzan added that *'the BBC thought that the involvement of family in the programme would add to the effect of a 15-year-old murder'*,³¹⁷ but that he was reluctant for them to do so, for fear of increasing their personal risk. If the family wished to appear in the *Crimewatch* programme, T/D/Supt Zinzan was clear that it would be their own decision, and not at his request.³¹⁸ Isobel Hülsmann later took the decision to appear and make an appeal for information during the programme.^{319,320}

180. T/D/Supt David Zinzan explained that a reward of £10,000 had been authorised, which he said was disappointing as he had requested £50,000.³²¹ Isobel Hülsmann and Alastair Morgan expressed *'deep disgust'* at the figure, and described it as *'insulting'* and *'derisory'*.³²² T/D/Supt Zinzan said that he had not given up on increasing this figure, and would be re-applying.³²³ Concluding the meeting, Alastair Morgan commented to T/D/Supt Zinzan that *'you seem to be doing the absolute best you can'*, and Isobel Hülsmann agreed.³²⁴

309 Minutes of meeting with Alastair Morgan, MPS054194001, 26 July 2001.

310 Minutes of meeting with Isobel Hülsmann and Jane [Morgan], MPS054195001, 10 October 2001.

311 Minutes of meeting with Alastair Morgan and Isobel Hülsmann, MPS054196001, 16 January 2002.

312 Minutes of meeting with Alastair Morgan and Isobel Hülsmann, MPS054196001, pp3-4, 16 January 2002.

313 Minutes of meeting with Alastair Morgan and Isobel Hülsmann, MPS054196001, p4, 16 January 2002.

314 Minutes of meeting with Alastair Morgan and Isobel Hülsmann, MPS054196001, p6, 16 January 2002.

315 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, p74-80, 23 April 2002.

316 Minutes of Gold Group meeting, MPS042643001, pp7-10, 17 May 2002.

317 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, p74, 23 April 2002.

318 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, p77, 23 April 2002.

319 Risk Assessment of Isobel Hülsmann, MPS053734001, p6, 10 June 2002.

320 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, pp77-78, 23 April 2002.

321 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, p76, 23 April 2002.

322 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, p76, 23 April 2002.

323 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, p76, 23 April 2002.

324 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS046659001, p80, 23 April 2002.

181. Following this meeting, T/D/Supt David Zinzan made a further request to Commander Roger Pearce for the sum of £10,000 to be reviewed.³²⁵ On 16 May 2002, Commander Pearce authorised a reward of £25,000,³²⁶ and following further representations by T/D/Supt Zinzan,³²⁷ the figure was increased to £50,000 on 17 June 2002.³²⁸

182. The reward featured as an incentive for the provision of information during the *Crimewatch* broadcast,³²⁹ which was aired on 26 June 2002³³⁰ (see Chapter 6, The Abelard One/Morgan Two Investigation).

183. On 31 July 2002, DS Richard Oliver and a Family Liaison Officer met Iris, Sarah and Dan Morgan.³³¹ The meeting note recorded that Iris Morgan stated that she was *'more than satisfied with the information being relayed to her and her family'*. It was agreed that Family Liaison Officers would provide regular updates.³³² The meeting note also recorded that DS Richard Oliver *'presented a comprehensive review of the proactive and reactive investigation conducted by officers'*.³³³

184. The Abelard One/Morgan Two Investigation team worked closely with members of Daniel Morgan's family and trusted them with a vast amount of significant information and updates on the investigation, some of which went further than had previously been the case. T/D/Supt David Zinzan's persistence which resulted in the increase of the reward money from £10,000 to £50,000, was significant and welcomed by the family.

6.2 A change of Senior Investigating Officer

185. In early August 2002, T/D/Supt David Zinzan was unavoidably unavailable temporarily from the covert investigation, and D/Supt Michael Taylor took over as Senior Investigating Officer.³³⁴ Alastair Morgan was informed of the change on 06 August 2002 and the following day he wrote to Deputy Commissioner Ian Blair, noting *'[w]e have had excellent relations with DCI Zinzan and [...] would also like to thank him for what he has already achieved in this investigation'*.³³⁵

186. In a family liaison meeting on 05 September 2002, the solicitor for Isobel Hülsmann, Jane Morgan and Alastair Morgan stated that the continuing absence of T/D/Supt David Zinzan *'was a concern to the family because of the confidence that MR. ZINZAN had inspired in them'*.³³⁶ At the same meeting, D/Supt Michael Taylor advised those present that the probe material from the first phase of the covert investigation had corroborated the original intelligence, and

325 Report from T/D/Supt David Zinzan to Commander Roger Pearce, MPS042516001, p20, pp22-23, 02 May 2002.

326 Minute from Commander Roger Pearce to DAC Andrew Hayman, MPS042516001, p26, 16 May 2002.

327 Minute from T/D/Supt David Zinzan to Commander Roger Pearce, MPS042516001, p28, 17 June 2002.

328 Minute from Commander Roger Pearce to T/D/Supt David Zinzan, MPS042516001, p29, 18 June 2002.

329 Minutes of office meeting, MPS040535001, p1, 05 June 2001.

330 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS047357001, p3, 25 July 2002.

331 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS047356001, 31 July 2002.

332 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS047356001, p1, 31 July 2002.

333 Minutes of meeting with Alastair Morgan, Isobel Hülsmann and Kirsteen Knight, MPS047356001, pp1-3, 31 July 2002.

334 Panel interview with former DCI David Zinzan, PNL000220001, p11, 15 March 2016.

335 Letter from Alastair Morgan to Deputy Commissioner Ian Blair, MPS046674001, p7, 07 August 2002.

336 Minutes of meeting with Alastair Morgan, Isobel Hülsmann, Kirsteen [Knight] and Jane [Morgan], MPS047992001, p2, 05 September 2002.

that the investigation team *'were confident that we were well on the way to solving the case'*.³³⁷ He further stated that the intention was to commence the second phase³³⁸ of the covert investigation on 30 September 2002.³³⁹

187. At the conclusion of the meeting, the solicitor for Isobel Hülsmann, Alastair Morgan and Jane Morgan outlined a family liaison strategy which he would like to have adopted: that until the end of September, his clients would only expect to be updated with significant occurrences, and once the proactive phase commenced they would like daily updates, with Isobel Hülsmann being updated first, followed by Alastair Morgan. DS Richard Oliver explained that family liaison policy was to update a single point of contact, primarily to avoid confusion, but with that proviso he accepted the suggestion from the solicitor. D/Supt Michael Taylor also agreed to the proposal. The minute of the meeting concluded with the note: *'At the conclusion of the meeting all family members expressed themselves satisfied with the commitment and reassurances asserted by MT [D/Supt Michael Taylor] and RO [DS Richard Oliver].'*³⁴⁰

188. Further family liaison meetings were held on 01 November 2002,³⁴¹ 16 January 2003³⁴² and 11 February 2003.³⁴³ At these meetings members of the family were provided with further operational updates. At the meeting on 11 February 2003, DCS David Cook explained that he hoped to send an advice file to the Crown Prosecution Service within two to three weeks, and that he would be *'disappointed if REES and [James] COOK were not charged in connection with the murder'*; he added that the evidence against Glenn Vian was not as strong.³⁴⁴

6.3 March 2003: DCS David Cook's advice file to the Crown Prosecution Service

189. Senior Investigating Officer DCS David Cook submitted an advice file to the Crown Prosecution Service on 10 March 2003, which stated that the investigation team was *'of the firm belief that there was sufficient evidence to charge William Jonathan REES, Glen [sic] VIAN and James COOK with a Conspiracy to Murder Daniel MORGAN'*. The Crown Prosecution Service were asked to provide advice, not only as to the proposed charge of conspiracy to murder, but also as to whether identified individuals should be charged with additional offences, some of which did not relate to Daniel Morgan's murder³⁴⁵ (see Chapter 6, The Abelard One/Morgan Two Investigation).

190. On 28 April 2003, a meeting was held between Counsel and members of the Abelard One/Morgan Two Investigation team. The note of the meeting recorded that Counsel was of the opinion that, *'although it came tantalisingly close'*, there was not enough evidence to charge the various Defendants. The note of the meeting further recorded that *'[t]he police did not agree with this assessment'*, and that after a lengthy discussion, Counsel *'said that they would like to go away from this meeting and have the opportunity to digest and consider some of the comments made by the police'*.³⁴⁶

337 Minutes of meeting with Alastair Morgan, Isobel Hülsmann, Kirsteen Knight and Jane Morgan, MPS047992001, p2, 05 September 2002.

338 The strategy for the second phase was explained as to ensure that every effort was made to get audio equipment inside the car of former DS Sidney Fillery.

339 Minutes of meeting with Alastair Morgan, Isobel Hülsmann, Kirsteen [Knight] and Jane [Morgan], MPS047992001, pp2-3, 05 September 2002.

340 Minutes of meeting with Alastair Morgan, Isobel Hülsmann, Kirsteen [Knight] and Jane [Morgan], MPS047992001, p6, 05 September 2002.

341 Minutes of meeting with Isobel Hülsmann, Alastair Morgan and Kirsteen [Knight], MPS071571001, 01 November 2002.

342 Minutes of meeting with Isobel Hülsmann and Jane Morgan, MPS046666001, 16 January 2003.

343 Minutes of meeting with Alastair Morgan, Kirsteen [Knight], and Dan Morgan, MPS048518001, 11 February 2003.

344 Minutes of meeting with Alastair Morgan, Kirsteen Knight, and Dan Morgan, MPS048518001, p3, 11 February 2003.

345 Advice file R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p130, 7 March 2003.

346 Minute of Operation Abelard conference held on 28 April 2003, CLA000245001, p1, 29 April 2003.

191. On 01 May 2003, three days after the meeting with Counsel, T/D/Supt David Zinzan and DS Richard Oliver visited Isobel Hülsmann and Jane Morgan in Wales.³⁴⁷ At this meeting, T/D/Supt Zinzan advised Isobel Hülsmann and Jane Morgan that the Crown Prosecution Service had come to the conclusion that there was insufficient evidence to support a prospect of a conviction, and therefore that the police were minded not to pursue a prosecution. DS Oliver's note of the meeting records that T/D/Supt Zinzan advised Isobel Hülsmann and Jane Morgan that both he and DCS David Cook had argued strongly in favour of a prosecution and reminded them that the decision was provisional but that he felt it unlikely that the Crown Prosecution Service would reverse their decision.³⁴⁸

192. Both Isobel Hülsmann and Jane Morgan were very upset. Jane Morgan said, '*[t]here is not much more to say is there, I don't know why you came all this wayjust to tell us this*'. T/D/Supt David Zinzan replied that he had wanted to inform the family in person. Isobel Hülsmann also stated during this meeting that '*[t]here will now be a huge media attack*'. T/D/Supt Zinzan cautioned against going to the media for fear of jeopardising a future prosecution.³⁴⁹

193. Following the meeting with Isobel Hülsmann and Jane Morgan, T/D/Supt David Zinzan and DS Richard Oliver returned to London for a meeting with Alastair Morgan and his solicitor.³⁵⁰ Alastair Morgan was already aware of the Crown Prosecution Service's provisional decision, having been informed by Jane Morgan.³⁵¹ At this meeting, T/D/Supt Zinzan discussed the case conference that he had had with Counsel, and explained that Counsel believed there was insufficient evidence for a realistic prospect of a conviction. T/D/Supt Zinzan advised that Counsel would prepare a written advice for the Crown Prosecution Service, but until that was done the decision was not to be considered final.³⁵² T/D/Supt Zinzan stated that he and DCS David Cook had expressed disappointment with the decision and forcefully put arguments forward to counter the points raised, which Counsel had promised would be examined and reported on in due course.³⁵³

194. The way in which T/D/Supt David Zinzan and his colleagues conducted the process of advising family members about the preliminary Crown Prosecution Service decision not to prosecute was exemplary; they were honest and frank and went to great lengths to meet with the family involving as it did both travel and meetings.

6.4 The Crown Prosecution Service decision not to prosecute

195. On 07 May 2003, a meeting of the Gold Group for the Abelard One/Morgan Two Investigation was held,³⁵⁴ at which DCS David Cook outlined the contents of the meeting held with the Crown Prosecution Service and Counsel on 28 April 2003.³⁵⁵ Following the update

347 Minutes of meeting with Isobel Hülsmann and Jane Morgan, MPS054570001, 01 May 2003.

348 Minutes of meeting with Isobel Hülsmann and Jane Morgan, MPS054570001, p2, 01 May 2003.

349 Minutes of meeting with Isobel Hülsmann and Jane Morgan, MPS054570001, p3, 01 May 2003.

350 Minutes of meeting with Alastair Morgan, MPS048533001, 01 May 2003.

351 Minutes of a meeting with Isobel Hülsmann and Jane Morgan, MPS048532001, p2, 01 May 2003.

352 Minutes of meeting with Alastair Morgan, MPS048533001, p2, 01 May 2003.

353 Minutes of meeting with Alastair Morgan, MPS048533001, p2, 01 May 2003.

354 Minutes of Gold Group meeting, MPS108276001, 07 May 2003.

355 Minutes of Gold Group meeting, MPS108276001, p24, 07 May 2003.

from DCS Cook, Commander Andre Baker suggested that, should the final Crown Prosecution Service decision be not to prosecute, then the Crown Prosecution Service and Counsel should be encouraged to meet the family.³⁵⁶

196. On 08 August 2003, copies of Counsel's advice³⁵⁷ were received by the Abelard One/Morgan Two Investigation team,³⁵⁸ confirming Counsel's earlier recommendation that the decision be taken not to prosecute Jonathan Rees, Glenn Vian or James Cook for any offence connected with the killing of Daniel Morgan, nor any person for any ancillary offences.³⁵⁹ This decision was expected to be confirmed officially by the Crown Prosecution Service early the following week.³⁶⁰

197. On 02 September 2003, Colin Gibbs from the Crown Prosecution Service wrote to DCS David Cook, D/Supt David Zinzan and the Deputy Senior Investigating Officer, DCI Neil Hibberd, stating that, following receipt of the advice file, the Crown Prosecution Service had considered the matter and agreed with Counsel that there was '*insufficient evidence to provide a realistic prospect of a conviction for the offence of murder and other offences arising from the death of Daniel Morgan*'.³⁶¹

198. On 05 September 2003, DCS David Cook and D/Supt David Zinzan held a meeting with Isobel Hülsmann and her solicitor. DCS Cook explained the Crown Prosecution Service's decision not to proceed. The notes record that while DCS Cook expressed his disappointment at this, he stated that, in light of the arguments that the Crown Prosecution Service had put forward, he accepted the decision. DCS Cook further advised that it was possible the case would be referred to a Murder Review Group, who would review the investigation. Isobel Hülsmann's solicitor responded that he '*understood the situation*' and saw the referral of the case to a Murder Review Group as '*one way forward*'.³⁶²

199. Following a question from the solicitor as to whether the investigation team was still engaged, DCS Cook replied that three officers were continuing to investigate former DS Sidney Fillery, who was next due at Court on 16 September 2003 for a matter unconnected with Daniel Morgan, and decisions would be made regarding whether and how to proceed based on the outcome of those hearings.³⁶³

200. Isobel Hülsmann's solicitor explained that his clients were considering the options available to them, which included bringing a private prosecution or a civil action or calling for a public inquiry. The solicitor also said he wished to view the report that DCS David Cook had submitted to the Crown Prosecution Service in March 2003, the advice from Counsel, and a record of the points put to Counsel by DCS Cook at their conference on 28 April 2003, along with Counsel's response to those points. DCS Cook replied that, personally, he had no objection to these requests, but that it would be for the Metropolitan Police as an organisation to decide. Finally, Isobel Hülsmann requested that the Commissioner of the Metropolitan Police, Sir John Stevens, visit her at home in Wales to discuss the matter personally.³⁶⁴

356 Minutes of Gold Group meeting, MPS108276001, p26, 07 May 2003.

357 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, undated.

358 Message M193, MPS060053001, 08 August 2003.

359 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, pp1-57, undated.

360 Minutes of Gold Group meeting, MPS071568001, p1, 12 August 2003.

361 Letter from Colin Gibbs to DCS David Cook, D/Supt David Zinzan and DCI Neil Hibberd, MPS072321001, p2, 2 September 2003.

362 Minutes of a meeting with Isobel Hülsmann, MPS071567001, p1, 05 September 2003.

363 Minutes of a meeting with Isobel Hülsmann, MPS071567001, p1, 05 September 2003.

364 Minutes of a meeting with Isobel Hülsmann, MPS071567001, p3, 05 September 2003.

201. On 08 September 2003, the solicitor acting for Isobel Hülsmann wrote to DCS David Cook as a follow-up to their meeting three days earlier.³⁶⁵ His letter stated:

*'You [...] made it clear that it would be appropriate for Mrs Hulsmann [sic] and her family to assume that the MPS [Metropolitan Police Service] has reached the end of the road for all practical intents and purposes. You indicated that the Gold Group would convene specifically to consider any requests or proposals on the way forward that might be put forward on behalf of Mrs Hulsmann [sic] and her family, and you invited me to do so in writing to you with the assurance that the [Metropolitan Police] will want to do whatever is possible to support, assist and co-operate with them. You are of course already aware of the proposals set out below, which were rehearsed at our meeting and are now put forward on the understanding that they should not meet with any objection or obstruction from you or Supt Zinzan.'*³⁶⁶

202. The letter said that DCS David Cook:

- i. Had, on his own analysis made it clear that the *'real mischief'* lay in the Morgan One Investigation;
- ii. had found the case to be the *'worst mess'* he had ever seen;
- iii. had confirmed that DS Sidney Fillery's role in the Morgan One Investigation was *'at the heart of the mischief'*; and
- iv. had conceded that, in his view, those around DS Fillery *'who had protected him included other police officers'*.³⁶⁷

203. The letter continued by listing proposals which his clients wished to be considered, as summarised below:

- i. That the focus of the Metropolitan Police should be changed from the immediate *'actors'* in the murder to instead look at the involvement of Sidney Fillery in the Morgan One Investigation, and at those who had protected him.³⁶⁸
- ii. That the Metropolitan Police should provide a copy of the reinvestigation report submitted to the Crown Prosecution Service in March 2003, the response of Counsel to that report, and their response to issues raised at a conference at the end of April 2003.³⁶⁹
- iii. That the Metropolitan Police should consider whether there would be support for a call for a public inquiry, should the family of Daniel Morgan pursue that option.

204. On 24 September 2003, Isobel Hülsmann wrote to Commissioner Sir John Stevens.³⁷⁰ The letter expressed her *'disappointment and frustration'* upon being formally notified that the Crown Prosecution Service would not proceed with this case, particularly *'bearing in mind some of the most disturbing comments made by DCS Cook at my most recent meeting with David*

365 Letter from Raju Bhatt to DCS David Cook, MPS108273001, pp9-11, 08 September 2003.

366 Letter from Raju Bhatt to DCS David Cook, HOM000011001, p1, 08 September 2003.

367 Letter from Raju Bhatt to DCS David Cook, HOM000011001, p2, 08 September 2003.

368 Letter from Raju Bhatt to DCS David Cook, HOM000011001, p2, 08 September 2003.

369 Letter from Raju Bhatt to DCS David Cook, HOM000011001, p2, 08 September 2003.

370 Letter from Isobel Hülsmann to Commissioner Sir John Stevens, MPS108276001, pp29-30, 24 September 2003.

Zinzan and my solicitor.^{371,372} The letter concluded with a further request that the Commissioner visit Isobel Hülsmann at her home *'to discuss the very many unanswered and relevant questions relating to this horrendous unsolved murder'*.³⁷³

205. The Commissioner's Staff Officer, DCS Hamish Campbell, replied to Isobel Hülsmann's letter on 01 October 2003, explaining that the Commissioner could not intervene in decisions made by the Crown Prosecution Service, as they were independent of the police, but that Commander Andre Baker, with responsibility for murder investigations, had been asked to respond to Isobel Hülsmann's unanswered questions.³⁷⁴

206. On 14 October 2003, Commander Andre Baker wrote to Isobel Hülsmann stating that, following the Crown Prosecution Service's decision that no charges would be brought against anyone for the murder, the case would, in line with Metropolitan Police policy, be passed to a Metropolitan Police review team.³⁷⁵

207. The solicitor acting for Isobel Hülsmann and her family replied to this letter on 24 October 2003,³⁷⁶ noting that he had not received a response to the points raised in his letter sent to DCS David Cook on 08 September 2003 (see above, paragraph 201), and that *'the continuing absence of any substantive response has become a cause of increasing concern and anxiety to Mrs Hulsmann [sic] and her family, calling into question the good faith with which they have sought to work with the MPS [Metropolitan Police Service] as a whole in relation to this tragic and difficult case'*.³⁷⁷

208. On 27 October 2003, the Directorate of Legal Services in the Metropolitan Police replied to the letter of 08 September 2003 received from the solicitor acting for Isobel Hülsmann and her family,³⁷⁸ confirming that the Abelard One/Morgan Two Investigation would be reviewed by the Murder Review Group, under the direction of DAC Michael Fuller. The letter also refuted some of the statements in the letter from the solicitor, stating that:

- i. DCS David Cook had made it clear that his opinion of the Morgan One Investigation was by reference to current investigative standards, not those which were applicable at the time; and
- ii. DCS Cook did not *'concede'* that former DS Sidney Fillery had been *'protected'* and said that no evidence had been found to support that assertion.³⁷⁹

209. The letter of 27 October 2003 also said that: DCS Cook had stated that the investigation had looked for evidence, intelligence or other information which would suggest any corruption, and had found none; and that allegations of police corruption were not explicitly within the ambit of the Abelard One/Morgan Two Investigation; however, the review under the oversight of DAC Michael Fuller would consider whether it was appropriate to treat the enquiry into police corruption as complete.³⁸⁰

371 Letter from Isobel Hülsmann to Commissioner Sir John Stevens, MPS108276001, p29, 24 September 2003.

372 Due to the meeting note, the Panel has been unable to determine which of DCS David Cook's comments were found to be *'most disturbing'* by Isobel Hülsmann.

373 Letter from Isobel Hülsmann to Commissioner Sir John Stevens, MPS108276001, p29, 24 September 2003.

374 Letter from DCS Hamish Campbell to Isobel Hülsmann, MPS108276001, p28, 01 October 2003.

375 Letter from Commander Andre Baker to Isobel Hülsmann, MPS108276001, p16, 14 October 2003.

376 Letter from Raju Bhatt to Commander Andre Baker, MPS108276001, pp11-12, 24 October 2003.

377 Letter from Raju Bhatt to Commander Andre Baker, MPS108276001, pp11, 24 October 2003.

378 Letter to Raju Bhatt, HOM000009001, 27 October 2003.

379 Letter to Raju Bhatt, HOM000009001, p1, 27 October 2003.

380 Letter to Raju Bhatt, HOM000009001, p1, 27 October 2003.

210. The letter further said that none of the documents requested would be provided to the family and that they had no legal entitlement to such material, concluding with the following:

*'As stated above, DCS Cook did not concede that Fillery had been protected. Should a public inquiry be directed then the [Metropolitan Police] would, of course, co-operate.'*³⁸¹

211. Although the Panel understands that it is not normal to disclose an investigative report to a victim's family, no explanation was given to Isobel Hülsmann, Alastair Morgan and Jane Morgan for the decision not to disclose either the Crown Prosecution Service report or for the decision not to recommend a prosecution. It would have been helpful had the letter from the Directorate of Legal Services explained that to disclose the reasons for not proceeding had the potential to jeopardise future investigations or prosecutions. This was not explained to the family, leaving them to suspect that there may have been other, underlying issues.

212. On 02 December 2003, the solicitor acting for Isobel Hülsmann and her family replied to the Directorate of Legal Service's letter of 27 October 2003.³⁸² The letter opened with the following:

*'I am surprised that you now seek to dispute the views expressed by Det Ch Sup Cook with regards to the sorry history of this matter, the role of ex PS [sic] Sidney Fillery at the heart of that history and the protection he enjoyed from those around him including other police officers. My understanding of those views, as reflected in my letter of 8 September, was rehearsed before Det Ch Sup Cook and Sup Zinzan at our meeting, and I did not hear any dissent or dispute from either of them at that stage. It is of course open to Det Ch Sup Cook to depart from the views that he expressed at our meeting, but that cannot alter what he had in fact said.'*³⁸³

213. The letter further said that, as the Metropolitan Police seemed to accept that allegations of police corruption were not within the ambit of the Abelard One/Morgan Two Investigation, and because the recent review under the direction of DAC Michael Fuller had '*simply looked back at the recommendations which emerged from the previous MPS [Metropolitan Police Service] Murder Review [...] in order to ascertain that all such recommendations had been followed through*', the issue of police corruption did not appear to have been investigated.³⁸⁴

214. The letter from the solicitor said that, if the Metropolitan Police were unable or unwilling to take this matter further, the '*burden of taking whatever steps may be necessary to ensure that those responsible for the murder [...] are brought to justice*' was placed upon the family of Daniel Morgan, and for that reason it was essential that they knew and understood what material was available to the Metropolitan Police.³⁸⁵

³⁸¹ Letter to Raju Bhatt, HOM000009001, p2, 27 October 2003.

³⁸² Letter from Raju Bhatt HOM000008001, 02 December 2003.

³⁸³ Letter from Raju Bhatt HOM000008001, p1, 02 December 2003.

³⁸⁴ Letter from Raju Bhatt HOM000008001, p1, 02 December 2003.

³⁸⁵ Letter from Raju Bhatt HOM000008001, p2, 02 December 2003.

215. Regarding the issue of access to DCS David Cook's advice file, Counsel's advice, and the underlying material, the solicitor stated that his clients had been given previous assurances on behalf of the Metropolitan Police that the police '*would wish to support, assist and co-operate with Mrs Hülsmann [sic] and her family on any further steps they might wish to take*'. The solicitor requested an explanation for the decision to deny his clients access to the report or underlying material relating to the recent reinvestigation.³⁸⁶

216. The solicitor concluded by instructing that this correspondence should be treated as a letter of claim under the pre-action protocol for judicial review (the first step in seeking a judicial review) of the decision of the Metropolitan Police to deny Isobel Hülsmann access to either the report submitted to the Crown Prosecution Service or the underlying primary material arising from the recent reinvestigation.³⁸⁷

217. On 16 March 2004, the Directorate of Legal Services wrote to the solicitor acting for Isobel Hülsmann and her family regarding disclosure of DCS David Cook's report. The letter began by denying that DAC Barbara Wilding, DCS Cook or D/Supt David Zinzan had previously given any assurance that the report would be provided his clients. However, it was now agreed, in principle, that the report would be provided to them, subject to appropriate redactions and conditions.³⁸⁸

218. On 21 May 2004, the Directorate of Legal Services again wrote to the solicitor, advising that the Metropolitan Police had agreed to disclose DCS David Cook's report to his clients, subject to conditions, which were that:

- i. The Report and its contents could only be used to inform specified people including Isobel Hülsmann, and her lawyers and the persons agreed by the Metropolitan Police;
- ii. The Report, could only be copied for those agreed and was not be published or passed to any other persons;
- iii. The recipients of the Report would owe the Commissioner a duty to keep the contents of the Report confidential.³⁸⁹

On 26 May 2004, the solicitor acting for Isobel Hülsmann and her family replied agreeing to the majority of the conditions, and on this basis a disclosure agreement was reached with the Metropolitan Police.³⁹⁰

219. In June 2004, the Metropolitan Police disclosed a copy of DCS David Cook's report to the solicitor, who ensured it was received by his clients.³⁹¹

6.5 Correspondence with the Crown Prosecution Service

220. In addition to ongoing contact between the solicitor acting for Isobel Hülsmann and Alastair Morgan and the Metropolitan Police, Isobel Hülsmann and Alastair Morgan were in correspondence with the Crown Prosecution Service. On 20 November 2003, Isobel Hülsmann received an undated letter from Colin Gibbs of the Crown Prosecution Service Casework

386 Letter from Raju Bhatt, HOM000008001, p2, 02 December 2003.

387 Letter from Raju Bhatt, HOM000008001, pp2-3, 2 December 2003.

388 Letter to Raju Bhatt, PNL000103001, p52, 16 March 2004.

389 Letter from MPS Directorate of Legal Services to Bhatt Murphy solicitors, PNL000103001, 21 May 2004.

390 Letter from Raju Bhatt, PNL000103001, p97, 18 June 2004.

391 Letter from Raju Bhatt to Alastair Morgan PNL000103001, p100, 28 June 2004.

Directorate, to which her solicitor responded on 02 December 2003.³⁹² The solicitor said that previous letters to Colin Gibbs (of 13 February, 31 March and 23 April 2003), which had been sent in the context of judicial review proceedings underway against the Metropolitan Police, had been neither acknowledged nor replied to by the Crown Prosecution Service. He continued:

*'Moreover, contrary to the stated practice of the CPS [Crown Prosecution Service] Casework Directorate in other similar cases – and, indeed, contrary to the CPS policy statement on the care and treatment of victims in general – I note that you have not considered it necessary to liaise with Mrs Hulsmann [sic] or myself in any way in connection with your deliberations upon this matter.'*³⁹³

221. The solicitor's letter went on to state that, prior to the undated letter from Colin Gibbs, the only indication that Isobel Hülsmann or the solicitor had received regarding the decision not to charge Jonathan Rees and others with the murder of Daniel Morgan was by word of mouth, during a telephone call from D/Supt David Zinzan on 02 September 2003. The first formal communication to members of the family of the Crown Prosecution Service's decision not to proceed had been the undated letter received by Isobel Hülsmann on 20 November 2003, which described the process by which the decision not to proceed was taken but gave no indication of the underlying reasons. While the letter from Colin Gibbs proposed a meeting with members of Daniel Morgan's family, at which Counsel would provide *'as full an explanation as possible of the reasons for any decision'*, the solicitor requested that the Crown Prosecution Service provide *'the full and detailed reasons for your decision in writing – this would enable me to assist [Isobel Hülsmann] to digest the explanation so provided and thereby to make more fruitful any subsequent meeting with counsel and yourself'*.³⁹⁴

222. On 05 December 2003, Colin Gibbs replied to the solicitor, stating:

'I do not recall not replying to all your letters as I recall speaking to you and sending a colleague to your office to collect a file.'

'The reason I wrote to Mrs Hulsmann [sic] directly was because she had written to the DPP [Director of Public Prosecutions] and I assumed, apparently wrongly, that she wanted a personal reply.'

'I do not understand your point about assuming Mrs Hulsmann [sic] knew the decision because her letter made it plain that she did know.'

*'I will take the time to provide written reasons as you request. I will need to speak to Counsel about this so it may not get to you until the New Year. If it is taking longer than I expect myself or a colleague will contact you.'*³⁹⁵

223. The solicitor wrote further letters to Colin Gibbs on 16 December 2003³⁹⁶ and 22 January 2004,³⁹⁷ in which he continued to express concerns regarding the failure to disclose to his clients the reasons for the Crown Prosecution Service decision. In his letter of 22 January 2004,

392 Letter to Colin Gibbs from Raju Bhatt, HOM000004001, 02 December 2003.

393 Letter to Colin Gibbs from Raju Bhatt, HOM000004001, p1, 02 December 2003.

394 Letter to Colin Gibbs from Raju Bhatt, HOM000004001, p2, 02 December 2003.

395 Letter from Colin Gibbs to Raju Bhatt, HOM000003001, 05 December 2003

396 Letter from Raju Bhatt to Colin Gibbs, HOM000002001, 16 December 2003.

397 Letter from Raju Bhatt to Colin Gibbs, HOM000001001, 22 January 2004.

he noted that he had not yet received a reply to his previous letter and stated: *'I consider the delay in providing me with reasons for the decision to be unacceptable and deeply disrespectful to my client [...].'*³⁹⁸

224. On 07 April 2004, the Crown Prosecution Service wrote to the solicitor acting for Isobel Hülsmann and her family advising that a document setting out the reasons for the September 2003 decision not to prosecute was being prepared but that there had been delays.³⁹⁹

225. On 23 April 2004, Isobel Hülsmann's solicitor wrote to Chris Newell, Principal Legal Adviser at the Crown Prosecution Service, to *'draw [...] attention to the increasing cause for concern in relation to the handling of this matter by the CPS Casework Directorate'*, and again referred to the Crown Prosecution Service policy statement regarding the care and treatment of victims.⁴⁰⁰

226. The solicitor noted that eight months had passed since the decision not to prosecute had been finalised, and:

*'[w]e are therefore left to wonder whether what we are being asked to await is, not the reasoning (if any) which actually led to the decision last year, but reasons that are now being put together to justify that decision.'*⁴⁰¹

227. On 06 May 2004, Colin Gibbs replied to the solicitor's letter, enclosing a six-page document containing the reasons why the decision was taken not to prosecute the suspects for the murder of Daniel Morgan.⁴⁰² The letter also advised that the Crown Prosecution Service and Counsel were still willing to meet with members of Daniel Morgan's family.⁴⁰³

228. On 10 May 2004, the solicitor acting for Isobel Hülsmann and her family wrote to Chris Newell, Principal Legal Adviser at the Crown Prosecution Service, acknowledging the letter of 06 May from Colin Gibbs. He noted that he had not received a reply to his letter of 23 April from either Chris Newell or the Director of Public Prosecutions, to whom the letter had been copied.⁴⁰⁴

229. Chris Newell replied to this letter on 20 May 2004, apologising *'unreservedly'* for the delays and stating that he was *'sincerely sorry for any anxiety or concerns that have been added to the bereavement that Mrs Hulsmann [sic] and her family suffered in 1987'*.⁴⁰⁵ The letter continued:

*'I understand your concern that the document enclosed with Mr Gibbs' letter of 6 May amounted to an ex post facto justification of an earlier decision. I am satisfied, however, that this was not the case; and that the decision that was (in fact) taken on 1 September 2003 was a properly informed and reasoned decision.'*⁴⁰⁶

398 Letter from Raju Bhatt to Colin Gibbs, HOM000001001, p1, 22 January 2004.

399 Letter from the Crown Prosecution Service to Raju Bhatt, PNL000103001, p70, 07 April 2004.

400 Letter from Raju Bhatt to Chris Newell, PNL000103001, p84, 23 April 2004.

401 Letter from Raju Bhatt to Chris Newell, PNL000103001, p85, 23 April 2004.

402 Reasons for the Crown Prosecution Service decision not to prosecute suspects following the murder of Daniel Morgan, PNL000108001, pp67-72, 06 May 2004.

403 Letter from Colin Gibbs to Raju Bhatt, PNL000108001, p66, 06 May 2004.

404 Letter from Raju Bhatt to Chris Newell, PNL000103001, p90, 10 May 2004.

405 Letter from Chris Newell to Raju Bhatt, PNL000103001, p113, 20 May 2004.

406 Letter from Chris Newell to Raju Bhatt, PNL000103001, p113, 20 May 2004.

230. The improvement in the relationship between members of the family and the Metropolitan Police was adversely affected by the inability to secure evidence to support a prosecution of any or all of those suspected of Daniel Morgan's murder. The manner in which the Crown Prosecution Service and Directorate of Legal Services treated the family did not enhance their understanding of why there had been no prosecution. This left the family feeling disillusioned. The letter the family received from Colin Gibbs of the Crown Prosecution Service on 05 December 2005 was eight months after the decision not to prosecute the suspects for the murder of Daniel Morgan. This delay was not acceptable.

6.6 The family's request for a public inquiry

231. On 26 February 2004, a joint letter from Chris Smith MP and Roger Williams MP, and Lord Livesey of Talgarth, was sent to the Home Secretary, David Blunkett MP.⁴⁰⁷ The letter was in support of a submission from the solicitors representing their constituents which argued for a formal public inquiry.

232. This request for a public inquiry articulated his clients' fear that the police had '*colluded in or tolerated serious criminal activity, namely the murder of Daniel*',⁴⁰⁸ and stated the following:

*'In the event, it is submitted that a public judicial inquiry into the whole case may now be the only realistic option whereby this tragic murder and the whole complex and murky background to it could be subjected to the fullest scrutiny. Indeed, in the absence of a criminal trial or any other adequate forum for such scrutiny, it would be incumbent upon the state to ensure that a public judicial inquiry should take place in view of its obligations in common law and under Articles 1 and 2 of the European Convention of Human Rights alike.'*⁴⁰⁹

6.7 Letters and briefings

6.7.1 10 June 2004: Letter from Hazel Blears to members of Daniel Morgan's family

233. On 10 June 2004, the Home Office Minister, Hazel Blears MP, replied setting out her reasons for refusing the request for a public inquiry, stating: '*I do not consider a public inquiry to be required by law or to be a proportionate or, indeed, a useful course to follow.*' She said that:

'section 49 of the Police Act 1996 allows the Home Secretary to cause a public inquiry to be held into any matter connected with the policing of any area. However, successive Home Secretaries have reserved such inquiries for circumstances where there has been serious public disorder, or some similar circumstances where wide ranging and serious disquiet is felt about a matter affecting a large proportion of a force. I, too, consider that it appropriate to reserve this power for matters of that nature [...].

'I know you share the reservations of the family about the conduct of the four investigations and you have a lingering suspicion that police officers were not only

407 Joint Letter from Chris Smith MP, Roger Williams MP, Lord Livesey of Talgarth to the Home Secretary, David Blunkett MP, HOM000016001, 26 February 2004.

408 Submission to the Home Secretary on behalf of the deceased's family, HOM000014001, p2, 16 February 2004.

409 Submission to the Home Secretary on behalf of the deceased's family, HOM000014001, p3, 16 February 2004.

involved with the killing of Daniel Morgan but also involved in their protection. However, I do not believe that, in itself, that is sufficient to embark on a further inquiry nor am I persuaded that a public inquiry would be likely to uncover further evidence which would lead to a different outcome. We cannot ignore the Coroner's remarks when delivering his verdict of unlawful killing during the inquest, that there was "no evidence whatsoever in this inquest to point to any police involvement in this killing". Neither can we ignore the conclusion of the (second) investigation into alleged police involvement and the fact that the Police Complaints Authority was satisfied with the conduct of that investigation and with the findings.

*'Finally, there is no legal requirement to hold an inquiry in this case.'*⁴¹⁰

234. This decision was re-stated in the House of Commons on 06 July 2004 by Home Office Minister, Caroline Flint MP.⁴¹¹ Following further pressure from Daniel Morgan's family, however, Hazel Blears MP agreed to meet Isobel Hülsmann, Alastair Morgan and their solicitor.

235. The Home Office sought a briefing from Hampshire Constabulary in advance of the meeting about their investigation.⁴¹² A letter from the Hampshire Constabulary was sent to the Home Office on 06 October 2004⁴¹³ to explain the Terms of Reference set for the Hampshire Investigation. The letter also included the following statement:

*'In the course of examining the records [of the Hampshire/Police Complaints Authority Investigation], nothing was seen to suggest that the family were in any way dissatisfied with the service they received from the Hampshire Constabulary or that they were not kept properly informed.'*⁴¹⁴

236. Hampshire Constabulary provided excerpts from the records of the investigation detailing communications from Alastair Morgan. They ranged in date from December 1988 to February 1989 and were not exhaustive. They demonstrated that Alastair Morgan had articulated significant dissatisfaction:

- i. A police note of a telephone call from Alastair Morgan to a Police Constable dated 13 December 1988 read:

*'Much ramblings, the [sic] basis of which appears to be that he is concerned about the lack of communication between SIO/DSIO [Senior Investigating Officer/Deputy Senior Investigating Officer] and Mrs Hulsmann [sic] or her solicitor, they are all worried about what is happening.'*⁴¹⁵

- ii. A police note of a telephone call from Alastair Morgan to DCI Paul Blaker dated 15 December 1988 read:

'[Alastair Morgan]: I'm just ringing to see how things are going and just to say that my mother is still concerned because of a lack of information from your office to her.'

410 Letter from Hazel Blears MP to Bhatt Murphy Solicitors, HOM000334001, pp1-2, 10 June 2004.

411 Hansard HC Deb, Vol 423, Col 230-237WH, 06 July 2004. 2004; www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040706/halltext/40706h04.htm.

412 Fax to Hampshire Constabulary from Home Office, HOM000356001, pp1-2, 24 August 2004.

413 Letter to Home Office from Hampshire Constabulary, HOM000367001, 06 October 2004.

414 Letter to Home Office from Hampshire Constabulary, HOM000367001, 06 October 2004.

415 Message M467, telephone call from Alastair Morgan to a Woman Police Constable, MPS028840001, p1, 13 December 1988.

*'Reply [DCI Blaker]: We discussed a few days ago the reasons why we cannot tell your mother our lines of enquiry.'*⁴¹⁶

- iii. A police note of a telephone call dated 28 February 1989 from Alastair Morgan to DCI Paul Blaker read:

'Above telephoned explaining that he was very upset not to have been informed of the charging of the three persons or being told that Goodridge was on bail. [...] He felt he had no option but to start contacting MP's [sic] etc.

*'DCI explained reasons for secrecy of operation to prevent any leak on enquiry. Acknowledged with hindsight that courtesy of a phone call would have been appropriate. [...] If he wanted to contact MP's [sic] etc then he was free to do so.'*⁴¹⁷

- iv. A police note of a telephone call from Alastair Morgan to the Family Liaison Officer, a Police Constable, for the Morgan family, also from 28 February 1989, read:

*'A very long and involved conversation re lack of information supplied from [the Hampshire/Police Conduct Authority Investigation] to his family.'*⁴¹⁸

237. The meeting between members of the family and Hazel Blears MP took place on 20 October 2004⁴¹⁹ with Chris Smith MP, Roger Williams MP and Lord Livesey of Talgarth.⁴²⁰ At the end of the meeting, Hazel Blears asked officials to provide her with additional information on the case.

6.7.2 Briefing to the Home Office from the Independent Police Complaints Commission

238. Following the meeting between Hazel Blears MP and members of the family, a briefing note dated 03 November 2004⁴²¹ was provided by the Independent Police Complaints Commission⁴²² for the Home Office, as the successor organisation to the Police Complaints Authority. The family of Daniel Morgan had been concerned since 1989 about the fact that the terms of reference of the Hampshire/Police Complaints Authority Investigation appeared to have changed from investigating police involvement in the murder of Daniel Morgan to a murder investigation. The briefing included the following point of discussion:

'We can find no evidence that there was an actual formal change to the wording of the terms of reference [of the Hampshire/Police Complaints Authority Investigation]. However, it seems clear that the investigation was proceeding by pursuing Rees and Goodridge at this time. Indeed, right from the beginning of the IO's [Investigating Officer's] report Wheeler states his intent to pursue evidence that would result in charges being brought, and that he saw this as a way of investigating police involvement [...].

416 Message M470, telephone call from Alastair Morgan to DCI Paul Blaker, MPS028837001, p1, 15 December 1988.

417 Message M678, telephone call from Alastair Morgan to DCI Paul Blaker, MPS029043001, p1, 28 February 1989.

418 Message M680, telephone call from Alastair Morgan to a Police Constable, MPS029041001, p1, 28 February 1989.

419 Note of meeting with Isobel Hülsmann, Alastair Morgan and Kirsteen Knight, HOM000047001, 20 October 2004.

420 Joint Letter from Chris Smith MP, Roger Williams MP, Lord Livesey of Talgarth to Rt Hon David Blunkett MP, HOM000016001, 26 February 2004.

421 Independent Police Complaints Commission 'Request for further briefing in the case of Daniel Morgan', HOM000375001, 03 November 2004.

422 The Independent Police Complaints Commission was established in 2003 and replaced the Police Complaints Authority. In its turn the Independent Police Complaints Commission was replaced in 2018 by the Independent Office for Police Conduct.

*'What is not clear to us is whether the PCA [Police Complaints Authority] undertook any detailed consideration as to whether this was congruent with the aims of the investigation and the effect this would have on the family.'*⁴²³

6.7.3 Briefing to Hazel Blears MP from Home Office officials and her subsequent response

239. A lengthy briefing dated 30 November 2004 was provided by officials to the Home Office Minister, Hazel Blears MP, summarising the information that had been received in relation to each investigation into the murder of Daniel Morgan. Appended to this briefing was a letter drafted by officials for Hazel Blears MP to send to the Isobel Hülsmann's solicitor as is normal practice.⁴²⁴

240. The submission document included the following description of the Hampshire/Police Complaints Authority Investigation's arrest of Jonathan Rees and Paul Goodridge:

*'The "digression" to deal with the non-police officers in regards to the murder and the on-going but separate investigation of the same officers into their involvement in Belmont Auctions could lead an uninformed observer to conclude that the focus on police officer involvement in the killing of Daniel Morgan was lost.'*⁴²⁵

241. Hazel Blears has informed the Panel that she carefully considered the matter before responding to the family.⁴²⁶

242. On 08 December 2004, Minister Hazel Blears MP wrote to Isobel Hülsmann's solicitor explaining that she had considered the representations made by him, and material provided to her by all the organisations which had been involved in the investigations of Daniel Morgan's murder. She concluded: *'I know Mrs Hulsmann [sic], Alastair Morgan and others will be very disappointed by my decision but, having reconsidered the case, I remain firmly of the view that a further inquiry would not be an appropriate course to follow.'*⁴²⁷

243. She provided an explanation of this decision, saying in respect of the first investigation that:

*'They [the Metropolitan Police] have acknowledged to me that there were failings in that first investigation and that it was undermined because of the involvement of certain individuals within the investigation team. Also, they accept the standards of investigation in 1987 were much different from those of today. The MPS [Metropolitan Police Service] has assured me that all necessary exhibits were taken for forensic examination and that the crime scene was properly protected from the outset.'*⁴²⁸

244. However, this was inaccurate. Although the briefing from officials to Minister Hazel Blears MP had explained that forensic opportunities had been missed by the first investigation into the murder of Daniel Morgan, in relation to Jonathan Rees's clothing, and that *'because the investigation team did not immediately identify Rees as a principal suspect in the murder,*

423 Independent Police Complaints Commission 'Request for further briefing in the case of Daniel Morgan', HOM000375001, p1, 03 November 2004.

424 Home Office submission to Hazel Blears MP, 'Daniel Morgan', HOM000381001, 30 November 2004.

425 Home Office submission to Hazel Blears MP, 'Daniel Morgan', HOM000381001, 30 November 2004.

426 Panel interview with Hazel Blears MP, PNL000238001, p1, 13 July 2016.

427 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p1-2, 08 December 2004.

428 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p3, 08 December 2004.

opportunities for detailed forensic examinations in relation to his clothing were missed,⁴²⁹ other forensic opportunities had been missed, including, particularly, at the scene of the murder and during the searches conducted by police on 03 April 1987.

245. The Minister also said that:

'they [the Metropolitan Police] accept that not all alibis had been pursued although as I understand it, one important alibi was checked and verified during the second session by Hampshire Police.'

*'Your other concerns are to do with an alleged involvement of a member of the investigation team in the killing of Daniel and that that person allegedly was protected by other officers; and that there may have been mischief caused by a member of the first investigation team.'*⁴³⁰

246. She further stated:

*'The first investigation does seem to me to have been less than satisfactory in a number of respects. However, I do not believe it should be discounted entirely in the investigations that have been undertaken into the circumstances considering surrounding the killing. In particular, I note that the view that it was fatally flawed rests in large part on the allegation of police corruption and involvement, in the killing. The subsequent investigations unearthed no evidence to support that allegation.'*⁴³¹

247. Of the Hampshire/Police Complaints Authority Investigation, the Minister said the following:

'It was conducted by an independent force, Hampshire Police. Its remit was broad, and included a focus on allegations of police involvement and corruption[.] It was conducted under the supervision of the Police Complaints Authority. They were satisfied with the investigation and so certified.'

She declared herself to be *'satisfied that this was a thorough and effective investigation.'*⁴³²

248. Minister Hazel Blears MP said in the letter that both Hampshire Constabulary and the Independent Police Complaints Commission (who held the Police Complaints Authority files for the period from 1988-1989) had *'confirmed that there was no change at any time to the terms of reference for the investigation and, therefore, the focus of the investigation was not lost.'*

The letter continued,

'[n]o links of involvement of any police officers were found and the investigating officer concentrated his investigation on police officers. Within three months, he had interviewed all the necessary officers but still found nothing substantive to link a police officer with the killing of Daniel and was unable to substantiate the evidence given by Kevin Lennon to the Coroner. For that reason, no officer was interviewed under caution.'

429 Home Office submission to Hazel Blears MP, *'Daniel Morgan'*, HOM000381001, p8, 30 November 2004.

430 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p3, 08 December 2004.

431 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p3, 08 December 2004.

432 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p4, 08 December 2004.

*'Both the MPS [Metropolitan Police Service] and Hampshire Police have confirmed that Alan Wheeler had never worked for the MPS and that he had spent the whole of his service with Hampshire.'*⁴³³

249. Operation Nigeria/Two Bridges was described in the letter as 'a covert investigation in order to gather evidence of the killing and into allegations of police corruption'. The Minister said of it: '[t]hat it was conducted by the MPS [Metropolitan Police Service] does not seem to me to undermine its usefulness or effectiveness as an investigation'.⁴³⁴

250. Operation Nigeria/ Two Bridges was actually an intelligence-gathering operation. It was not resourced or conducted as a murder investigation. To this extent, the letter was inaccurate. The Panel does not accept the description in the Minister's letter of either the Morgan One Investigation or the Hampshire/Police Complaints Authority Investigation.

251. Of the Abelard One/Morgan Two Investigation, the Minister said:

*'The CPS [Crown Prosecution Service] considered the recommendations for prosecutions of certain individuals made following the fourth [Abelard One/Morgan Two] investigation and the preparation of the Zinzan/Cook report. Their judgement was that the evidence was insufficient to support such prosecutions.'*⁴³⁵

252. The Minister then referred to the Inquest, saying:

*'[I]t is also correct that when the Coroner said he found no evidence whatsoever in his inquest to point to any police involvement in this killing, he had relied mainly on the first investigation. However, he was aware of DS Fillery's involvement in the investigation and his association with Rees. Also, he had noted the thoroughness of the investigation by the number of statements taken, said to be over 1000. Finally, it is evident that the Coroner's inquest was itself a thorough one which heard from over 70 witnesses and which, to a large extent, must have supported the findings of the first investigation.'*⁴³⁶

The figure of 70 witnesses is open to misinterpretation. The Coroner may have read statements from 70 witnesses, but 34 witnesses were scheduled to be called at the Inquest into Daniel Morgan's death. Of those, two did not attend.

253. The Minister concluded:

'So the position is that there have been a series of investigations into the circumstances of the death, and into possible police corruption. That allegation of police involvement in the murder and a cover up was made at the Inquest by a witness reporting a conversation with Daniel's business partner Mr Rees. The fact is that the series of investigations has not provided evidential support for that allegation sufficient to support any prosecution, or indeed any plausible evidence of police corruption.'

433 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, pp4-5, 08 December 2004.

434 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p5, 08 December 2004.

435 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p5, 08 December 2004.

436 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p6, 08 December 2004.

*'Whilst I understand the concerns raised about the investigations, I have concluded that, taken together, those investigations have been effective.'*⁴³⁷

254. The family of Daniel Morgan were very disappointed by the decision not to hold a public inquiry. Although the Panel accepts that the Minister was responding on the basis of the information provided to her, the Panel has established that there were significant deficiencies in the investigations.

7 The 2006 Report to the Metropolitan Police Authority

7.1 Background to the 2006 Report by DAC John Yates

255. Following the refusal by the Home Office Minister, Hazel Blears MP, to order a public inquiry into the police handling of Daniel Morgan's murder,⁴³⁸ Alastair Morgan and Isobel Hülsmann decided that they would raise the case with the Metropolitan Police Authority to seek an investigation into the suspected mishandling, collusion and cover-up in the police investigations into Daniel Morgan's murder.

256. A meeting was held on 19 May 2005 between members of Daniel Morgan's family, the Chair of the Metropolitan Police Authority, Len Duvall, and a Metropolitan Police Authority representative, Jeannette Arnold.⁴³⁹ Following this, Len Duvall wrote to Alastair Morgan on 14 July 2005 proposing that the Metropolitan Police Authority commission a report by the Commissioner of the Metropolitan Police^{440,441} (see Chapter 7, The 2006 Report to the Metropolitan Police Authority).

257. Metropolitan Police Authority Chair, Len Duvall, also proposed that there should be an independent review of all case papers of the investigation into the murder of Daniel Morgan by an experienced barrister,⁴⁴² after the report from the Metropolitan Police had been received (see Chapter 7, The 2006 Report to the Metropolitan Police Authority).

258. On 27 October 2005, the Metropolitan Police Authority formally decided to require the Commissioner to report to the Authority at its January 2006 meeting, in public session,⁴⁴³ on the murder of Daniel Morgan and the subsequent investigations. It was recorded that the report would be shared with the family of Daniel Morgan and that their comments would be received and considered by the Metropolitan Police Authority.⁴⁴⁴ Following consideration of the report from the Commissioner, and the comments of members of the family, the Metropolitan Police Authority would engage a barrister to independently review the case papers.⁴⁴⁵

437 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000380001, p6, 08 December 2004.

438 Letter to Bhatt Murphy solicitors from Hazel Blears MP, HOM000052001, p5, 08 December 2004.

439 Metropolitan Police Authority Agenda Item 10, *'The Murder of Daniel Morgan'*, MPA000004001, p3, 27 October 2005.

440 Letter from Len Duvall to Alastair Morgan, PNL000103001, p304, 14 July 2005.

441 Section 22(3) of the Police Act 1996 was the provision that '[t]he chief officer of police of a police force shall, whenever so required by the police authority, submit to that authority a report on such matters as may be specific in the requirement, being matters connected with the policing of the area for which the force is maintained'.

442 Letter from Len Duvall to Alastair Morgan, PNL000103001, p304, 14 July 2005.

443 Metropolitan Police Authority Agenda Item 10, *'The Murder of Daniel Morgan'*, MPA000004001, p3, 27 October 2005.

444 Metropolitan Police Authority Agenda Item 10, *'The Murder of Daniel Morgan'*, MPA000004001, p3, 27 October 2005.

445 Metropolitan Police Authority Agenda Item 10, *'The Murder of Daniel Morgan'*, MPA000004001, p3, 27 October 2005.

259. The Metropolitan Police Authority's Chief Executive, Catherine Crawford, then wrote to Commissioner Sir Ian Blair, stating that the Metropolitan Police Authority had agreed to receive the report at its meeting on 26 January 2006, that members of Daniel Morgan's family would be given the opportunity to view the report and to submit comments to the Metropolitan Police Authority, and that the report would therefore need to be completed, or substantially completed, by the end of December 2005.⁴⁴⁶ The Terms of Reference for the report are set out in Chapter 7, The 2006 Report to the Metropolitan Police Authority.

7.1.1 January 2006: The rejection of the initial version

260. The '2006 Report' was submitted to the Metropolitan Police Authority on 31 January 2006. When presenting the report to the Metropolitan Police Authority, DAC John Yates, who had responsibility for the report, expressed his reluctance to make it public. He referred to the potential new and significant enquiries, he noted the family's potential reaction and he outlined the potential damage to any new investigation if the 2006 Report were to be released into the public domain.⁴⁴⁷

261. Upon receiving the report, the Metropolitan Police Authority rejected it. A BBC News article of 03 February 2006 cited a letter sent to Alastair Morgan, in which the Metropolitan Police Authority was quoted as stating that the report was not adequate and that it would not be accepted.⁴⁴⁸

262. The BBC News article also included a response from a Metropolitan Police spokesperson, who said '*we have been made aware of the concerns of the chair of the MPA [Metropolitan Police Authority] and will seek to address these in due course*'.⁴⁴⁹ The Metropolitan Police Authority records relating to this matter are no longer available.

7.1.2 10 February 2006: A meeting of the Metropolitan Police Authority with members of the family

263. The Metropolitan Police Authority, represented by its Chair, Len Duvall, and David Riddle, Deputy Chief Executive and Solicitor for the Metropolitan Police Authority, met with members of Daniel Morgan's family and others to discuss the initial 2006 Report, on Friday 10 February 2006.^{450,451} After a short discussion, DAC John Yates presented the report, which had been prepared for him by DCS David Cook. D/Supt David Zinzan joined the meeting. Members of the family were not presented with a copy of the report at this meeting. Notes taken for Alastair Morgan recorded that the family were told that further work was required on the report; that it was not sufficiently '*robust*'; that it was not '*backed up*'; and that it could not go into the public domain while the investigation into Daniel Morgan's murder was ongoing. When asked by the solicitor acting for Isobel Hülsmann and her family for a timescale for the revised report, DAC Yates reportedly proposed that it would be sent to Len Duvall at the end of March.⁴⁵²

446 Letter from Catherine Crawford to Sir Ian Blair concerning the murder of Daniel Morgan, 03 November 2005; available online at www.policeauthority.org/metropolitan/work/cases/morgan/index.html.

447 Letter from DAC John Yates to Len Duvall, MPS094332001, p23, 31 January 2006.

448 BBC News Online, '*Met chief murder report rejected*', 03 February 2006.

449 BBC News Online, '*Met chief murder report rejected*', 03 February 2006; available at: <http://news.bbc.co.uk/1/hi/wales/mid/4677472.stm>.

450 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, pp30-35, 10 February 2006.

451 David Riddle referred to as Peter Riddle in the note.

452 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p34, 10 February 2006.

264. During the meeting, DAC John Yates reportedly disclosed to the family members present the existence of a new lead. Alastair Morgan's notes record that DAC Yates described the new lead as having the potential to be '*enormously productive*', and potentially a '*golden thread*'. D/ Supt David Zinzan reportedly stated that it could provide the opportunity to bring the case to trial.⁴⁵³ It was for these reasons that the 2006 Report could not be in the public domain, as it would be prejudicial to any ongoing investigation.

265. DAC John Yates also reportedly indicated that a new investigation would use '*triggers*' which might involve members of Daniel Morgan's family. Alastair Morgan's notes recorded that DAC Yates acknowledged that the family might believe that the Metropolitan Police were '*putting up the defences*', and that they had '*heard it before, for 19 years*'. According to the notes, DAC Yates requested that Daniel Morgan's family accept his experience in dealing with corruption, and even though they had '*every right not to trust police*', he said that the new lead had '*very significant potential*'.⁴⁵⁴

266. D/Supt David Zinzan was recorded as saying that he had '*seen what is being referred to*' and that he would not '*come here if [he] didn't think there was a significant way forward*'. He went on to state that '*this could give us an opportunity for a trial*'.⁴⁵⁵

267. Members of Daniel Morgan's family understood that DCS David Cook would lead the proposed investigation, overseen by DAC John Yates. DS Richard Oliver was to be Family Liaison Officer, and family members present were given the choice to change this if they wanted. The family were informed that all proposed members of the investigation team would be vetted appropriately, drawing upon the Metropolitan Police Professional Standards Department. The family were to be briefed on key information by DAC Yates or DCS Cook. It was understood that the family should know everything there was to know, unless there was a good reason not to inform them.⁴⁵⁶

7.1.3 April 2006: Revisions to the report to the Metropolitan Police Authority

268. A revised version of the report was submitted on 07 April 2006.⁴⁵⁷ It was accepted by the Metropolitan Police Authority.

269. The Panel compared the content of the initial report of 31 January to the revised report of 07 April (which is described as 'the 2006 Report' in this Report). All substantive additions and alterations are summarised and analysed by the Panel in Chapter 7.

270. The option to elect an independent barrister to review case papers and produce a report was not pursued because a new lead had been identified in 2005, and there were, therefore, grounds for further investigation (see Chapter 7, The 2006 Report to the Metropolitan Police Authority).

453 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p32, 10 February 2006.

454 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p32, 10 February 2006.

455 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p32, 10 February 2006.

456 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p33, 10 February 2006.

457 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, pp160-213, 07 April 2006

271. The amended report ('the 2006 Report') was provided to Alastair Morgan and Isobel Hülsmann via their solicitor on 10 April 2006.⁴⁵⁸ In an accompanying letter to Alastair Morgan's and Isobel Hülsmann's solicitor, David Riddle of the Metropolitan Police Authority requested that they should respect the confidentiality of the report and not disclose any of its content to any third party.⁴⁵⁹

272. Referring to the presence of police corruption in earlier investigations, David Riddle stated:

*'This was a deplorable episode in the history of the MPS [Metropolitan Police Service], and it is deeply regrettable that the family have not seen anyone brought to justice as yet; a situation made worse through the probable fact that some of those entrusted to uphold the law may have deliberately undermined the initial investigation.'*⁴⁶⁰

273. David Riddle's letter expressed commitment to providing an apology from the Metropolitan Police for past mistakes. It continued:

'Len Duvall has previously asked your clients for their views on how an apology from the MPS [Metropolitan Police Service] could most suitably be delivered, and we await hearing from them or you about that.'

*'The MPS remain determined to do everything within their power to put matters right and to secure justice is finally achieved for Daniel's murder.'*⁴⁶¹

274. The letter from David Riddle confirmed that there would be a meeting on 13 April 2006,⁴⁶² at which DAC John Yates would provide a briefing on the progress of the investigation, and comments would be invited on the 'MPS [Metropolitan Police Service] Report [sic]'.⁴⁶³ The meeting on 13 April 2006 was attended by the Metropolitan Police Authority, Metropolitan Police, Alastair Morgan, his partner and his solicitor. Before it started, notes taken by Alastair Morgan recorded that it was clarified that DCS David Cook was working part-time on the Daniel Morgan case.⁴⁶⁴

275. Alastair Morgan's notes reveal that during the meeting several matters were discussed in relation to the progress of the investigation.⁴⁶⁵

276. These notes reveal an unprecedented level of information exchange and consultation between the Metropolitan Police and Daniel Morgan's family regarding the details of the case.

458 Letter from David Riddle to Raju Bhatt, MPS094332001, pp6-7, 10 April 2006.

459 Letter from David Riddle to Raju Bhatt, MPS094332001, p6, 10 April 2006.

460 Letter from David Riddle to Raju Bhatt, MPS094332001, p7, 10 April 2006.

461 Letter from David Riddle to Raju Bhatt, MPS094332001, p7, 10 April 2006.

462 Letter from David Riddle to Raju Bhatt, MPS094332001, p7, 10 April 2006.

463 Letter from David Riddle to Raju Bhatt, MPS094332001, p7, 10 April 2006.

464 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p36, 13 Apr 2006.

465 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, pp36-44, 13 Apr 2006.

277. Alastair Morgan's notes record that the issue of publication of the 2006 Report was discussed at the meeting. Alastair Morgan's and Isobel Hülsmann's solicitor asked if a proposed letter of apology could be *'incorporated into the early stages of the report or in the conclusion where there's no ambiguity'*. DAC John Yates proposed the executive summary as the best place.⁴⁶⁶

278. The additional content added by the Metropolitan Police to their report was general in nature and did not add to an understanding of events between 1987 and 2006 as envisaged in the Metropolitan Police Authority's Terms of Reference. The report's claim that *'all papers'* were reviewed had the effect of misleading members of Daniel Morgan's family and the Metropolitan Police Authority about the depth of the review that took place. Nevertheless, the way in which Len Duvall, as Chair of the Metropolitan Police Authority, handled the process, and the extent to which the family were involved and kept informed, were commendable.

7.1.4 The 2006 Report: References to members of Daniel Morgan's family

279. The 2006 Report stated that members of Daniel Morgan's family were not informed of Operation Nigeria/Two Bridges in its early stages for reasons of *'operational security'*. However, it stated that *'once evidence of criminality started to emerge that suggested a possible impact on Daniel Morgan's murder then discussions with the family took place'* and that *'the Morgan family and their solicitor [...] have been constantly briefed on almost all aspects of the case and to a degree, as previously described, the level of information given has been unprecedented'*.⁴⁶⁷

280. The members of Daniel Morgan's family were not *'constantly briefed on almost all aspects of the case'*. They were briefed only after, and not before, the 02 July 1999 publication of the *Daily Telegraph* article about the murder. They were briefed on 15 and 22 July 1999 only after their solicitor had contacted the Metropolitan Police.

281. With reference to the report of the Hampshire/Police Complaints Authority Investigation, the 2006 Report stated that *'[t]he family had for some time asked for sight of the Hampshire PCA [Police Complaints Authority] report. This was initially resisted by the MPS [Metropolitan Police Service]. However, in 2003, prior to the issue being taken to Judicial Review, the PCA Report was handed over.'*⁴⁶⁸

466 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p44, 13 Apr 2006.

467 Report to the Metropolitan Police Authority by DAC John Yates, p208, para 288, MPS109479001, 07 April 2006.

468 Report to the Metropolitan Police Authority by DAC John Yates, p208, para 289, MPS109479001, 07 April 2006.

282. The Metropolitan Police had resisted providing members of Daniel Morgan's family with access to the report prepared by the Hampshire/Police Complaints Authority Investigation for over 14 years. A judicial review had been lodged in 2002. The Metropolitan Police had eventually agreed to hand over the report and, on 04 July 2003, the judicial review was settled on grounds ordered by the High Court: that disclosure of the report would be made, subject to redactions and conditions. It was only in 2005 after further judicial proceedings were proposed that the unredacted report was disclosed – 18 years after the murder of Daniel Morgan. The 2006 Report's reference to the Metropolitan Police's initial resistance to providing the report of the Hampshire/Police Complaints Authority Investigation to the family was a considerable understatement of the facts.

7.1.5 The 2006 Report: Views of David Riddle and Len Duvall

283. David Riddle, former Deputy Chief Executive and solicitor to the Metropolitan Police Authority, was interviewed by the Panel regarding the 2006 Report, including the cooperation of the Metropolitan Police, their Terms of Reference and specifically the rejection of the initial report.

284. David Riddle said:

- i. The Metropolitan Police's mindset at the time of the report in relation to the Morgan One Investigation in 1987, was that the investigation had been conducted based on the standards at the time in 1987.
- ii. Len Duvall had made the case his '*personal crusade*' and he received a lot of support from Metropolitan Police Authority members.
- iii. He did not detect anything other than sympathy towards the family from Metropolitan Police Authority members.
- iv. Members of Daniel Morgan's family were treated well by the Metropolitan Police Authority, and he held Isobel Hülsmann, Daniel Morgan's mother, in high regard.
- v. Alastair Morgan could be '*unpredictable and sometimes found discussions frustrating and made that known*'.
- vi. AC John Yates and Len Duvall were always sincere and respectful towards Alastair Morgan, Isobel Hülsmann and other members of the family, and everyone appreciated what Alastair Morgan and the family had been through for 20 years and how gravely the case reflected on the Metropolitan Police.
- vii. That the Metropolitan Police were committed to supporting the family in their search for the truth, that no one from the Metropolitan Police was combative with Alastair Morgan, and that he did not remember anyone being personally critical of Alastair Morgan.⁴⁶⁹

469 Panel interview with David Riddle, PNL000251001, 13 June 2017.

285. In an additional note provided to the Panel on 14 June 2017,⁴⁷⁰ David Riddle said that his experience of working with DCS David Cook was ‘*completely positive*’. He ‘*thought he was a good copper, a skilled detective, and someone who was straight with the MPA [Metropolitan Police Authority] and the family and who shared the determination to bring the murderers to justice*’.⁴⁷¹

286. Len Duvall, former Chair of the Metropolitan Police Authority, in interview with the Panel, said:

- i. One question he asked himself was why a public inquiry had never been established. The family had asked for his support to get a public inquiry and to obtain information from the police. Some senior elements of the Metropolitan Police did not want the case re-opened.⁴⁷²
- ii. It appeared that there were still issues of corruption within the Metropolitan Police and that elements of the Metropolitan Police agreed and were prepared to deal with this.⁴⁷³
- iii. It had become clear to him that the Home Office was not going to establish a public inquiry.⁴⁷⁴
- iv. He considered there was a need to ‘*draw a line*’ under the case from the police point of view and that the family ‘*needed closure*’, and so he requested a report under the provisions of section 22 of the Police Act 1996.⁴⁷⁵
- v. He and Metropolitan Police Authority members (some of whom were very supportive of Len Duvall’s stance, others less so, he said) did not want to over-promise what they could achieve.⁴⁷⁶
- vi. Regarding the rejection of the initial report, the tone had been that ‘*everything was alright*’, which was not acceptable.⁴⁷⁷ There were still questions to be answered, and the family deserved answers. He had read through the first two pages and ‘*lost the plot telling the Metropolitan Police that the report was not going to be discussed any further and that it must be worked on again*’.⁴⁷⁸

8 The Abelard Two Investigation

287. The Abelard Two Investigation began in March 2006⁴⁷⁹ following the identification of a new significant witness, James Ward, in 2005.

288. In a telephone call on 15 May 2006 in which Alastair Morgan requested an update visit for Isobel Hülsmann, DCS David Cook told him that a ‘*significant event*’ would occur on 22 May 2006 but stated that its evidential value could not be assessed for several weeks.⁴⁸⁰ In the

470 Panel interview with David Riddle additional note, 14 June 2017.

471 Panel interview with David Riddle additional note, p4, 14 June 2017.

472 Panel interview with Len Duvall, PNL000252001, p1, para 5, 20 July 2017.

473 Panel interview with Len Duvall, PNL000252001, p1, para 5, 20 July 2017.

474 Panel interview with Len Duvall, PNL000252001, p2, para 7, 20 July 2017.

475 Panel interview with Len Duvall, PNL000252001, p2, para 7, 20 July 2017.

476 Panel interview with Len Duvall, PNL000252001, p2, para 7, 20 July 2017.

477 Panel interview with Len Duvall, PNL000252001, p3, para 14, 20 July 2017.

478 Panel interview with Len Duvall, PNL000252001, pp2-3, para 13, 20 July 2017.

479 Index Policy File, MPS071795001, p2, 31 March 2006.

480 Message M52, MPS072786001, p1, 15 May 2006.

call, DCS Cook referred to preparatory work for re-examination of exhibits, but had '*no further update*'.⁴⁸¹ He told Alastair Morgan that he was concerned that speaking to his mother when he had no update would upset her and raise expectations, but he stated that '*when something significant happens*' the family would '*be informed without question*'.⁴⁸²

289. On 30 June 2006, Sarah Morgan was told of the Abelard Two Investigation, and was introduced to her Family Liaison Officer, DC Caroline Linfoot.⁴⁸³ At a follow-up visit to the Abelard Two offices, Sarah's brother Dan Morgan was provided similar details of the investigation on 06 July 2006.⁴⁸⁴ Iris, Sarah, and Dan Morgan expressed a wish to be informed of significant stages of the investigation, but Sarah Morgan also indicated that her mother found the situation hard to deal with. Family liaison notes from a visit on 07 September 2006 identified that Iris Morgan's '*main concern is that any investigation was completed and successful as she does not want her children to have to deal with future further investigations if this one [the Abelard Two Investigation] fails*'.⁴⁸⁵

290. The Panel was unable to obtain family liaison logs for Alastair Morgan, Isobel Hülsmann, or Jane Morgan. Former DCI Noel Beswick responded to a Panel request for such logs by stating that they may not exist for Alastair Morgan and Isobel Hülsmann '*because of the unusual nature of this enquiry*' and that DCS David Cook '*took primacy*' in dealing with Alastair Morgan, with whom DCS Cook spoke '*almost daily*'. Former DCI Beswick also stated that a Detective Constable maintained contact with Isobel Hülsmann.⁴⁸⁶

291. As Senior Investigating Officer, DCS David Cook should not have been acting as a Family Liaison Officer under any circumstances. Notes should have been made of all contact with members of Daniel Morgan's family. The manner in which family members were treated during this period continued to improve and was notably better, in the view of the family, than their experiences during the earlier investigations (see Chapter 8, The Abelard Two Investigation).

8.1 The initial meeting with the Crown Prosecution Service

292. Members of the family met Stuart Sampson, the principal Crown Prosecution Service Prosecutor responsible for Abelard Two on 06 July 2006.⁴⁸⁷ The meeting was attended by Isobel Hülsmann, Alastair Morgan and his partner, Jane Morgan, and their solicitor, and by representatives of the Metropolitan Police, the Metropolitan Police Authority and the Crown Prosecution Service. The meeting was led by DAC John Yates.⁴⁸⁸

293. Alastair Morgan's notes record that Stuart Sampson outlined his role and stated that '*it's my decision whether to go ahead or not*' with the prosecution. Notes recorded that he stated that as a result of the history of the case there was a '*huge amount of paper work to go through*.' He said that because of the large volume of the material, there were likely to be three

481 Message M52, MPS072786001, p1, 15 May 2006.

482 Message M52, MPS072786001, p1, 15 May 2006.

483 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p10, 30 June 2006.

484 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p14, 06 July 2006.

485 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p23, 07 September 2006.

486 Email from DCI Noel Beswick to DMIP Secretariat, SS303, 03 December 2015.

487 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, pp49-53, 06 July 2006.

488 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, pp49-53, 06 July 2006.

Counsel working on the case. He would advise the police on what could or could not be done. It was emphasised that the difficulty would be in assessing the line of defence which would be taken in light of the evidence. The advantage of involving the Crown Prosecution Service at this early stage was that they could begin examining key information. He explained the next important stage would be charging, but this could only be done once fully prepared.⁴⁸⁹

294. The solicitor acting for Isobel Hülsmann and her family described his clients' negative experience previously with the Crown Prosecution Service stating that it had taken eight months before they were provided with an explanation of the Crown Prosecution Service decision not to prosecute in the Abelard One/Morgan Two Investigation. Stuart Sampson said, *'if we decide not to proceed [there] will be prompt explanation'*. Although Isobel Hülsmann, Alastair Morgan and Jane Morgan's key point of contact was the police, they were assured that Stuart Sampson would readily answer major questions which might arise.⁴⁹⁰

295. DCS David Cook spoke in detail with Isobel Hülsmann, Alastair Morgan and Jane Morgan about the importance of examining all the information coming forward from the new witness, James Ward. Alastair Morgan's notes record DCS Cook to have stated that:

- because the new witness was a criminal, there was a necessity to *'attach substance'* to his evidence;
- the new witness appeared to be standing up to scrutiny;
- the new witness had clearly stated *'the key suspect'* had admitted to killing Daniel Morgan;
- the witness had stated that Garry Vian had also been present, although it was not clear whether he was at the crime scene or guarding the entrance to the car park;
- DAC John Yates considered that Garry Vian and his brother were *'bloody dangerous'* and he did not *'want them on the street'*;
- as many resources as DAC Yates had were being put into this investigation; and
- steps were being taken in relation to forensics and the examination of exhibits.⁴⁹¹

296. Alastair Morgan's notes record that Len Duvall told family members that he believed there were opportunities in the Abelard Two Investigation that had not been available previously. Len Duvall suggested that family members visited the incident room. When asked about the investigation timescale, DCS David Cook was reluctant to indicate a timeframe *'because I will be held to it and then I will [have] let you down. I'm trying to give regular updates.'* When asked what the family could do to help, DCS Cook said he wanted them to continue maintaining the confidentiality of the investigation.⁴⁹²

297. Although family members submitted questions, DAC John Yates believed that answering the questions at that stage would take time away from the investigation. It was decided that the questions would be answered at a later stage.⁴⁹³ Alastair Morgan's notes also record that DAC John Yates mentioned that he believed an apology for their previous negative experience made

489 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p52, 06 July 2006.

490 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p50, 06 July 2006.

491 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p51, 06 July 2006.

492 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p52, 06 July 2006.

493 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p52, 06 July 2006.

in public by the Metropolitan Police would serve as a good trigger in terms of drawing attention to the matter again. Isobel Hülsmann's solicitor said that Isobel Hülsmann found it difficult to accept the apology without first being satisfied herself that what was happening was genuine.⁴⁹⁴

298. A further meeting was held on 12 or 14 July 2006 between Alastair Morgan, his partner, his solicitor and DCS David Cook. An update on progress was provided. Alastair Morgan's notes record that they were asked not to take notes and that the information provided was to be '*just between ourselves*'. At this meeting DCS Cook reportedly expressed doubt that the Metropolitan Police would be prepared to use the apology as a trigger to provoke discussion as there would be '*too much politics, protocol and bureaucracy*' and that the publicity would not be welcome at that time.⁴⁹⁵

299. On 27 November 2006, for the third time, Daniel Morgan's death was featured on *Crimewatch*.⁴⁹⁶ Isobel Hülsmann contacted the incident room on the same day to express her disgust with the broadcast. She was upset that the original reconstruction was featured, the content of which she believed was obtained from Jonathan Rees.⁴⁹⁷

300. The following day, 28 November 2006, DCS David Cook updated Alastair Morgan on the debriefing of James Ward. Alastair Morgan's notes record that, on the whole, the investigation team had not been able to find anything to undermine James Ward's credibility. The notes record that the family were updated about information from a second witness, Gary Eaton.⁴⁹⁸ Gary Eaton had contacted *The Sun's* news desk, requesting that their Chief Crime Reporter contact him on 22 July 2006.^{499,500} This led to Gary Eaton's contact with the Abelard Two Investigation team and his debriefing from August 2006 to December 2007.⁵⁰¹

301. Isobel Hülsmann and Alastair Morgan were updated about the debriefing of James Ward by their Family Liaison Officer in Wales on 08 December 2006. Notes taken by Alastair Morgan's partner recorded that the Family Liaison Officer conveyed an attitude of commitment and positivity towards the investigation and that his sentiment echoed that of DCS David Cook in a previous meeting.⁵⁰² Likewise, Sarah Morgan received updates on enquiries, later court processes and Crown Prosecution Service activities, on 04 January 2007⁵⁰³ and 01 March 2007,⁵⁰⁴ and was in regular contact with her Family Liaison Officer in early 2007⁵⁰⁵ and again in late 2007.⁵⁰⁶

302. Members of Daniel Morgan's family were further updated on the progress of the Abelard Two Investigation during formal and informal meetings held by the Metropolitan Police on 26 January 2007,⁵⁰⁷ 02 March 2007 and 13 July 2007.⁵⁰⁸ No police-recorded notes of the January meeting were available to the Panel, but notes provided by the family revealed detailed

494 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p53, 06 July 2006.

495 Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p55, 12 July 2006.

496 Details of Daniel Morgan Crimewatch Appeal, MPS102803001, p2, 27 November 2006.

497 Message M382, Telephone call from Isobel Hülsmann, MPS107644001, p245, 27 November 2006.

498 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p57, 28 November 2006.

499 Amended defence Jonathan Rees, Glenn Vian and Sidney Fillery v Commissioner of Police of the Metropolis, CIV000001001, p28, 22 December 2015.

500 Record of Debrief Interview with Gary Eaton, MPS109039001 p318, 01 September 2006.

501 Witness Statement of Gary Eaton, MPS076390001, 20 April 2007.

502 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p61, 08 December 2006.

503 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p36, 04 January 2007.

504 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p40, 01 March 2007.

505 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, pp34-45, 03 January 2007.

506 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, pp46-49, 16 August 2007.

507 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, 26 January 2007.

508 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, 2 March 2007.

discussion of lines of enquiry, the investigative team's approach to evidence provided by the main witnesses, intended future investigative activities, and lines of enquiry concerning alleged police corruption which had been followed up from earlier investigations.⁵⁰⁹ As the investigation progressed, new witnesses were identified, a review of forensics occurred and the family received an exceptional amount of information about all aspects of the investigation.

303. DAC John Yates, DCS David Cook and D/Supt David Zinzan were present at the 02 March 2007 meeting. Family members understood from this meeting that DCS Cook believed that there was '*a good case to take forward to the CPS [Crown Prosecution Service]*' although there were potential witnesses who had not come forward because they were too afraid.⁵¹⁰ Alastair Morgan's notes record that during the meeting, family members were updated in relation to progress that had been made with the two key witnesses, James Ward and Gary Eaton, and there was mention of a third potential main witness, Person J5. The notes record that the third potential witness, Person J5, had been identified in December 2006 but this witness was, at that point, unwilling to give evidence. DCS Cook wanted to involve family members by including some information in the forthcoming anniversary press release. Family members understood that nothing to undermine the case had been found to date, but a great deal of material remained to be reviewed.⁵¹¹

304. The Metropolitan Police Authority meeting held on 13 July 2007 was attended by DAC John Yates, DCS David Cook, DCI Noel Beswick, Metropolitan Police Authority representatives, Isobel Hülsmann⁵¹² and her solicitor. It followed the submission of a report to the Crown Prosecution Service on 13 June 2007 requesting a charging decision.⁵¹³

8.2 Information received on the arrest of the suspects

305. Jonathan Rees, Glenn Vian, Garry Vian, and James Cook were arrested for the murder of Daniel Morgan on 21 April 2008^{514,515,516,517,518} and charged with murder on 23 April 2008. Former DS Fillery was arrested on 21 April 2008 and charged with doing an act tending and intended to pervert the course of justice (see Chapter 8, The Abelard Two Investigation). They were all remanded in custody in the first instance, although former DS Fillery was released on bail in August 2008.⁵¹⁹ Family Liaison Officer, DC Caroline Linfoot informed Iris Morgan and Sarah Morgan of the charges in a telephone call on 23 April 2008⁵²⁰ and visited them on 15 May 2008. During her visit, DC Linfoot explained that interviews '*had taken place and what had happened*' and informed them of court dates and future phases of the investigation, such as disclosure.⁵²¹

306. Family members were kept up to date with developments relating to the anticipated trial. They were involved in more than ten discussions from October 2008 to January 2009 covering the progress of the pre-trial preparations, the suspects' bail applications, and a possible disclosure hearing.⁵²² On 21 and 22 January 2009, Alastair Morgan, Isobel Hülsmann and Jane

509 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, 26 January 2007.

510 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, 02 March 2007.

511 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, 02 March 2007.

512 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, 02 March 2007.

513 Abelard Two, Report to the Crown Prosecution Service, MPS103338001, 13 July 2007.

514 Custody record of Jonathan Rees, MPS094329001 pp5-24, 21 April 2008.

515 Custody record of Glenn Vian, MPS094329001 pp34-56, 21 April 2008.

516 Custody record of Garry Vian, MPS094329001 pp57-64, 21 April 2008.

517 Custody record of James Cook, MPS094329001 pp68-99, 21 April 2008.

518 Custody record of Sidney Fillery, MPS094329001 pp25-32, 21 April 2008.

519 Successful bail application of Sidney Fillery, MPS104129001, pp2-4, 06 August 2008.

520 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p52, 23 April 2008.

521 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p53, 23 April 2008.

522 List of family liaison contact dates and summary, MPS071361001, various dates.

Morgan were informed by telephone that Mr Justice Maddison had been appointed to the case. They were updated on the disclosure hearing and the possibility that the Defence could apply to postpone the court date, about which they expressed concern.⁵²³

307. On 30 January 2009, the trial date of 21 April 2009 was postponed as a result of an application made on behalf of James Cook.⁵²⁴ Isobel Hülsmann, Alastair Morgan and Jane Morgan were informed on the same day and were told that October 2009 would be the most likely date now for the start of the trial. The reason given was to allow the Defence more time.⁵²⁵

308. On 06 March 2009, Isobel Hülsmann and Jane Morgan were contacted to discuss the recent postponement of the trial date, and the potential new date, and the possibility of Isobel Hülsmann giving evidence.⁵²⁶ On 30 March 2009, Isobel Hülsmann expressed her concern that there would be further delays.⁵²⁷ Despite her concerns, she was reassured that the trial would almost certainly start in October 2009.⁵²⁸ On 20 March 2009, a new trial start date of 05 October 2009 was set.⁵²⁹

309. In response to a telephone call from Isobel Hülsmann on 01 June 2009, DCI Noel Beswick stated that the investigation team were working towards the trial date of 05 October 2009, but he could not guarantee the trial would start on that date.⁵³⁰ Isobel Hülsmann⁵³¹ On 09 June 2009 Isobel Hülsmann was informed that the possibility of her giving evidence at the trial was to be discussed at the next case conference with the Crown Prosecution Service.⁵³² Family members were also updated about the progress of the enquiry. For example, during the meeting held on 09 June 2009, Isobel Hülsmann and Jane Morgan were told of the forthcoming arrest of Glenn Vian's wife, Kim Vian, and the evidence associating her with the murder weapon (see Chapter 8, The Abelard Two Investigation).⁵³³

310. The Family Liaison Officer for Iris Sarah, and Dan Morgan changed from DC Caroline Linfoot to another Detective Constable in June/July 2009.^{534,535} The Detective Constable provided them with regular updates through July and September, about the investigation into James Cook and the arrest of Kim Vian.⁵³⁶

311. Family members were informed on 25 September 2009 that the trial would not start until 26 October 2009 at the earliest.⁵³⁷

8.3 Facilitated communication between family members and Person J5

312. In June 2009, Alastair Morgan wrote a letter to the witness Person J5 expressing trust and confidence in the investigation, and his determination to see his brother's killers brought to justice⁵³⁸ (see Chapter 8, The Abelard Two Investigation). On presenting the letter to Person J5,

523 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p3, 22 January 2009.

524 R v Jonathan Rees & Others note of hearing, MPS104656001, pp1-4, 30 January 2009.

525 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 30 January 2009.

526 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 06 March 2009.

527 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 30 March 2009.

528 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 30 March 2009.

529 R v Jonathan Rees & Others note of hearing, MPS104966001, p3, 20 March 2009.

530 Message 1422, MPS074383001, p1, 01 June 2009.

531 Message 1422, MPS074383001, p1, 01 June 2009.

532 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 09 June 2009.

533 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 09 June 2009.

534 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS102357001, p53, 12 June 2009.

535 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p.6 20 July 2009.

536 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp15-25, 23 July 2009 – 15 September 2009.

537 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p5, 25 September 2009.

538 Message M1488, 'Updates re Person J5', MPS006166001, pp1-2, 25 June 2009.

a Detective Constable noted that '[t]he letter, written with strong emotion clearly affected' the witness, but prompted her to ask several questions concerning the security of the evidence-giving process.⁵³⁹

313. DCS Cook should not have facilitated this contact between Alastair Morgan and Person J5. DCS Cook had disclosed too much information about potential witnesses and this resulted in the sending of the letter by Alastair Morgan. A fearful potential witness should not be the subject of persuasion by a relative of a murder victim.

314. On 30 June 2009, Person J5 agreed to give evidence⁵⁴⁰ and provided a first statement on 01 July 2009.⁵⁴¹ Isobel Hülsmann and Jane Morgan received an update on Person J5's statement on 07 July 2009, as well as the statement of another new witness, former PC Dean Vian.⁵⁴² The content of the statements was explained to family members in relation to what was, and was not, admissible evidence.⁵⁴³

315. Person J5 wrote to members of Daniel Morgan's family in August 2009, expressing sorrow for not helping with the enquiry sooner, but saying that they had been scared.⁵⁴⁴ Person J5 asked DCS David Cook to pass on the letter to the family.⁵⁴⁵ Iris Morgan was told about Person J5's evidence and given a copy of the letter during a family liaison visit on 13 August 2009 which Iris Morgan stated '*meant a lot to her*'.⁵⁴⁶

316. Members of Daniel Morgan's family received unusually detailed information in meetings about the progress of the Abelard Two Investigation. They also received significant sensitive information on the investigative process relating to Assisting Offenders and witnesses. This should not have happened. The family's integrity and adherence to confidentiality in these matters is commendable. However, the provision of this information was highly irregular with potential high risks to the family members and to the witnesses, as well as to the investigative process.

8.4 Further pre-trial preparation updates

317. From the end of August and throughout the autumn of 2009, members of Daniel Morgan's family received regular updates on the obstacles relating to the trial,⁵⁴⁷ reasons for the delays to court dates,⁵⁴⁸ progress on abuse of process arguments and likely timescale,^{549,550,551}

539 Message M1488, '*Updates re Person J5*', MPS006166001, pp1-2, 25 June 2009.

540 Unused notes of meeting with Person J5, MPS005407001, p1, 26 June 2009.

541 Witness Statement of Person J5, MPS090646001, 01 July 2009.

542 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 07 July 2009.

543 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p4, 07 July 2009.

544 Letter to the Morgan family from Person J5, MPS109175001, p27, 12 August 2009.

545 Letter to DCS David Cook from Person J5, MPS109175001, p30, 12 August 2009.

546 Family liaison log for Iris Morgan, MPS080107001, p1, 13 August 2009.

547 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, pp5-6, 14 November 2007.

548 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp30-31, 21 September 2009.

549 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p33, 13 October 2009.

550 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p5, 30 October 2009.

551 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p53, 08 January 2009.

details of court procedure on selecting a jury, and additions to Person J5's evidence.⁵⁵² Iris Morgan's Family Liaison Officer discussed and arranged options to assist Iris Morgan in giving evidence.⁵⁵³

318. Isobel Hülsmann and Jane Morgan were also informed on 25 September 2009 by their Family Liaison Officer that former DS Sidney Fillery's trial for the offence of doing an act tending and intended to pervert the course of justice would be separate from the other suspects who would be on trial for murder. Both Isobel Hülsmann and Jane Morgan believed '*Dark Forces*' were at work again to protect former DS Fillery. Their Family Liaison Officer discussed the Defence's application to stay the proceedings as an abuse of process and the effect on the trial date, and additions to Person J5's evidence.⁵⁵⁴ The separation of former DS Sidney Fillery's trial from the murder trial was consistent with accepted practice for managing cases in the courts.

319. Despite all the preparation, the trial for the Abelard Two Investigation did not commence in October 2009. On 18 January 2010, Sarah Morgan was informed that the new start date for the trial was going to be September 2010.⁵⁵⁵

320. On 15 February 2010, the evidence of Gary Eaton was ruled inadmissible and proceedings against former DS Sidney Fillery, which resulted from evidence given by Gary Eaton, were discontinued.^{556,557} Iris Morgan and Sarah Morgan were informed by telephone on the same day.⁵⁵⁸ No records are available to indicate when Alastair Morgan, Isobel Hülsmann and Jane Morgan were so informed.

321. On 03 March 2010, the four remaining Defendants – Jonathan Rees, Glenn Vian, Garry Vian and James Cook – were released on bail.⁵⁵⁹ Sarah Morgan was informed the same day and told that it was highly unlikely that the Defendants would attempt to contact her.⁵⁶⁰ Alastair Morgan contacted the investigation team offices expressing anxiety and requesting police protection.⁵⁶¹ The Metropolitan Police determined that Alastair Morgan was not at risk from the Defendants. Former DCS David Cook informed him of this and identified himself as the point of contact should Alastair Morgan continue to have concerns.⁵⁶²

322. The Metropolitan Police kept the members of Daniel Morgan's family informed to an appropriate extent of the trial proceedings and the arrangements for the pre-trial arguments and hearings in court.

552 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p5, 23 August 2009.

553 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp35-37, 13 October 2009.

554 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p5, 25 September 2009.

555 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p55, 18 January 2010.

556 Extract from transcript of discussion between Justice Maddison and Counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, p1, 15 February 2010.

557 Extract from transcript of discussion between Justice Maddison and Counsel regarding exclusion of Gary Eaton's evidence, CLA000128001, p5, 15 February 2010.

558 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp57-62, 15 February 2010.

559 Document D4421, Bail conditions set at Central Criminal Court, MPS106387001, pp2-4, 03 March 2010.

560 Family liaison log for Sarah Morgan, MPS080129001, p1, 03 March 2010.

561 Email from Catherine Crawford to AC John Yates, MPS109586001, p57, 04 March 2010.

562 Email from Simon Commander Foy to AC John Yates, MPS109586001, p56, 04 March 2010.

8.5 28 April 2010: Meeting held with members of Daniel Morgan's family

323. On 28 April 2010, six months after the anticipated trial start date, members of Daniel Morgan's family and their solicitor met with Metropolitan Police Commissioner Sir Paul Stephenson, AC John Yates, and Kit Malthouse, Chair of the Metropolitan Police Authority.^{563,564} The meeting was to discuss the family's concerns in relation to the time the case was taking to come to trial at court.⁵⁶⁵

324. Alastair Morgan's notes record that his solicitor explained that *'the family have seen the prosecution unravel over the last 6 months. The assessment they have been driven to is that, for their own sanity, not to pretend that the prosecution is going anywhere.'* The solicitor went on to explain that his clients *'have to look at life after this prosecution'*. He emphasised that *'there is no question of the teams [sic] lack of integrity but that they are withed [sic] with the decades of what Isobel calls jiggery pokery.'*⁵⁶⁶

325. The notes also record that Isobel Hülsmann said that she thought *'she's in for a "big disappointment" and she can't understand why after 23 years that this is happening. She doesn't know what has gone wrong but that something has gone seriously wrong.'* The family notes record that Kit Malthouse appeared confused as to why the optimism at the previous meeting had changed. The notes record that Jane Morgan explained her disappointment, stating that *'since they last met Fillery has walked and the villains have been bailed so she has no grounds for optimism'*.⁵⁶⁷

326. The notes record AC John Yates as saying that he could not *'begin to imagine what the family have been through'*. He was aware of the challenges of the case and said there was still complete commitment to it, and still the possibility of a trial. Representing them, the police had *'two of the most able CPS [Crown Prosecution Service] barristers'* who remained *'of the view that we will get a trial'* and they would *'do everything in [their] power to get this to trial'*. The family had the full support of the police and the Crown Prosecution Service; however, in relation to former DS Sidney Fillery, the police were constrained by the decisions the judge had made.⁵⁶⁸

327. Former DCS David Cook reportedly highlighted the complexities of the history of how and when the trial dates had changed. The family notes recorded that the investigation team had received eight to ten disclosure requests a day from the Defence and that they were able to meet the vast majority of deadlines. AC John Yates explained the level of resourcing required. The family said that they had no doubts in relation to the level of commitment to the case.⁵⁶⁹

328. The notes record that the Commissioner, Sir Paul Stephenson, thanked the family for their comment on the integrity of the investigation, and he believed it was *'magnanimous'* of them. He continued:

*'It's extraordinary that you are willing to say that. Your anguish is palpable and totally justifiable. This is a difficult and complex investigation and it's right there's honesty with us. Your distress has been multiplied over the years.'*⁵⁷⁰

563 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, pp72-74, 28 April 2010.

564 Letter from Raju Bhatt to AC John Yates, MPS109586001, p25, 28 March 2010.

565 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, pp72-74, 28 April 2010.

566 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p72, 28 April 2010.

567 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p72, 28 April 2010.

568 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p72, 28 April 2010.

569 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p73, 28 April 2010.

570 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p73, 28 April 2010.

329. The solicitor acting for Isobel Hülsmann, and her family stated that his clients had lost confidence in the criminal justice system. The solicitor also said that the review which was promised by the Metropolitan Police Authority in 2006 into the way in which the case was handled had never been finalised. Kit Malthouse responded by saying, '[o]nce there is a conclusion there will be a full review of the whole process'.⁵⁷¹

330. There was an understandable pessimism expressed by members of Daniel Morgan's family. However, the meeting between the family and Commissioner Sir Paul Stephenson and his team was important. It enabled the family to express their views and the Metropolitan Police and the Metropolitan Police Authority to hear and react to their concerns.

8.6 Counsel's concern about the degree of disclosure to the family

331. In July 2010, lead Prosecuting Counsel, Nicholas Hilliard QC, reportedly expressed concerns that the family were receiving too much information about the evidence provided by the key witnesses. He met with family members in the absence of former DCS David Cook.⁵⁷² The Panel has not seen any note of this meeting. In an email to Nicholas Hilliard QC on 08 July 2010, former DCS Cook sought to justify the amount of information provided as necessary to maintain the hard-won trust and support of the family, stating that he provided any information that was likely to come into the public domain.⁵⁷³ He stated:

'In 2002 the family were clearly very distrustful of Police but the strategy set by others in terms of almost full disclosure brought about a substantial change, one to which we, as both the investigation team and I believe yourselves as the Prosecution Team now enjoy the full support of the family in our endeavours to bring this matter to a successful conclusion.

*'When I say "almost full disclosure" I mean just that. I/we do not tell the family everything for naturally there are sensitivities over the identity of informants and some other sensitive techniques, but if it is something that is likely to come within the public domain or be brought out during the course of the trial they are informed, whether that is good news or bad. By doing so we have retained their trust and support, or [at] least I believe we have. I do however tell them about the existence of things that we cannot discuss and they have come to respect my decision and judgments in that regards and not press upon certain issues.'*⁵⁷⁴

332. DCS David Cook also stated that Alastair Morgan had independently come to the same conclusions as the investigation team regarding the credibility of key witnesses.⁵⁷⁵

571 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p73, 28 April 2010.

572 Email from DCS David Cook to John Yates, MPS109586001, p2, 08 July 2010.

573 Email from DCS David Cook to Nicholas Hilliard, MPS109586001, pp2-3, 08 July 2010.

574 Email from DCS David Cook to Nicholas Hilliard, MPS109586001, pp2-3, 08 July 2010.

575 Email from DCS David Cook to Nicholas Hilliard, MPS109586001, p3, 08 July 2010.

8.7 Communication about the pre-trial proceedings and the collapse of the case

333. On 18 November 2010, the Court was informed of the decision not to use Person J5 as a witness and as a result of this James Cook was formally acquitted⁵⁷⁶ (see Chapter 8, The Abelard Two Investigation). Before the hearing on 18 November 2010, Iris and Sarah Morgan had been informed during a family liaison visit on 16 November 2010, that the case against James Cook was being discontinued.⁵⁷⁷ At the meeting the Abelard Two Investigation also provided details about the Defendants⁵⁷⁸ bail conditions applying to and responded to questions on the status of a range of witnesses.⁵⁷⁹ Iris and Sarah Morgan were informed that the investigation team were ‘*about 95% there*’ but the Defence teams were working hard to prevent the case from coming to Court.⁵⁸⁰ At the meeting, Sarah Morgan and Iris Morgan commented that they dreaded the family liaison visits because they expected ‘*bad news*’.⁵⁸¹ They also asked whether the trial was still scheduled for January 2011.⁵⁸²

334. On 18 October 2010, the solicitor acting for Isobel Hülsmann and her family wrote to Mr Justice Maddison on behalf of his clients requesting some degree of certainty in the timetable of proceedings, to enable them to ‘*manage their lives*’. The letter set out the steps that his clients had taken to ensure their availability for the trial, at considerable financial and emotional cost to themselves, including the need to take unpaid leave from work and the prospect of a move to London by Isobel Hülsmann. The letter stated that the uncertainty was compounded by the ‘*exclusion*’ of Alastair Morgan and Isobel Hülsmann from all court proceedings to date.⁵⁸³ The letter was copied to Stuart Sampson of the Crown Prosecution Service⁵⁸⁴ with a request made that it be brought to the attention of the Defence. The solicitor also wrote to AC John Yates on the same day requesting a further meeting to discuss concerns about proceedings, and to address family expectations⁵⁸⁵ as set out in the letter to Commissioner Sir Ian Blair on 05 September 2008.⁵⁸⁶

335. Further evidence came to light on 17 January 2011 relevant to the Prosecution’s disclosure obligations in respect of James Ward. Legal argument followed between 17 January and 11 February 2011 (see Chapter 8, The Abelard Two Investigation). Family Liaison Officers held a further meeting with Isobel Hülsmann and Jane Morgan on 21 January 2011 to discuss what was happening in Court and the possibility of the start of the trial being delayed further.⁵⁸⁷

336. DI Douglas Clarke informed Sarah Morgan on 24 January 2011 that James Ward had been withdrawn as a witness following the emergence of additional documentary material relating to his criminal history.⁵⁸⁸ DI Clarke reassured her that the trial was still feasible. She expressed the belief that the legal system had failed her and the family.⁵⁸⁹ Following a phone call from a close family contact, Sarah Morgan contacted DI Clarke on 04 February 2011 with concerns

576 Hearing transcript, p5, 18 November 2010.

577 Family Liaison Log for Sarah Morgan and Iris Morgan, MPS080141001, p1, 16 November 2010.

578 Family Liaison Log for Sarah Morgan and Iris Morgan, MPS080141001, p5, 16 November 2010.

579 Family Liaison Log for Sarah Morgan and Iris Morgan, MPS080141001, p7, 16 November 2010.

580 Family Liaison Log for Sarah Morgan and Iris Morgan, MPS080141001, p8, 16 November 2010.

581 Family Liaison Log for Sarah Morgan and Iris Morgan, MPS080141001, p3, 16 November 2010.

582 Family Liaison Log for Sarah Morgan and Iris Morgan, MPS080141001, p4, 16 November 2010.

583 Letter to Mr Justice Maddison from Raju Bhatt, MPS109592001, pp90-91, 18 October 2010.

584 Letter to Mr Justice Maddison from Raju Bhatt, MPS109592001, pp91, 18 October 2010.

585 Letter to AC John Yates from Raju Bhatt, MPS109592001, p96, 18 October 2010.

586 Letter to Commissioner Sir Ian Blair from Raju Bhatt, MPS109592001, p96, 05 September 2008.

587 List of family liaison contact with Isobel Hülsmann, Alastair Morgan and Jane Morgan, MPS071361001, p6, 21 Jan 2011.

588 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p111, 24 January 2010.

589 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p113, 24 January 2010.

that the court case was not going well and that the trial would not proceed.⁵⁹⁰ DI Clarke did not have details but provided more comprehensive updates on 07 February 2011,⁵⁹¹ and the Family Liaison Officer provided further updates on 11 February 2011.⁵⁹²

337. On 02 and 03 March 2011, the Metropolitan Police circulated, internally, drafts of a press statement to be read out if the case was dismissed the following week, which included an apology to Daniel Morgan's family.⁵⁹³

338. On 09 March 2011, DI Douglas Clarke contacted Sarah Morgan to apologise for not keeping her informed in relation to the recent developments in the investigation. During this conversation, Sarah Morgan was recorded to have stated that she had heard from another family member of the possibility of the trial not going ahead, and she felt that the family liaison team had failed in their obligations to keep her informed of major developments.⁵⁹⁴

339. The Metropolitan Police should have notified Sarah Morgan promptly about the possibility that the prosecution might be discontinued.

340. On 10 March 2011, the Crown Prosecution Service decided to withdraw the evidence against the three remaining Defendants at proceedings scheduled for the following day.⁵⁹⁵ The family were informed before the final decision was made.⁵⁹⁶ DCS David Cook spoke to Dan Morgan,⁵⁹⁷ and DI Douglas Clarke visited Iris Morgan and Sarah Morgan to inform them.⁵⁹⁸ DI Clarke gave his personal apology for the failures in the investigation team. He explained the reasons for the failure, including the loss of documentation relating to James Ward, and the final discovery of further material which should have been disclosed previously.⁵⁹⁹

341. Support was offered to the family, and the Metropolitan Police expressed its willingness to share a draft press statement that was to be issued following announcement of the discontinuation of the Prosecution's case. Alastair Morgan was included in discussions about the inclusion of an apology to the family in the press statement. Iris Morgan and her children Sarah and Dan were not included in these discussions and felt excluded from the process. Former DCS David Cook requested that Sarah Morgan, Dan Morgan and Iris Morgan should be '*considered*' in the preparation of any such apology.⁶⁰⁰

590 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp116-117, 04 February 2010.

591 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp118-119, 120, 07 February 2010.

592 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp120-121, 07 February 2010.

593 Internal Metropolitan Police Service email, MPS109592001, pp47-49, 02 and 03 March 2011.

594 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p126, 09 March 2010.

595 Transcript of hearing, 10 March 2011.

596 Email from Alison Saunders to Commander Simon Foy and DCS Hamish Campbell, MPS109592001, p219, 10 March 2011.

597 Email from DCS David Cook to AC John Yates, MPS109592001, p37, 10 March 2011.

598 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, pp129-130, 10 March 2010.

599 Family liaison log for Iris Morgan, Sarah Morgan and Dan Morgan, MPS105446001, p130, 10 March 2010.

600 Email from DCS David Cook to AC John Yates, MPS109592001, p37, 10 March 2011.

342. Iris Morgan, Sarah Morgan and Dan Morgan, the immediate next of kin of the victim, Daniel Morgan, should have been included in the discussions regarding the possibility of a public apology being included in the press statement to be issued by the Metropolitan Police.

343. On 11 March 2011, leading Counsel for the Prosecution withdrew evidence against the remaining three Defendants and all three were formally acquitted.⁶⁰¹ The family attended Court to hear the outcome.

344. On 18 April 2011, Kit Malthouse, Chair of the Metropolitan Police Authority, offered an *ex-gratia* payment of £125,000 to Isobel Hülsmann, Alastair Morgan and Jane Morgan to cover out-of-pocket expenses and legal costs incurred in their case, in response to a request made on 12 January 2011.⁶⁰² He offered the payment on behalf of the Metropolitan Police Authority and the Commissioner '*in light of the wholly exceptional nature of this matter*', but he added that it was to '*be taken into account*' if a compensation claim was pursued and that the payment was '*to be made without admission of any legal liability*'.⁶⁰³

345. On 21 June 2011, the solicitor acting for Isobel Hülsmann and her family replied accepting the offer as an '*interim payment*' against any further compensation claim to cover estimated costs totalling £1,019,407.⁶⁰⁴ The letter provided a detailed breakdown of such costs.⁶⁰⁵ Following a telephone call on 15 July 2011, the solicitor clarified that his use of the term '*interim payment*' signified only "*it would be taken into account*" upon the consideration of any wider compensation claim on behalf of my clients'.⁶⁰⁶ In a letter dated 25 August 2011, Kit Malthouse informed the solicitor that his letter of 21 June 2011 would be put before the Metropolitan Police Authority's Strategic and Operational Policing Committee for a decision on 13 October 2011.⁶⁰⁷

9 Unwarranted assurances and Metropolitan Police apologies

9.1 False, inaccurate and misleading assurances about the Morgan One Investigation

346. In the years following Daniel Morgan's murder, reassurances were issued to the public, and Daniel Morgan's family, describing the Morgan One investigation as '*adequate*' or '*of the standards of the day*'. These included:

- i. DCS Douglas Shrubsole, who reviewed the Morgan One Investigation between October and December 1987, confirmed in a witness statement that he was '*satisfied that all reasonable lines of enquiry had been identified, and that the Investigation was completely thorough and professional*'.⁶⁰⁸

601 Final Hearing Transcript of R v Rees and Others, MPS107449001, p12, 11 March 2011.

602 Letter from Kit Malthouse to Raju Bhatt, MPS109585001, p35, 18 April 2011.

603 Letter from Kit Malthouse to Raju Bhatt, MPS109585001, p35, 18 April 2011.

604 Letter from Raju Bhatt to Kit Malthouse, MPS109585001, pp13-14, 21 June 2011.

605 Letter from Raju Bhatt to Kit Malthouse, MPS109585001, pp18-34, 21 June 2011.

606 Letter from Raju Bhatt to the Metropolitan Police Authority, MPS109585001, p8, 18 July 2011.

607 Letter from Kit Malthouse to Raju Bhatt, MPS109585001, p5, 25 August 2011.

608 Witness Statement of DCS Douglas Shrubsole, MPS003406001, p1, 15 June 1988.

- ii. Sir Montague Levine, the Coroner at the Inquest into Daniel Morgan's death, stated that *'no stone has been left unturned'* by the Morgan One investigation.⁶⁰⁹
- iii. The Hampshire/Police Complaints Authority Investigation found that the *'manner in which the [Morgan One] investigation was conducted by the Metropolitan Police showed determination to bring those responsible before the court'*.⁶¹⁰
- iv. At a family liaison meeting in 1999, DAC Roy Clark *'explained that although Alastair Morgan would not agree, his assessment of the original MPS [Metropolitan Police Service] investigation was that it was good. It had showed a motive for REES and other circumstantial evidence. He felt the investigation was honest and thorough but perhaps not innovative.'*⁶¹¹
- v. Home Office Minister Caroline Flint MP told Parliament in 2004: *'I am informed that the Metropolitan police accept that the original investigation falls below current investigative standards, but that it was consistent with the standards of the day.'*⁶¹²
- vi. Home Office Minister Hazel Blears MP sent a letter on 08 December 2004 to the solicitor acting for Isobel Hülsmann and her family, which stated that the Metropolitan Police had *'assured me that all necessary exhibits were taken for forensic examination and that the crime scene was properly protected from the outset'*.⁶¹³
- vii. This letter from Hazel Blears MP also stated: *'I have received information about this investigation from Hampshire Police and from the IPCC [Independent Police Complaints Commission] which has access to the PCA [Police Complaints Authority] files on the case; and am satisfied that this was a thorough and effective investigation [...].'*⁶¹⁴

347. The Morgan One Investigation was not compliant with investigation procedures and policies in 1987. It would have been possible for the Metropolitan Police to identify the Morgan One Investigation's failings, as the Panel has done. The family of Daniel Morgan, Home Office Ministers, Parliament and the wider public have been misled, over a period of many years, as to the quality of the initial investigation into the murder of Daniel Morgan. This was, in part, due to the fact that successive investigations and reviews did not examine the Morgan One Investigation in full.

9.2 Admissions of failure and corruption

348. In the years following Daniel Morgan's murder, allegations were made that former DS Sidney Fillery had in some way subverted the first murder investigation.

609 Transcript of Inquest into the death of Daniel Morgan, Inquest Day Eight, INT000068001, p132, 25 April 1988.

610 Final Report of DCS Alan Wheeler to the Police Complaints Authority, p81, MPS060685001, 04 September 1989.

611 Note of meeting between DAC Roy Clark and Raju Bhatt, MPS046659001, pp10-11, 15 July 1999.

612 Hansard HC Deb, Vol 423, Col 236WH, 06 July 2004; <https://hansard.parliament.uk/Commons/2004-07-06/debates>.

613 Letter from Hazel Blears MP to Bhatt Murphy solicitors, HOM000380001, p3, 08 December 2004.

614 Letter from Hazel Blears MP to Bhatt Murphy solicitors, HOM000380001, p4, 08 December 2004.

349. For the reasons set out earlier in this Report, the enquiries into these matters by the Morgan One and Hampshire/Police Complaints Authority investigations were inadequate. In 2003, 16 years after the murder, the Crown Prosecution Service was asked to consider the possibility of charging former DS Sidney Fillery with misconduct in public office.⁶¹⁵ At that time, the Crown Prosecution Service decided not to charge former DS Fillery with any offence on the advice of Counsel.⁶¹⁶ Following the Crown Prosecution Service's 2003 charging decision, the Metropolitan Police began to refer publicly to the Morgan One Investigation as having been '*undermined*' or '*compromised*', although no specific allegations were made against former DS Fillery.

350. The first acknowledgement of any failings in the original investigation into Daniel Morgan's murder is in the letter dated 08 December 2004, from then Home Office Minister Hazel Blears MP to the solicitor acting for Isobel Hülsmann and her family. The letter included the following statement:

*'[The Metropolitan Police] have acknowledged to me that there were failings in that first investigation and that it was undermined because of the involvement of certain individuals within the investigation team.'*⁶¹⁷

351. When giving evidence to the Metropolitan Police Authority on 27 October 2005, Commissioner Ian Blair stated that '*[i]t's clear that the first investigation was compromised*' and that '*2, 3 & 4 were attempts to reverse that*'.⁶¹⁸

352. Neither statement, from Minister Hazel Blears MP nor from Commissioner Ian Blair, specified how the investigation was undermined. The Panel therefore asked former Commissioner Blair, now Lord Blair, what he had meant. He explained that it was a reference to the alleged actions of former DS Sidney Fillery.⁶¹⁹

353. The 2006 Report by the Metropolitan Police to the Metropolitan Police Authority, which had been the responsibility of DAC John Yates (see Chapter 7), also led to an admission of the initial Morgan One Investigation having been undermined by DS Sidney Fillery. A letter to the solicitor acting for Isobel Hülsmann and her family, sent on behalf of the Chair of the Metropolitan Police Authority, Len Duvall, explained that:

*'DAC John Yates has confirmed that in his professional view this case, particularly in its early stages, suffered significantly from the taint of corruption. In particular, the actions and conduct of ex-Detective Sergeant Fillery (and his potential associates) fell well below that which is expected. DAC Yates personally considers that Fillery was both corrupt and a corrupter of colleagues and others. What he cannot say, to the degree of certainty required, is that he was corrupt around this particular case.'*⁶²⁰

354. The 2006 Report observed:

'Viewing it from what we now know, Detective Superintendent [Douglas] Campbell was not far from the truth. Sadly to prove their suspicions they needed evidence but the

615 Advice File R v Jonathan Rees, Glenn Vian and James Cook, MPS060058001, p130, 07 March 2003.

616 Counsel Advice by Orlando Pownall QC and Jonathan Rees, MPS062209001, p55, undated.

617 Letter from Hazel Blears MP to Bhatt Murphy Solicitors, HOM000380001, 08 December 2004.

618 Alastair Morgan Folder 12: 'Proposal Before Full Metropolitan Authority Sitting', PNL000110001, p27, 27 October 2005.

619 Panel interview with Lord Blair, PNL000210001, p2, 20 July 2015.

620 Alastair Morgan Folder 11: Metropolitan Police Authority report, PNL000109001, pp1-2, 10 April 2006. Letter from David Riddle

initial weakness in the investigation had probably led to that being destroyed and no longer available.

*'That weakness was the presence of Detective Sergeant Fillery on the murder investigation and his corrupt relationship with the prime suspect Jonathon [sic] Rees.'*⁶²¹

355. The 2006 Report was never published, although a copy was provided to the family of Daniel Morgan.

356. The first public declaration by the Metropolitan Police of corruption in the context of the murder of Daniel Morgan and its investigation occurred in 2011 following the collapse of the Abelard Two trial. On 11 March 2011, the day the remaining three Defendants were acquitted,⁶²² DCS Hamish Campbell of the Metropolitan Police's Homicide and Serious Crime Command apologised for the Metropolitan Police's failure to bring those responsible for Daniel Morgan's murder to justice. He stated the following:

*'This current investigation has identified, ever more clearly, how the initial inquiry failed the family and wider public. It is quite apparent that police corruption was a debilitating factor in that investigation. This was wholly unacceptable.'*⁶²³

357. Acting Commissioner Tim Godwin echoed that apology in a letter to Daniel Morgan's family. He wrote:

*'I am deeply sorry that the MPS has failed to bring to justice those responsible for the murder of Daniel. The MPS [Metropolitan Police Service] has accepted that police corruption in the original investigation was a significant factor in this failure. As you know, corruption in its various forms formed a major line of enquiry in the most recent investigation.'*⁶²⁴

358. The statements above indicate that the Metropolitan Police had a clear understanding that corruption had undermined the Morgan One investigation. However, the precise nature of that corruption has never been fully and publicly explained, nor was it properly investigated.

359. By alleging that corruption was a '*debilitating factor*' in the Morgan One Investigation and a '*significant factor*' in the failure to bring those responsible for Daniel Morgan's murder to justice, the Metropolitan Police was able to deflect criticism from the organisation's multiple wider failings. This appears to form part of a pattern of the Metropolitan Police's inability to address past failings honestly and with candour.

621 Report to the Metropolitan Police Authority by DAC John Yates, MPS109479001, p191, para 187, 07 April 2006.

622 Briefing note and press statement by DCS Hamish Campbell, MPS107588001, p3, 11 March 2011.

623 Briefing note and press statement by DCS Hamish Campbell, MPS107588001, p8, 11 March 2011.

624 Letter from Acting Commissioner Tim Godwin to Alastair Morgan, p17, MPS094332001, 30 March 2011.

9.3 Apologies to the family and recognition of past wrongs

360. On 10 April 2006, Deputy Chief Executive and Solicitor for the Metropolitan Police Authority, David Riddle drafted a letter on behalf of the Chair of the Metropolitan Police Authority Len Duvall to Daniel Morgan's family. The letter was intended to accompany the 2006 Report to the Metropolitan Police Authority. This letter explained the theory held by DAC John Yates that the first investigation had '*suffered significantly from the taint of corruption*'. The letter went on to say:

*'This was a deplorable episode in the history of the MPS [Metropolitan Police Service], and it is deeply regrettable that the family have not seen anyone brought to justice as yet; a situation made worse through the probable fact that some of those entrusted to uphold the law may have deliberately undermined the initial investigation.'*⁶²⁵

361. Even then, this draft letter of apology was not issued to members of the family until 2008 following further requests for an apology. On 05 September 2008, the solicitor acting for Isobel Hülsmann and her family wrote to Commissioner Sir Ian Blair with reference to a forthcoming meeting with the Commissioner and DAC John Yates.⁶²⁶ His letter acknowledged the progress made by the investigating team under former DCS David Cook, DAC Yates and the Commissioner.⁶²⁷ It referred also to the damage done in previous years.⁶²⁸ The letter set out some words prepared by his clients, relaying their expectations of what the Metropolitan Police should acknowledge in any forthcoming apology:

'We require the Metropolitan Police to acknowledge that from the outset they deliberately turned their backs on the clear available evidence of police involvement in relation to Daniel's murder; that they colluded in the ensuing cover up which was allowed to continue by Hampshire Police and the Police Complaints Authority following the inquest; and that for many years thereafter until 2002, the leadership of the Metropolitan Police deliberately pursued a policy of systematically withholding from us the details of the way they had handled and were continuing to handle the case while denying the obvious in this regard to us, to our political representatives and to the Home Office.'

'We want the Metropolitan Police to acknowledge the extraordinary burden placed upon us as a family as a result of their failures over the years: the enormous distress and anxiety we have had to endure; the endless amount of time we have had to take out of our lives to lobby our political representatives and the media in order to draw public attention to the alarming state of affairs in which we found ourselves; the acute loss of confidence on our part in our police and political culture; and, not least, the huge expense to which we have been put, not only emotionally, but also materially, both directly and in terms of lost earnings.'

*'We find ourselves compelled and duty bound, as Daniel's family and as citizens of a country in which we have a stake, to pursue whatever course of action is necessary to achieve what we require of the Metropolitan Police, whatever the cost and however long it might take.'*⁶²⁹

625 Letter from David Riddle to Raju Bhatt, PNL000109001, pp1-2, 10 April 2006.

626 Letter from Raju Bhatt to Sir Ian Blair, MPS109586001, pp27-28, 5 September 2008.

627 Letter from Raju Bhatt to Sir Ian Blair, MPS109586001, p27, 05 September 2008.

628 Letter from Raju Bhatt to Sir Ian Blair, MPS109586001, p27, 05 September 2008.

629 Letter from Raju Bhatt to Sir Ian Blair, MPS109586001, p28, 05 September 2008.

362. The terms of an apology were discussed in a meeting between Isobel Hülsmann, Alastair Morgan and his partner, Jane Morgan, Commissioner Sir Ian Blair, AC John Yates (as he now was), and Simon Vile of the Metropolitan Police Authority on 08 September 2008.⁶³⁰ Alastair Morgan's notes of the meeting record Commissioner Sir Ian Blair as saying:

*'This case is a stain on our history and I apologise for what the Met has and equally has not done over the years [...]. It's almost inconceivable that these events could be as recent as 1987. If it had been the 1960's [sic] or fifties or forties then.....'*⁶³¹

363. The Commissioner went on to explain that they:

'[c]an't negotiate terms of public apology until after the trial. Terms will have to be negotiated by lawyers.

'Accept there is a huge amount of personal time and personal expense. I accept that it must have seemed like an organisation that didn't want to listen.

*'The apology will not be the only thing that we will want to provide. We all admire the energy and persistence. There are few family's [sic] that will not let go.'*⁶³²

364. In response, Alastair Morgan mentioned that their '[d]etermination was spurred on by the reactions of the police and the brick wall and denial'. The notes record Sir Ian Blair as stating 'I was in charge of internal inquiry in 1993 (Gallery). Think we've got rid of networked corruption. Difficult to see this kind of thing happening now. Not saying it couldn't.' The notes record DAC Yates stating that 'all serious crime units [were] vetted independently'.⁶³³

365. Jane Morgan complained that former DS Sidney Fillery had not been charged with Daniel Morgan's murder. The Commissioner explained the difficulties when trying to secure enough evidence for a conviction. Jane Morgan felt that '*the reputation of the Met has been more important than Daniel's life and that's disgusting*'. The notes record that the Commissioner stated '[t]he person who will make the apology will [be] me. I can't promise terms now. I will be as fulsome as I can. This organisation very defensive. Can't say some things because Met would be sued.' Family meeting notes record that the meeting concluded with an acknowledgement by the Commissioner, Sir Ian Blair, that '[w]e are capable of creating that pain' but that '*the Met is changing*'. He said he was '*really sorry it wasn't a competent inquiry until [DCS David] Cook*'.⁶³⁴

9.4 March 2009: A meeting with the Mayor of London

366. Isobel Hülsmann, Alastair Morgan and his partner, and Jane Morgan and their solicitor had a meeting with the Mayor of London, Boris Johnson, Kit Malthouse, Jeanette Arnold, Len Duvall and Simon Vile of the Metropolitan Police Authority, AC John Yates and former DCS David Cook on 13 March 2009. The Panel was unable to identify formal Metropolitan Police Authority notes of this meeting and has had to rely exclusively on Alastair Morgan's record of events. Alastair Morgan's notes of the meeting record that AC John Yates stated that '*the case of Daniel's murder was "one of the most disgraceful episodes in the entire history of the Metropolitan Police"*' and '[h]e added that "*this family has been treated disgracefully by the Metropolitan Police*". The notes record that former Metropolitan Police Authority Chair, Len Duvall, 'added

630 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, pp66-68, 8 September 2008.

631 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p66, 08 September 2008.

632 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p66, 08 September 2008.

633 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p66, 08 September 2008.

634 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p67, 08 September 2008.

that he “wanted to make this a landmark case for the MPS [Metropolitan Police Service] in the same way as the Stephen Lawrence case”. He added that whatever the outcome of the coming trial there should be an inquiry into the way the case was handled by the MPS.’ Jeannette Arnold added her support to this proposal; she stressed that the Home Office had been entirely ineffectual and unhelpful over this matter for many years.⁶³⁵

367. The notes provided a summary, from Alastair Morgan, of how he portrayed the case to the Mayor of London, Boris Johnson:

‘Alastair Morgan attempted to summarise the case from the family’s standpoint, pointing out that at the end of the first investigation, the MPS [Metropolitan Police Service] had good reason to suspect that Daniel Morgan had been the victim of a contract murder – with police involvement – designed to stop him exposing police involvement in serious crime. He pointed out that only two days before the murder Daniel had told an associate that he did not know whom he could trust in the Met to deal with this corruption. Alastair added that, given the way police handled the case, he could understand his brother’s concerns in this respect. He also said that he felt sure that the police’s handling of the case contributed to the subsequent corruption crisis ten years later. Alastair also mentioned that the leadership of the Met had consistently misled the Home Office over the case. [...]

‘Boris Johnson expressed astonishment and asked whether corruption was endemic in the MPS. He said that the case reminded him of a film script or a novel.’⁶³⁶

368. Alastair Morgan’s notes record that ‘[t]he family praised the input of John Yates and David Cook. (However, our experience over many years is that we only find out years later about things that happened in preceding inquiries).’ Jane Morgan mentioned that the family ‘had felt very isolated and the MPS [Metropolitan Police Service] was a formidable adversary’.⁶³⁷

9.5 March 2011: A public apology

369. Following the acquittal of the remaining Defendants on 11 March 2011, DCS Hamish Campbell, the Head of the Homicide and Serious Crime Command of the Metropolitan Police, made the following statement:

‘Today the Crown Prosecution Service has decided, after careful consideration, that no evidence will be offered in the forthcoming trial, against those accused of Mr Daniel Morgan’s murder. This was a difficult decision to have reached and we recognise the severe disappointment this will cause and how deeply upsetting it is to Daniel’s family and friends.

‘Daniel Morgan was murdered 24 years ago; since that time there have been six separate criminal investigations into his murder and numerous other investigations linked to his death.

‘Thousands of lines of inquiry have been pursued since 1987 and over ¾ million documents have accrued and been examined. Within this formidable and complex murder enquiry it is deeply regrettable that it has not proved possible to guarantee to the court that all the relevant material has been presented to ensure a fair trial.

635 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p69, 13 Mar 2009.

636 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p70, 13 Mar 2009.

637 Alastair Morgan Folder 12: Meeting notes 1999 to 2010, PNL000110001, p70, 13 Mar 2009.

'On behalf of the Metropolitan Police I sincerely apologise to Daniel Morgan's family and it is with considerable regret that a trial cannot proceed.

'This current investigation has identified, ever more clearly, how the initial inquiry failed the family and wider public. It is quite apparent that police corruption was a debilitating factor in that investigation. This was wholly unacceptable.

*'Significant changes have occurred since that time, nevertheless there are important issues which we need to examine now in order to understand what led to today's decision.'*⁶³⁸

9.5.1 31 March 2011: Apology and statement at the Metropolitan Police Authority meeting

370. Acting Commissioner Tim Godwin wrote to Alastair Morgan apologising for the Metropolitan Police's conduct of the investigation. He read the following extract from that letter at a Metropolitan Police Authority meeting on 31 March 2011:

'I am deeply sorry that the MPS [Metropolitan Police Service] has failed to bring to justice those responsible for the murder of Daniel. The MPS has accepted that police corruption in the original investigation was a significant factor in this failure. As you know, corruption in its various forms formed a major line of enquiry in the most recent investigation.

'I recognise how important this is to both you and your family and that this is acknowledged publicly. You are entitled to an apology not only for this failure but also for the repeated failure of the MPS, over many years following Daniel's murder, to accept that corruption had played such a part in failing to bring those responsible to justice.

'Furthermore, I am also very sorry that, for many years, your concerns regarding the failure of the MPS to bring those persons to justice were not properly addressed, and they weren't.

'I recognise that this apology cannot alter the deep sense of loss, frustration, anger and distress that you and your family experience and have suffered since Daniel's murder.

'The MPS is a very different organisation now to the one it was at the time of Daniel's murder. That said, we accept that there are lessons to be learnt arising from the discontinuance of the latest trial. To this end, and together with the CPS [Crown Prosecution Service], we are now engaged in a joint review to ensure that relevant issues, particularly in relation to disclosure and the handling of "tainted" witnesses, are understood and addressed as soon as possible. Above all, we recognise the consequences of the repeated failure of the MPS over the years to confront the role played by police corruption in protecting those responsible for the murder from being brought to justice.

'I am deeply sorry for our failure, you have my sympathies. I don't know if they offer any comfort but they are honestly given.'⁶³⁹

638 Metropolitan Police Authority briefing note, 're case of Regina v William Jonathan Rees & Others', DLS000039001, pp20-22, 29 March 2011.

639 Letter from Acting Commissioner Tim Godwin to Alastair Morgan IPC001362001 30 March 2011

371. The two public statements made by the Metropolitan Police admitted only that corruption, occurring during the first investigation of the murder of Daniel Morgan, prevented the successful prosecution of those responsible for the murder. They focused only on one officer, former DS Sidney Fillery.

372. Although the Metropolitan Police apologised for its failure '**to accept that corruption had played such a part in failing to bring those responsible to justice**', there has never been an explanation of what it meant by its various statements about individual police corruption adversely affecting the investigation of Daniel Morgan's murder. This is an extraordinary situation, given that the concerns about police corruption have been the strongest concern (other than the identification of the murderer(s) of Daniel Morgan) of the members of his family and others, and have created enormous public interest in this case.

373. These were the only public apologies issued by the Metropolitan Police to Daniel Morgan's wife Iris, to his children, Sarah and Dan, to his mother, Isobel Hülsmann, to his brother Alastair Morgan, and to his sister Jane Morgan. To date there has been no full public explanation by the Metropolitan Police as to why the lengthy and extremely costly Abelard Two Investigation ended in the acquittal of all the Defendants, some of whom subsequently brought civil actions against the Metropolitan Police and received significant compensation.

374. The multiple police failures over many years, identified in the Panel's Report, and the passage of time mean that it is most unlikely there will be a successful prosecution for Daniel Morgan's murder. The fact that those failures were not made known to the family, despite their attempts to find out what had happened during the investigations, caused further really deep distress to the family, and rapidly growing distrust in the police.

375. Many of the police officers who dealt with members of the family of Daniel Morgan over the years displayed arrogance and a serious lack of respect and professionalism in the way in which they responded to the ongoing attempts of his family to ensure that his murderers were brought to justice.

376. The Metropolitan Police owe the members of Daniel Morgan's family, and the public, an apology for not confronting its systemic failings, for the failings of individual officers and for its lack of candour to the members of Daniel Morgan's family. In failing to acknowledge its many failings over the 34 years since the murder of Daniel Morgan, the Metropolitan Police's first objective was to protect itself. In so doing it, compounded the suffering and trauma of Daniel Morgan's wife, Iris Morgan, their children, Sarah and Dan Morgan, his mother, Isobel Hülsmann, his brother, Alastair Morgan, and his sister, Jane Morgan.

Chapter 13: The Morgan Family's Experience: A selection of personal perspectives from the family of Daniel Morgan

Contents

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1 Introduction

1. The experiences of Daniel Morgan's family are central to the preceding chapter, Treatment of the Family. However, the Panel thought it was very important that members of the family should have a specific chapter in the Report where they have the opportunity to record how they felt about their treatment.

2. The Panel invited members of the family to give their perceptions of successive investigations and reports and the way in which they felt they had been treated over more than three decades since Daniel Morgan's murder on 10 March 1987.

3. The recollections on the following pages were provided to the Panel by Daniel Morgan's widow, Iris; Daniel and Iris's two children, Sarah and Dan, and Daniel's mother, Isobel Hülsmann, before her death in November 2017. The chapter is largely in the family members' own words, as a collective expression of the acute frustration and series of disappointments that have compounded their grief.

2 Iris Morgan

4. Iris Morgan was awakened in the early hours of 11 March 1987 to be told of her husband's death. The brutality of how he had died would unfold later. That morning, with a friend's help, Iris Morgan got the children up and ready for school. She told them about their father's death that evening. Iris and Daniel Morgan had been married for just under ten years at the time of his death.

5. Iris Morgan recounted to the Panel her experience of ensuing weeks:

'I felt very let down that when something so dreadful had happened to me and the family, there was no one who came in to take your hand or speak to us as a family.' She continued, *'Nobody comes to see you to give you help; it's what they can get from you.'*

Iris Morgan added that:

'I had to make choices that would affect my life and my children's lives. There were many difficult experiences, with some for example in social and family support services; those who should have been a support to me in those early days were not so.'

6. Iris Morgan said it felt as though *'the police almost take away your soul; there were so many personal questions. They make you think that you are a suspect. All they leave you with is terrible pain.'*

7. Iris Morgan said, however, that with time *'it got to the point where the information from the police was always the same and it went in one ear and out of the other'*.

8. The Panel asked Iris Morgan if anyone within the Metropolitan Police nevertheless stood out in her recollections. She considered DCI David Zinzan as one police officer whom she valued and respected. As the officer who led the covert Abelard One Investigation, he is one of only a few whom Iris Morgan casts in a positive light. WDS Christine Fowles, who was a key contact for Iris Morgan during the Morgan One Investigation, and DC Caroline Linfoot, who was assigned as Family Liaison Officer to look after Iris Morgan and her children during the Abelard Two Investigation, were both also acknowledged by Iris Morgan for the support they gave to the family. Iris Morgan believed *'both were wonderful because you can talk to them. Sometimes you just need a friend.'*

9. Iris Morgan's recollection of D/Supt Douglas Campbell, who led the first investigation into her husband's murder, was that *'there was no kindness, there was just nothing'*, such that she *'felt the police just did not want to tell me anything'*. At one point when speaking with D/Supt Campbell, Iris Morgan felt she was being *'shouted at'*. Despite this, her impression was that D/Supt Campbell had *'admitted he felt there was corruption and that he did arrest police officers for the murder, but he could not find the evidence to prove it'*.

10. Iris Morgan recalled that she was never invited by D/Supt Campbell to the police station: *'Early on I had one meeting with D/Supt Douglas Campbell because I wanted to know who [the initials of a person] was, and I also wanted to know about Daniel's watch'*, which, she told police, he had been wearing on the day of the murder.

11. In the weeks that followed, Iris Morgan ensured that the police always came to the family home because she *'felt safe in the house'*. She recalled that DI Allan Jones, who assisted D/Supt Douglas Campbell in the first investigation and whom she has described as *'abrupt'*

and very rude', came to see her with DC Richard Davis, to ask *'various things'*. When Daniel Morgan's missing watch was mentioned, Iris Morgan recounted that DI Jones had said *'he had a watch just like Daniel's and showed it to me'*. This had really upset her.

12. Iris Morgan does not remember when exactly she was told that Daniel Morgan's watch had gone missing, and neither she nor her daughter, Sarah Morgan, believe they have ever been told *'the full story'*. All she knows is that *'it was on his wrist when he left home that morning, I was told it was on his wrist when he was killed, but it was gone by the time he got to the morgue'*.

13. There was confusion about whether Iris Morgan would be called as a witness at the Inquest and she recounted, *'I was a wreck by the time I gave evidence'* at the Inquest.

14. The Panel asked Iris Morgan for her views of the different investigations into her husband's murder. Iris Morgan's recollection of the Hampshire/Police Complaints Authority Investigation was initially positive, describing her first meeting with DCS Alan Wheeler as *'quite good'*. She believed *'that it would all be solved and they would get those who committed the murder'*. The family had said to DCS Wheeler that *'this must be your swan song'* [referring to his forthcoming retirement], but Iris Morgan said *'it never occurred to me that they were to look at police corruption [...] Never at any time was I told that they were looking into corruption.'*

15. Recalling the Abelard Two Investigation, Iris Morgan believes that *'David Cook did want the murder solved'*. Iris Morgan also commented that *'there may have been a few promotions in the police or a few lawyers who have nicer cars'*, while others, including the family, *'have got nothing out of it'*.

16. In conclusion, Iris Morgan said, *'I've had tunnel vision, that after 30 years there will be an end to it'*. She still feels aggrieved that *'the first investigation got it so badly wrong'*. She has told how, when the letter of apology for the first three investigations was issued, even that *'was hijacked in the media'*.

17. Iris Morgan has said she *'cannot understand how the last investigations and pre-trial were allowed to go on for so many years before they were pulled'*. Speaking about the possibility of corruption in the investigations into her husband's murder, Iris Morgan summarised:

'I just want the truth. There's always been an element of empathy but it's never felt like they ever cared. Why did they not stand up against it because it was wrong, not just because there was a spotlight on it?'

3 Daniel Morgan's children: Sarah and Dan

3.1 Sarah Morgan

18. Sarah Morgan was six years old at the time of her father's murder. She remembers being told about his death with her brother Dan but has said that *'for a long time we were unaware of the details'*. She said her mother *'protected us from most of it'*. Sarah Morgan recounted that she was about 13 or 14 years old when she began to find out what had really happened, and about 15 when she *'began to understand the enormity of it all'*.

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19. Sarah Morgan feels that *'the horror of what happened'* has never left her, and it *'never will'*. She has described that the collapse of the trial of suspects in the murder in March 2011 (foretelling the end of the Abelard Two Investigation) *'was when I was most angry and disillusioned'*:

'The police let us down once again, and now we will never have the justice and the answers we deserve. No one will ever be held accountable [...]. This will torment us for the rest of our lives.'

20. She recalled it was around the time of Operation Nigeria/Two Bridges in 1999 that she started to go to meetings with the police. Sarah Morgan told the Panel that, in the early 2000s, her mother had said *'she did not have the emotional headspace to consume any more of it'*, and they had distanced themselves from other members of the family.

21. Sarah Morgan has said her mother *'realised the futility of it and doubted that anything would ever come of it'*, continuing that, had her mother engaged with it, *'it would have driven her to the depths'*. According to Sarah Morgan, her mother *'would be tormented by it, having to continually listen to all these lies'*.

22. Sarah Morgan was asked by the Panel about her perceptions of her family's treatment by the police. In considering individuals who had stood out over the different investigations, Sarah Morgan, like her mother, described DC Caroline Linfoot as *'extremely good even though that was not her primary role'*, adding that *'there's never been anyone who was trained to deal with the family'*.

23. Sarah Morgan said about former DCS David Cook that she *'could not fault him on his determination'*, and that he spoke to them *'with sincerity'*. According to Sarah Morgan, he was *'the only one who left me with the feeling that this might actually come to an end'*.

24. With regard to the most recent, Abelard Two Investigation, Sarah Morgan recalled that they were invited regularly to the Major Incident Room and spoke with key staff, but that when she first went there, *'it didn't make me feel the police were taking the case seriously'*. She had wondered, *'Is this all my Dad is worth?'* Sarah Morgan was to reflect, however, that *'even they seemed shell-shocked when the case collapsed'*.

25. Sarah Morgan also commented, when asked by the Panel about family contact with the police, that *'they [the family] did not know what they did not know! So they did not know what to ask!'* Sarah Morgan believes DI Douglas Clarke made an effort to keep them informed, saying that *'even after the case collapsed he would call regularly to check in with the family'*.

26. Sarah Morgan, as well as her brother Dan, noted DS Richard Oliver as having been very kind to the family, but added that *'not all have been like this'*. According to Sarah Morgan, some have *'had no empathy whatsoever. Some were in no way family liaison officers; they appeared to have no understanding of the role they were meant to play'*.

27. Sarah Morgan has said she believes *'some officers were helpful to our mother but none of the family liaison officers spoke to us individually'*. She emphasised how there was *'no consistency'* with the family liaison officers, explaining that there were *'so many changes and every time you had to meet a new person you had to tell them the whole story again'*. According to Sarah Morgan, *'often the family liaison officers seemed totally naive and did not appreciate that the family had lived with this since 1987. With all of them it seemed like it was just a job.'* This sentiment was shared by her brother, Dan Morgan.

28. When asked by the Panel about her perception of the family's treatment by the media, Sarah Morgan recalled a journalist (and known associate of Jonathan Rees) coming to the family home. Sarah Morgan found the journalist interviewing her mother, the journalist having '*intruded*' on the pretence of writing an article about the murder. Iris Morgan had been unaware of the journalist's connection with Jonathan Rees. Sarah Morgan immediately asked the journalist to leave the family home.

29. She has found it difficult '*listening to all these journalists talking about the murder and the investigations as though they were experts, but they have not had to live through it*'. She has wondered whether the Panel's Report could '*change the way the media behaved*', for example by prompting '*the BBC to think twice before putting out programmes like the recent Panorama on police corruption*'. But she doubted whether it would have that effect.

30. In conclusion, Sarah Morgan considered that '*there was always the risk that the family might just look bitter, but I remained outside of that place*'. Sarah Morgan's overriding perspective has been that she is '*just tired of this*' and wants it '*to come to an end*'. She feels '*everything has taken so long, it has been all drawn out*' and seeks '*some closure, including rightful criticism of how the police acted*'. Overwhelmingly for Sarah Morgan, she recognises that '*the people responsible for my father's murder might never face the consequences of it*'.

3.2 Dan Morgan

31. Dan Morgan, who was four years old when his father was murdered, has recalled it was not until he was in his early teens, around the mid-1990s, that he was told details of what had happened. Dan Morgan described how '*Sarah and I were actually aware four or five years before that*', and that they were aware Jonathan Rees '*was associated in some way or at least was involved in a circle of friends and people who had been implicated in the murder*'.

32. He considers that his mother's circumstances '*were not something that the police were concerned about at all*'. He recalled being confused at the time about '*who these men in suits were who would come to the house*' to speak to his mother, adding that '*none of them tried to approach us as individuals*'. He continued: '*There was always a phalanx – there was a blue line, the shields came down and the pikes came through. You could not penetrate the blue line.*'

33. Dan Morgan has said that at times he felt the police '*treated us with contempt*'. He questions, '*Where were the people to look after his mother?*' He believes that '*the police at that time, they must at least have had a vague idea on how to assist and support victims. Even if victim support may not have been as developed as it is now, my Mum as the key victim was totally let down at that point.*'

34. Dan Morgan has said that at certain points it felt as though the family were being '*wound up*' by the police and that '*something good would or was about to happen but then nothing. There were a lot of ups and downs, so much pain and a lot of emotional turmoil.*'

35. He described the attitude from the police as having been '*you come to us for information*', whereas he feels '*the police should have done more to bring the information to us*'. He does not know '*what good all this information would have done, but we were never offered it*'.

36. Dan Morgan reflected that he is '*mystified how institutions that are supposed to protect people can turn a blind eye and get things so badly wrong*', describing the situation as '*institutional dereliction*'. Dan Morgan has said that, as he has grown older, he has come to the

view that the police *'might have thought that they were trying to do the right thing, but they were merely protecting themselves'*. According to both Sarah and Dan Morgan, *'The real and genuine needs of our mother and the family were never considered.'*

37. With time, Dan Morgan has moved further away from *'the notion that this could ever be sorted out'*, alluding to *'false start after false start'*. He adds that *'the hope that the police tried to instil each time led to the inevitable and bigger disappointment when the cases collapsed. The truth never got through all of the noise that had built up surrounding the case.'*

38. In about 2005, his mother had said something that he felt to be poignant: *'She said there is no such thing as justice, only the law.'* Dan Morgan continued, *'I never really had hope that my family would see justice done, just the thought that if the people responsible for my father's murder were ever caught and sentenced, that it would ruin their lives'*.

39. In considering the Abelard Two Investigation into his father's murder, Dan Morgan's view is that, *'with the benefit of hindsight, it was clear that investigation was massively under-resourced. It was like a carbuncle on the extremities of policing.'*

40. Dan Morgan's hope is that *'with the Panel's Report, there would be a State-endorsed document that lays out some of what had gone wrong'*. Poignantly, Dan now considers the future, and his own family:

'I do not want this to be in my son's future, I want to be able to show my son the Panel's Report and to say to him, "Look, eventually the State can get it right." That would be good.'

4 Isobel Hülsmann, Daniel Morgan's mother

41. After the death of Daniel Morgan's own father when he was a child, his mother, Isobel (later) Hülsmann, had moved with Daniel Morgan and his siblings, Alastair and Jane, to live in Wales, and Daniel Morgan held a deep affection thereafter for Wales, even after he had moved away, and met and married Iris. Isobel Hülsmann recounted that, after Daniel and Iris Morgan had begun a family of their own with the births of Sarah and Dan, she knew that Daniel *'adored his children'*.

42. The Panel asked Isobel Hülsmann about her experience of events after the murder of her son. She recalled that she *'did not like the atmosphere at the Inquest'*, describing that the part of the Inquest during which the post-mortem was discussed was particularly difficult for her. She said this was not helped by how the Coroner announced: *'I understand that the Morgan family might be squeamish so they can leave the room now.'*

43. Isobel Hülsmann said that she was not shocked that three police officers were arrested in April 1987, but she had been shocked by how she found out: *'On the national news!'* Nevertheless, she recalled, *'I was charged up with hope'* when the arrests were made.

44. When asked by the Panel about her recollection of individuals within the police over the years, Isobel Hülsmann said that she was impressed by DAC John Yates. She described how *'he was extremely polite and was attentive'*, making sure she sat where she could hear everyone during meetings. Regarding DCI David Zinzan, Isobel Hülsmann said *'I thought he was OK but would not describe him as over-enthusiastic'*.

45. Isobel Hülsmann said that she felt *'very much the underdog'* at the meetings with officers from Hampshire Constabulary during the Hampshire/Police Complaints Authority Investigation. She said that she *'felt that they had already pre-judged things when they came to see me'*. DCI Paul Blaker had said *'we go for Rees'*, according to Isobel Hülsmann.

46. Isobel Hülsmann recounted vividly the trip that she made to the Home Office, on 18 October 2011, to try to see the Home Secretary, Theresa May MP. She described how she *'felt bold and determined'*, exclaiming *'I had a mission!'* She had thought it would be *'the last stand'* that she made, and she lost: Isobel Hülsmann was denied entry to the building and was not allowed to see the Home Secretary. Isobel Hülsmann reflected: *'I knew that I would fail to see the Home Secretary, but I was still going to ask.'* She described getting *'so near, but I was so far'*. She recalled that the press was there and covered her endeavour.

47. When asked by the Panel whether there was anything else that stood out about how the police had treated her, Isobel Hülsmann described most of her treatment as *'just sheer indifference'*. She reflected that *'the police were always certain about who they thought had done it. But was it incompetence, or deliberate incompetence?'*

48. *'For certain'*, Isobel Hülsmann said that she thought *'there was police involvement'*, and that *'the police wanted to cover that up, and that they did their best to cover it up'*. She said *'it just went from bad to worse'*. She recalled DAC John Yates putting it like this: *'This is the biggest stain ever on the Metropolitan Police.'*

49. Isobel Hülsmann described that *'waiting year after year is so difficult and so frustrating. Even now, I want so much to see justice, but I fear that it will elude me. But I still have hope.'*

50. Isobel Hülsmann died on 23 November 2017.

5 Conclusions: past apologies, the present and looking to the future

5.1 On past apologies

51. The 2006 Report from the Commissioner to the Metropolitan Police Authority concluded that the family were owed an apology. On asking her about this, Sarah Morgan responded that she felt the apology *'was not worth the paper that it was written on'*. According to Sarah Morgan, *'as before, and time after time'*, the family became increasingly *'disillusioned'*. She continued: *'The letter of apology is just a piece of paper; the more I read it the more insulting it is that someone can think they can write a letter and think that is ok.'*

52. Sarah Morgan has described the apologies they have received from the police as *'an embarrassment'*. She believes *'the letter of apology from the Metropolitan Police added insult to injury when media reports go on and say that Jonathan Rees went on to earn £150,000 a year'*. According to Sarah Morgan, Jonathan Rees *'has done nothing but profit from the murder and other people's misery'*.

53. Dan Morgan, similarly, has said that the apologies the family received from the Metropolitan Police *'were a disgrace'*. He explained: *'They kept on telling us that there might be a future trial, so they had to be careful about what they told us in an apology.'*

5.2 On Alastair Morgan, and the present

54. Family members have acknowledged with gratitude the resolve of Daniel Morgan's brother, Alastair Morgan, in seeking answers to the many questions surrounding the undetected murder of his younger brother. Both Dan and Sarah Morgan have said they felt as though the release of information over the years was determined only by the pressure that their uncle, Alastair Morgan, put on the Metropolitan Police and others.

55. Alastair Morgan has taken a prominent role campaigning on behalf of the family. He was asked whether he wished to contribute with his experiences and reflections to the Report but declined to do so. However, his views are well reflected throughout this Report, and he provided the Panel with the manuscript of his book, *'Untold: The Daniel Morgan Murder Exposed'*.

56. Iris, Sarah and Dan Morgan have each said that they *'would not be anywhere'* without Alastair Morgan: his *'tenacity is what got the family to where we are with this today'*.

5.3 On hopes for the future

57. Dan Morgan has said about grieving: *'Now it's a part of my life that I wish I did not have. It would have been easier if investigations 2, 3, 4 had not happened. I do not do grief anymore, I just do anger. I relive my mother's despair. I can deal with my own grief, but I cannot deal with the grief of my mother. I have to relive it time and time again.'* Sarah and Dan Morgan also recognise, in Sarah Morgan's words, that *'nothing is going to bring Dad back'*.

58. Anticipating the Panel's Report and what it might say, Dan Morgan felt that *'the police will only reform if they want to reform. The Report could say all the right things, but the police will only change if they want to, and until they want to, they will not change.'*

59. Dan Morgan has said he hopes that with the publication of the Panel's Report, there will be *'a State-endorsed document that lays out some of what had gone wrong'*. Personally, he suspects that *'some sanity will fly out of the window when the Report is published, and I will have to wait for it to come back'*.

60. Dan Morgan has said he believes that *'this Inquiry is better than an apology from the police [...] I want all the mistakes that the police made to be reported and in the press, so that the Met Police cannot go on keeping it in-house.'*

61. He told the Panel that he views the matter as *'very simple – the Commissioners of the Metropolitan Police from the past twenty or so years should be stripped of their titles and put in the dock'*. According to Sarah Morgan, *'these police officers all seemed to have their own personal career agenda, and justice and good policing was an irrelevance'*. She said she thought *'things in the police are different now'*, that there was *'more governance'* in policing, but nevertheless she believes *'there has to be some genuine accountability for the police and there is very little'*.

62. The Panel acknowledges the tremendous grief that Daniel Morgan's murder caused the members of his family and expresses its deepest sympathy to them: his wife, Iris Morgan, and his children, Sarah Morgan and Dan Morgan; his brother, Alastair Morgan, and sister, Jane Morgan. His mother, Isobel Hülsmann, who sadly died on 23 November 2017, is also very much in our thoughts.

The shock of Daniel Morgan's death was compounded by the fact that he was killed so brutally. It is clear from the Panel's discussions with members of Daniel Morgan's family that their grief, the trauma caused by Daniel Morgan's murder and the trauma resulting from their treatment at the hands of some police officers, and of the Metropolitan Police and other organisations over 34 years, is something that remains with them today.

Annex A: Methodology: The Panel's approach to preparing the Report

Contents

- 1 Introduction
- 2 Engagement with the family of Daniel Morgan
- 3 The scope and operation of the Terms of Reference
- 4 Disclosure process
- 5 Process of analysis
- 6 Publication

1 Introduction

1.1 Terms of Reference

1. The Daniel Morgan Independent Panel's Terms of Reference were established by the then Home Secretary, Theresa May MP, in May 2013 and published in the Library of the House of Commons. Some members of the family of Daniel Morgan had a significant input into the drafting process. The Terms of Reference are as follows:

- 1) The murder of Daniel Morgan in March 1987 was a personal tragedy for Daniel's family. In the intervening 26 years, there have been five successive police investigations but no one has been successfully prosecuted or convicted for the murder; and in March 2011 the Metropolitan Police acknowledged '*the repeated failure of the MPS [Metropolitan Police Service] to confront the role played by police corruption in protecting those responsible for the murder from being brought to justice*'.
- 2) In these circumstances, the Government is committed through the work of the Independent Panel to a full and effective review of corruption as it affected the handling of this case and of the treatment of the family by the police and other parts of the criminal justice system. The Metropolitan Police support this review through the Panel process.

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- 3) The purpose and remit of the Independent Panel is to shine a light on the circumstances of Daniel Morgan's murder, its background and the handling of the case over the whole period since March 1987. In doing so, the Panel will seek to address the questions arising, including those relating to:
- police involvement in the murder;
 - the role played by police corruption in protecting those responsible for the murder from being brought to justice and the failure to confront that corruption; and
 - the incidence of connections between private investigators, police officers and journalists at the News of the World and other parts of the media and alleged corruption involved in the linkages between them.
- 4) In order to achieve this purpose, the Independent Panel will:
- (a) engage with members of the family and take their views into account at all stages in relation to the methodology of its work and the results of its work;
 - (b) obtain and examine all relevant documentation from all relevant bodies, governmental and non-governmental alike, including but not limited to papers held by:
 - The Metropolitan Police;
 - The Hampshire Police;
 - The Crown Prosecution Service and the Attorney General's Office;
 - The Police Complaints Authority (as it was then);
 - The Independent Police Complaints Commission;
 - Southwark Coroner's Court; and
 - The Home Office.
 - (c) interview and receive relevant information from individuals who are willing to provide that information;
 - (d) brief members of the family through a final report which would be made available first to the family and then to the public at large;
 - (e) explain in the final report what the relevant documentation and information reveal about the nature and extent of police corruption in relation to the handling of this case; and
 - (f) make any recommendations which the Panel concludes should be made as a result of its work, including recommendations for any further investigation or inquiry.

- 5) The principles of the Independent Panel's work will be:
 - (a) full, genuine and effective participation of the family at all stages of the Panel's work including genuine and full consultation and briefing throughout the process and payment of legal costs incurred on behalf of the family to this end;
 - (b) the 'family first' in terms of the release of the Panel's findings and its report;
 - (c) exceptional and full disclosure to the Panel of all relevant documentation including that held by all relevant Government departments and agencies and by the police and other investigative and prosecuting authorities;
 - (d) maximum possible disclosure of documentation and information by the Panel to the family.
- 6) The Independent Panel will present its final Report to the Home Secretary who will make arrangements for its publication to Parliament.
- 7) It is envisaged that the Panel will aim to complete its work within 12 months of the documentation being made available. In the meanwhile, it is also envisaged that the Panel will brief the family incrementally, both on the progress of its work and on its emerging findings. The Panel will finalise these and other aspects of its work after three months when it has been able to assess the scope of its work and the desirability and practicalities of incremental disclosure.

1.2 Panel membership

2. The Daniel Morgan Independent Panel was initially chaired by Sir Stanley Burnton from May to November 2013. He resigned for personal reasons and, in July 2014, Baroness Nuala O'Loan of Kirkinriola in the County of Antrim DBE was appointed to chair the Panel. The Panel had the following members:

- Dr Silvia Casale CMG
- Mr Michael Kellett
- Professor Rodney Morgan (from December 2014)
- Mr Samuel Pollock OBE (from December 2014).

More information on Panel members can be found on the Panel's [website](#).

3. Dr Graham Smith was a member of the Panel between September 2013 and July 2014. The Panel was restricted in its work for a period of six months between March and September 2014 until the new Panel Chair had been identified and was able to commence work.

4. Counsel to the Panel was Kate Blackwell QC, and Solicitors to the Panel were Fieldfisher LLP, whose work was led by Martin Smith. Both provided legal advice to the Panel on conducting its work. The Panel was also supported by a Secretariat led by Nick Hunt from January 2020. Previously it was supported by Lee Hughes, Matt Lewsey, Andrew Dent and Jennifer Chamberlain, all of whom acted as Panel Secretary for varying periods of time.

1.3 Principles

5. The Panel's work has been conducted in accordance with the principles set out in its Terms of Reference (see paragraph 1). '[F]ull, genuine and effective participation of the family' and the 'family first' principle have been fundamental to the approach of the Panel.

2 Engagement with the family of Daniel Morgan

6. Observing the 'family first' principle, the Panel sought always to engage with the members of the family of Daniel Morgan with respect and sympathy, seeking to comply consistently with its obligations to the family, while preserving its independence. The Panel met members of the family on a regular basis. There were at least 40 meetings, as well as ongoing communication.

7. The Panel briefed the family on the progress of the Panel's work and invited them to ask questions, provide feedback and comments and advise the Panel of their areas of concerns. The Panel sought always to provide the family of Daniel Morgan with information to help them understand the Panel's work and the processes involved in preparing the Report. A member of the Panel acted as the key contact for family members; initially this was Silvia Casale, and subsequently it was Sam Pollock.

8. Members of the family were asked to provide the Panel with any relevant documentation to inform the Panel's work, especially material relating to the treatment of the family since 1987. In 2013, the Panel was provided with a copy of the manuscript of Alastair Morgan's book, *Untold: The Daniel Morgan Murder Exposed*, which helped it to understand the issues and questions that were important to some members of the family. Appropriate disclosure of documentation requested by members of the family was made with the consent of the document owners, and within the requirements of the law.

9. At all times, while consulting the family and taking into account their representations, the Panel ensured that it retained its independence.

3 The scope and operation of the Terms of Reference

10. The Panel was not established under the Inquiries Act 2005 and therefore had no statutory powers to compel the production of material, to compel witnesses to provide evidence, or to gain access to premises. The absence of these powers meant that the Panel was completely reliant on the goodwill of those from whom it sought information or material.

11. The Terms of Reference stated that there would be '*exceptional and full disclosure to the Panel of all relevant documentation including that held by all relevant Government departments and agencies and by the police and other investigative and prosecuting authorities*'. In some instances, there was complete cooperation. However, this was not always the case. The Panel did not always receive the disclosure which could have been compelled had it had statutory powers.

12. As explained in Chapter 11, the first documents were not made available by the Metropolitan Police until January 2015. Agreement was then reached with all other document holders. The last documents were received from the Metropolitan Police in March 2021. In some instances, no documentation was available.

13. Special arrangements had to be made to access some material. A Statutory Instrument was passed by Parliament to enable the Criminal Cases Review Commission to release papers to the Panel. These matters are discussed in Chapter 11.

14. The Panel examined all the material supplied by the various organisations, the criminal court and Inquest transcripts, and the judgments, submissions and documents relating to the civil litigation which ensued as a consequence of the conduct of the investigation of the murder of Daniel Morgan.

4 Disclosure process

4.1 Stakeholder identification

15. The Panel approached the organisations with responsibility for the investigations and reviews into Daniel Morgan's murder to request all information held relating to the murder of Daniel Morgan. The Panel also identified additional organisations which held relevant information and arranged for the provision of documents to support its work.

16. Where an organisation had originally owned relevant material but had since been reorganised, abolished or merged, the Panel approached the relevant successor organisation. In some cases, material was available; in other cases, it had been routinely destroyed or could not be found.

4.2 Disclosure agreements

17. As the Panel did not have statutory powers and as a result could only request disclosure, a Protocol on the Disclosure of Information was agreed with material providers, to provide assurance regarding the process by which material was provided to the Panel and the ongoing obligations which the Panel and providers had, particularly with regard to document security, and management.

18. Data Sharing Agreements were also made with relevant organisations. These set out responsibilities between the Panel, providing organisations, and the Panel's information processing provider.

19. Agreements were made with the Metropolitan Police, the National Crime Agency, the Coroner for Inner South District Greater London, Hampshire Constabulary, the Independent Police Complaints Commission (now the Independent Office for Police Conduct), the Home Office, the Crown Prosecution Service and the Criminal Cases Review Commission. News UK declined to sign an agreement but did provide the Panel with some material.

20. The Panel also registered with the Information Commissioner's Office and put in place relevant agreements necessary to meet its responsibilities as a data controller, including a privacy policy and confidentiality agreements. The documents provided were held in confidence. Onward disclosure to members of the family was requested on occasion and only occurred with the consent of the document owner. Members of the Panel and the Secretariat signed confidentiality agreements accordingly.

21. All the relevant organisations were asked to notify the Panel if they found any further documentation, and they were also subsequently asked to confirm that they had searched for, and provided to the Panel, all relevant material.

4.3 Access to material and redactions

22. The documents provided were uploaded, where appropriate, to the electronic document management system, Lextranet (later Relativity), which was accredited to hold documents with a protective marking up to and including 'Restricted/ Official-Sensitive'.¹ All the Panel's staff had access to this material.

23. Providing organisations were requested to review their material. Some documents were redacted by the provider to enable their storage on Lextranet/Relativity. Organisations providing documents were required to provide the reason for any redaction. The Panel reserved the right to challenge the necessity for any redactions to the electronic copies of documents if it considered that redactions had been applied inappropriately.

24. Access to all documents in unredacted form was provided to Panel members and their lawyers (and later the Panel Secretary). Documents classified as 'Secret' or 'Top Secret', were retained by the owner and access to hard copies of such documents was made available to Panel members and its Counsel (and later the Panel Secretary) in Metropolitan Police premises.

25. Where a document (or part of a document) was subject to a privilege against disclosure or a legal rule which would prevent disclosure to the Panel, a mechanism was developed by which unredacted disclosure of the material in question could be made to the Panel, its solicitor and Counsel. In some cases, legal privilege was waived by the owner. There was ongoing vigilance to ensure that all documents were appropriately handled. Processes were agreed with document providers to ensure that the risk of prejudice to ongoing criminal and/or disciplinary investigations was appropriately managed.

26. Organisations providing documents agreed to ensure that they retained original versions of all documents relevant to the Panel's work and that relevant information was not destroyed.

5 Process of analysis

5.1 Processing of information

27. Government security rules and procedures for the transmission, handling, storage and removal of documents have been followed by the Panel, the Secretariat and all working on Panel matters. Everyone who had access to disclosed documents was appropriately security-cleared.

5.2 Appeals for information

28. The Panel created a website and made a [media appeal](#) for information. A dedicated telephone number and email contact address were created to enable those who wished to do so to contact the Panel. Some contact was made with the Panel and some useful information received.

¹ The Government Security Classification Policy came into force on 02 April 2014 and describes how HM Government classifies information assets to ensure they are appropriately protected. It applies to all information that Government collects, stores, processes, generates or shares to deliver services and conduct business. There are three classifications of material - OFFICIAL, SECRET and TOP SECRET. OFFICIAL-SENSITIVE is not a classification: 'SENSITIVE' is a handling caveat for a small subset of information marked OFFICIAL that require special handling by staff. Under the historical Government Protective Marking Scheme, material was divided into UNCLASSIFIED, PROTECTED, RESTRICTED, CONFIDENTIAL, SECRET and TOP SECRET.

5.3 Method of analysis

29. The Panel and its Secretariat examined documents and other material provided by a range of individuals and organisations. In doing so, the Panel was mindful that the material had been produced in a range of contexts for different purposes in a period spanning over three decades. During this time, expectations of what was considered good practice had changed, and judgements were made in accordance with the standards of the day.

30. The Panel sought information from The National Archives and the Metropolitan Police Archives and other organisations holding historic material. It was important to acquire copies of the legislation, statutory guidance and policing and criminal justice policy and practice, relevant to the Panel's Terms of Reference, to inform the Panel's work. The Panel arranged a series of training events and seminars for its staff to ensure their understanding of these issues.

31. During the period in which the Panel had virtually no access to official documentation (from September 2013 to January 2015), it started its work by examining publicly available open source information and the book manuscript provided to the Panel by Alastair Morgan, and it engaged in preliminary discussions with members of the Metropolitan Police and the family of Daniel Morgan. A schedule of what was described as 'preliminary reading', containing a small selection of reports, was supplied to the Panel by the Metropolitan Police in December 2013.

32. The Panel's later work involved reviewing material and conducting interviews organised in accordance with a phased programme of analysis, informed by examination of the separate investigations and reviews into Daniel Morgan's murder. This strategy was reviewed at regular intervals as the disclosure of material developed.

5.3.1 Reviewing material

33. Material considered by the Panel included paper or electronic formats of: agendas and minutes of meetings; policy logs, messages, action logs; briefing materials; policy statements; paper and electronic correspondence; intelligence reports; investigating officers' reports; financial records; police officers' pocket notebooks; senior police officers' journals; witness statements; interview and court transcripts; and photographic and other audio, visual or physical evidence.

34. There was little order to the material provided. Documents were made available in numbered crates. Each document in each crate was examined, its date was recorded, and it was allocated a description, scanned into Lextranet, and allocated a reference number. As the Panel's staff (with one limited exception) had no access to the computerised HOLMES accounts for the investigations,² there were no investigation files as such, and the Panel had to establish which documents existed for each investigation so as to establish the sequence of events. The initial purpose was to develop an overarching understanding of the first investigation, the Morgan One Investigation. Narratives were then developed in a similar way for subsequent investigations.

² HOLMES, the 'Home Office Large Major Enquiry System', is a national computerised database designed to support the police investigation of major crimes. (Further details of its functions and attributes, as well as an account of the challenges the Panel faced in getting access to it, are set out in Chapter 11.)

35. The Panel was then able to examine the conduct of each investigation having regard to the standards of the day. The policy logs of the Senior Investigating Officers were examined (where they were available), as were the messages, actions and documents relevant to each investigation. This enabled identification of significant lines of enquiry which had not been fully investigated, and of questions and gaps in the material which needed to be addressed through targeted review of the source material and led to requests for further information. There were 415 such additional disclosure and information requests made by the Panel up to 2020.

36. From January 2015, one member of the Panel's staff, appropriately vetted, was able to access the relevant Metropolitan Police HOLMES accounts in Metropolitan Police premises.

5.3.2 Interviews

37. The Panel had no power to compel the production and provision of evidence, and therefore conducted interviews with people willing and able to provide information on an entirely voluntary basis. The Panel invited for interview individuals it felt might or should be able to provide information and was approached by several people who wished to give evidence. On each occasion the Panel considered the circumstances carefully before making a decision as to whether to interview the person in question.

38. The Panel conducted 74 interviews with witnesses between October 2014 and December 2020: 52 serving or former police officers, five journalists, four Members of Parliament, three members of the public, two legal representatives, and one person from the Crown Prosecution Service. A small number of individuals were interviewed on more than one occasion.

39. The Panel conducted interviews independently, impartially, rigorously, fairly, objectively and honestly. Where necessary and appropriate, interviewees were provided with copies of original statements and correspondence from investigations to aid their recall of events, given the time since the original investigations. Individuals could choose to be accompanied by a lawyer or another person, although the Panel had no power to fund legal representation.

5.3.3 Legal reviews

40. The Panel's Report has been reviewed by the Panel's Counsel and solicitor to ensure that its content and findings were evidence-based and in compliance with any relevant legal requirements.

5.4 Consultant Forensic Scientist

41. The Panel commissioned the services of an independent Consultant Forensic Scientist, Dr Kathryn Mashiter, in November 2018 to provide quality assurance of the Panel's findings in relation to forensic science matters. She reviewed both the scientific and forensic examination of exhibits and the handling of the crime scene, and statements and other documentation concerning forensic science techniques and procedures employed by Senior Investigating Officers, Forensic Scientists, Scenes of Crime Officers and others during the investigations which have taken place. In particular, the Panel sought comment on the accuracy of any statement that a specific type of forensic examination or recovery of a scientific sample was or was not possible at the time of the statement being made.

6 Publication

6.1 Consent to publish

42. In preparing its Report, the Panel cited information contained in documents provided by the various organisations. In accordance with the Disclosure Agreements and the Protocol for Disclosure of Information, the Panel sought consent for the publication of material which it has quoted and/or paraphrased in the Report.

43. Material providers were supplied with a list of the quotations and paraphrases in question and given the opportunity to make representations concerning any redactions which might be necessary prior to publication. Reasons for such redaction might include the protection of life, the sensitivity of policing methodology and compliance with data protection legislation.

44. The Panel gave careful consideration to any representation made by any material provider. Where the Panel considered consent to publish was withheld unreasonably, it sought to agree a suitable change in wording to enable consent to be given. Ultimately, however, the final decision on publication rested with the Panel. Any such decisions were communicated in a timely fashion to the material provider.

6.2 Anonymity

45. The Panel agreed an Anonymity Policy to apply to its Report, which enabled it to make reasoned decisions about whether individuals should be identified in the Report. The policy in full can be found on its website.

46. The Panel sought to balance the public interest in shining a light on the circumstances of Daniel Morgan's murder, its background and the handling of the case as required by the Terms of Reference, with the need to protect individuals from any risks to their safety and security and the right to privacy afforded to individuals by the Human Rights Act 1998.

47. In order to fulfil its various obligations, the Panel has ensured that no personal data have been published by it unless it is in the public interest to do so.

48. The Panel has named individuals in the Report only where there is a significant public interest in so doing. In determining whether there is significant public interest in naming an individual, consideration has been given to several factors, such as whether the individual is so significant to the narrative of the case that not naming them would prevent the Panel from fulfilling its Terms of Reference, is a public figure, or has already been named in public in association with the investigation of the murder of Daniel Morgan.

49. The Panel's decisions on whom to cipher were informed, among other criteria, by risk assessments prepared by the Metropolitan Police.

6.3 Prejudicing a future trial

50. The Panel was aware of the possibility that its Report could prejudice a future trial of individuals charged with the murder of Daniel Morgan. It therefore sought the advice of its Counsel, who was asked to review the Panel's Report and provide advice on:

- the implications of the 2018 Court of Appeal judgment in the case of *Rees & Ors v Commissioner of Police for the Metropolitan*;
- the likelihood of a possible future trial involving all or some of the same suspects; and

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- the level of potential risk of prejudicing a future trial if the Panel were to publish police and Crown Prosecution Service material relating to the previous investigations.

51. Following the completion of the review by Counsel, the Panel undertook a balancing test on the advice received to determine whether the Report needed to be amended in any way to mitigate any risk.

6.4 Fairness process

52. The Panel conducted a 'fairness process' to ensure that identifiable individuals and organisations who may be subject to criticism in its Report were informed of this and were provided with an opportunity to respond to a summary of the possible criticisms in advance of publication. As part of this process, letters were sent to 86 individuals and organisations. The full procedure followed can be found on the Panel's website.

53. The Panel carefully considered the 57 responses it received from those who had received fairness letters, prior to finalising the text of its Report. The Panel viewed such a process as essential to the integrity of its Report.

54. Prior to publication, as a matter of courtesy, the Panel also sought to notify everyone else named but not subject to criticism in the Report.

6.5 Security check

55. In order to comply with the Disclosure Agreement, a 'security check' was undertaken by Metropolitan Police personnel in order to identify any concerns relating to:

- the protection of current covert police methodologies and intelligence principles; and
- the Metropolitan Police's obligations under the European Convention on Human Rights, including security risks to covert human intelligence sources (informants).

56. The Panel vetted the staff and officers proposed by the Metropolitan Police to undertake the security check on the basis of the information provided by the Metropolitan Police. None of the personnel had been involved in any of the previous investigations into the murder of Daniel Morgan.

57. Due to the circumstances of the COVID-19 pandemic, the security check of the Report was conducted remotely under strictly controlled conditions rather than at the Panel's offices as originally intended. The officers inspected an edited version of the Report using a restricted version of Relativity, the Panel's electronic records system. The Metropolitan Police personnel were not permitted to review or have sight of any Panel findings, recommendations or policy discussions as part of the security check. The security check took place as one of the final stages before the Report was finalised and submitted for printing.

58. The officers signed confidentiality agreements and were barred from sharing or discussing any content of the Report with any other individuals within the Metropolitan Police or any other organisation, without the Panel's express written consent.

6.6 Archiving post-publication

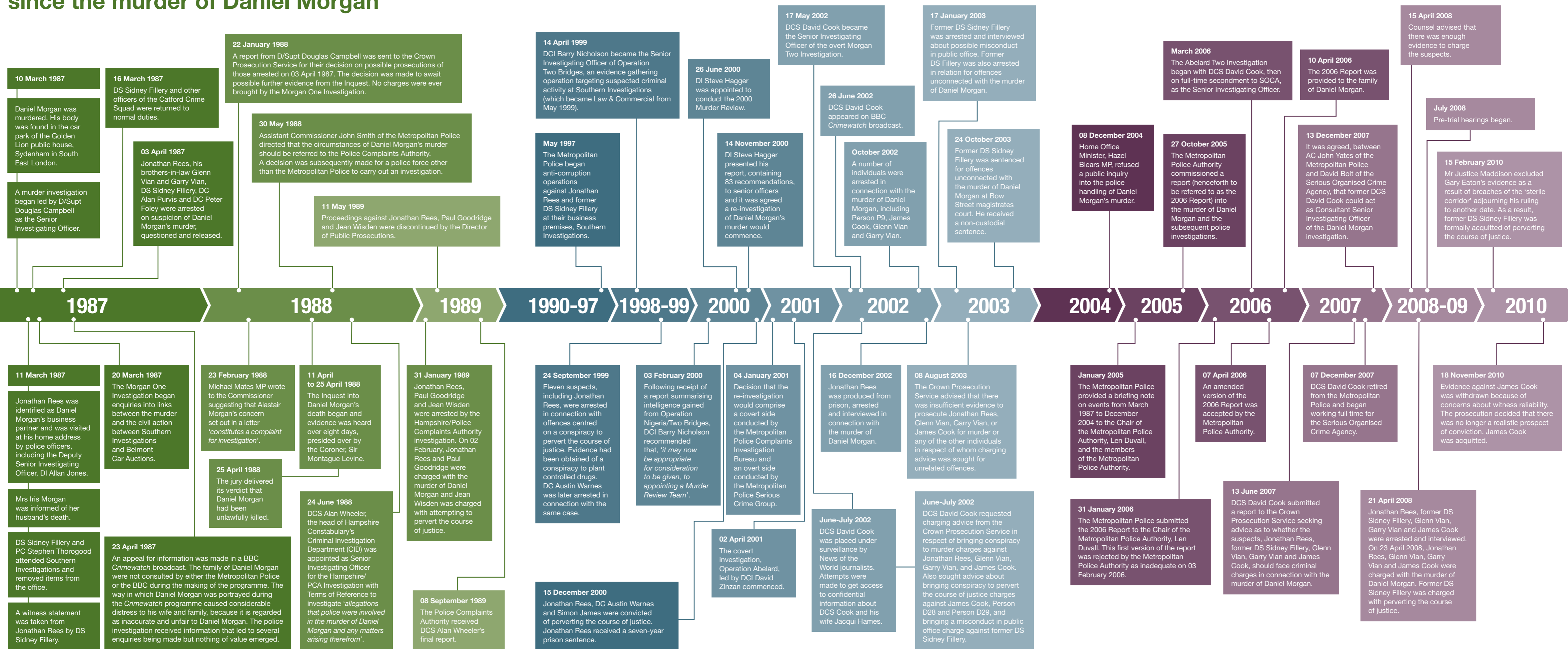
59. The Panel had no mandate to publish an archive of material with its Report, as other Inquiries and Panels have been required to do as part of their Terms of Reference.

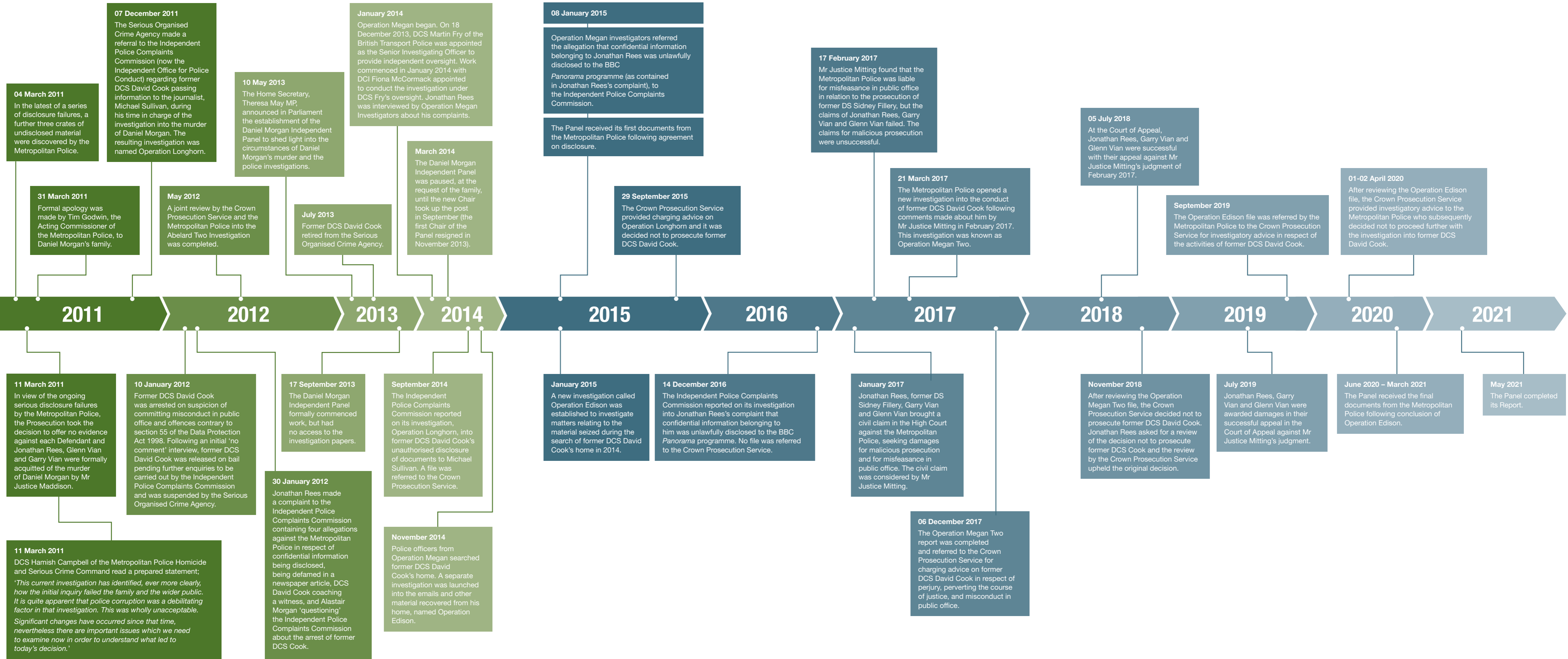
60. Arrangements were made for material generated by the Panel to be handed over to The National Archives for archiving, together with a record of the document reference numbers and titles of the documents which had been stored on Relativity, but not copies of the documents themselves.

61. Further arrangements were made for all material provided to the Panel to be returned to the document owners, a copy of the Relativity account to be provided to the Metropolitan Police, the Panel's electronic store on Relativity to be destroyed by the supplier of Relativity, and all material providers to be supplied with a copy of the certificate of destruction.

Annex B

Timeline of key events and investigations since the murder of Daniel Morgan





Annex C: Glossary of Terms

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| Association of Chief Police Officers | ACPO | The Association of Chief Police Officers (ACPO) provided national police coordination and leadership in England, Wales and Northern Ireland. The National Police Chiefs' Council replaced ACPO in 2015. |
| Criminal Investigation Department | CID | The Criminal Investigation Department (CID) is the generic name for the branch of a police force to which most plainclothes detectives belong and who are responsible for investigating crimes of a more serious nature. |
| Criminal Cases Review Commission | CCRC | The Criminal Cases Review Commission (CCRC) is the independent body set up to investigate suspected miscarriages of justice from magistrates' courts, the Crown Court in England, Wales and Northern Ireland. It also deals with convictions from the Court Martial and Service Civilian Court after 01 October 2009. |
| Crown Prosecution Service | CPS | The Crown Prosecution Service (CPS) prosecutes criminal cases investigated by the police and other investigative organisations in England and Wales. The CPS is independent, and its decisions are made independently of the police. |
| Directorate of Professional Standards | DPS | The Directorate of Professional Standards (DPS) has strategic responsibility for setting and maintaining the standards of professional conduct for all members of the Metropolitan Police on behalf of the Commissioner. It has responsibility for all organisational learning in relation to standards of behaviour and conduct. DPS also provides the link between the MPS and IOPC, supporting their independent investigative processes. It provides professional standards briefings to the Mayor's Office for Policing and Crime (MOPAC). |
| Government Security Classification Policy | GSCP | This policy describes HM Government's administrative system for the secure, timely and efficient sharing of information. It is not a statutory scheme but operates within the framework of domestic law, including the requirements of the Official Secrets Acts 1911 and 1989, the Freedom of Information Act 2000, and Data Protection legislation. Security classifications indicate the sensitivity of information (in terms of the likely impact resulting from compromise, loss or misuse) and the need to defend against a broad profile of applicable threats. There are three levels of classification: Official, Secret and Top Secret. |

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| Her Majesty's Inspectorate of Constabulary | HMIC | Her Majesty's Inspectorate of Constabulary (HMIC) was the body responsible for independently assessing police forces and policing in England, Wales, Northern Ireland and the Crown Dependencies. |
| Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services | HMICFRS | In 2017, it was replaced by Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS). It is also responsible for inspecting national law enforcement organisations such as the National Crime Agency, HM Revenue & Customs and the British Transport Police. |
| Her Majesty's Revenue & Customs | HMRC | Her Majesty's Revenue & Customs (HMRC) is the UK's tax, payment and customs authority. |
| Home Office Large Major Enquiry System | HOLMES | HOLMES is a computerised database designed to support the police investigation of major crimes. |
| Independent Office for Police Conduct | IOPC (replacing the IPCC) | The Independent Office for Police Conduct (IOPC) oversees the police complaints systems in England and Wales. It investigates the most serious matters, including deaths following police contact, and sets the standards by which the police should handle complaints. It is independent and makes its decisions entirely independently of the police and government. |
| Independent Police Complaints Commission (replaced by the IOPC) | IPCC | <p>The Independent Police Complaints Commission (IPCC) investigated serious complaints, including deaths in police custody, and allegations of misconduct against the police in England and Wales</p> <p>The IPCC superseded the Police Complaints Authority (PCA) in 2004 and it was itself replaced by the Independent Office for Police Conduct (IOPC) in January 2018.</p> |
| Major Incident Room | MIR | <p>The Major Incident Room (MIR) is the base for trained Detectives, Crime Investigators and Major Incident Room staff responsible for receiving, reviewing and indexing all material gathered during a major investigation using the HOLMES database.</p> <p>It provides the Senior Investigating Officer with an accurate record of all relevant information relating to the investigation.</p> |
| Major Incident Room Standardised Administrative Procedures | MIRSAP | The Major Incident Room Standardised Administrative Procedures (MIRSAP) gives guidance for the management of major investigations. |

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| Metropolitan Police Authority | MPA | <p>The Metropolitan Police Authority (MPA), established in 2000, was responsible for scrutinising and supporting the work of the Metropolitan Police, and was intended to mark a fundamental change in the policing of London and to ensure that the Metropolitan Police was democratically accountable.</p> <p>The MPA ceased to exist in January 2012 when its functions transferred to the Mayor's Office for Policing and Crime (MOPAC).</p> |
| National Crime Agency | NCA | <p>The National Crime Agency (NCA) leads the fight to cut serious and organised crime, protecting the public by targeting and pursuing those criminals who pose the greatest risk to the UK.</p> <p>The National Crime Agency replaced the Serious Organised Crime Agency (SOCA) in October 2013.</p> |
| National Crime Squad | NCS | <p>The National Crime Squad (NCS) was a police organisation staffed by seconded police officers in England and Wales, which dealt mainly with serious organised crime that crossed police force and regional boundaries.</p> <p>The NCS functions became part of the Serious Organised Crime Agency.</p> |
| National Police Chiefs' Council | NPCC | <p>The National Police Chiefs' Council (NPCC) brings police forces in the UK together to help policing coordinate operations, reform, improve and provide value for money. It coordinates the operational response of police across the UK to threats such as terrorism, organised crime and national emergencies. It is funded by police forces in England, Scotland, Wales and Northern Ireland as well as the armed services and some British Overseas Territories.</p> |
| Police and Criminal Evidence Act 1984 (PACE) and PACE Codes of Practice | PACE | <p>The Police and Criminal Evidence Act 1984 (PACE) governs the use of police powers of investigation including, arrest, detention, interrogation, entry and search of premises, personal search and the taking of samples.</p> <p>Issued under the Act are the PACE Codes of Practice, which police officers should consider and refer to when carrying out various procedures associated with their work.</p> |
| Police Complaints Authority | PCA | <p>The Police Complaints Authority (PCA) was responsible for supervising the investigation of some complaints made by the public against the police. It was superseded by the Independent Police Complaints Commission in 2004.</p> |
| Police National Computer | PNC | <p>The Police National Computer (PNC) is a database used to facilitate investigations and share information between police forces across the UK.</p> |

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| Police ranks | | <p>Police ranks in England and Wales.</p> <p>Metropolitan Police</p> <p>Commissioner Deputy Commissioner Assistant Commissioner Deputy Assistant Commissioner Commander Chief Superintendent Superintendent Chief Inspector Inspector Sergeant Constable</p> <p>City of London Police</p> <p>Commissioner Assistant Commissioner Commander Chief Superintendent Superintendent Chief Inspector Inspector Sergeant Constable</p> <p>Other Police Forces</p> <p>Chief Constable Deputy Chief Constable Assistant Chief Constable Chief Superintendent Superintendent Chief Inspector Inspector Sergeant Constable</p> |
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| <p>Police ranks (continued)</p> | | <p>Police ranks abbreviated in the Report including detective ranks</p> <p>Assistant Commissioner (AC) Deputy Assistant Commissioner (DAC) Detective Chief Superintendent (DCS) Detective Superintendent (D/Supt.) Detective Chief Inspector (DCI) Chief Inspector (CI) Detective Inspector (DI) Sergeant (PS) Detective Sergeant (DS) Constable (PC) Detective Constable (DC)</p> <p>Where a rank is held on a temporary or acting basis, this is indicated by the prefix T/ or A/ respectively.</p> <p>Female police officers had the prefix of Woman or W added to their rank (e.g. WPC) until 1999.</p> |
| <p>Regulation of Investigatory Powers Act 2000</p> | <p>RIPA</p> | <p>The Regulation of Investigatory Powers Act 2000, or 'RIPA' as it is commonly known, ensures that relevant investigatory powers are used in accordance with human rights. It regulates the interception of communications; the acquisition of communications data (e.g. billing data); intrusive surveillance (on residential premises/in private vehicles); covert surveillance in the course of specific operations; the use of covert human intelligence sources (agents, informants, undercover officers), and access to encrypted data.</p> |
| <p>Serious Organised Crime Agency</p> | <p>SOCA</p> | <p>Serious Organised Crime Agency (SOCA) was a national law enforcement agency which existed from April 2006 until it merged into the National Crime Agency (NCA) in October 2013.</p> |

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