

**Written evidence from Robert Quick QPM,  
former Assistant Commissioner, Metropolitan Police Service**

**Background to Damian Green MP Investigation**

1. In late September / early October 2008 I became aware of a potential approach to undertake a sensitive leak inquiry in the Home Office. This was not surprising as such inquiries are not uncommon and I was aware of other leaks under investigation that had damaged individuals and relationships between agencies and government departments. I subsequently met with officials from the Cabinet Office who advised me I would receive a letter from Mr Chris Wright the Director of Security at the Cabinet Office detailing the complaint. I was told that there had been about 30 leaks over the last two years and 20 had involved the Home Office. I indicated that, due to the sensitivity of any potential investigation in the Home Office, I would ask a very senior and experienced detective to ‘scope’ the investigation in the first instance and liaise with crown prosecutors to ensure that there are grounds to suspect criminal offences and to assess the viability of an investigation before the MPS would take any action.
  
2. On 8 October 2008 a letter (erroneously dated 8 September 2008) was received at my office from Mr Chris Wright, the Director of Security at the Cabinet Office. The letter was addressed to me because national security investigations and leak inquiries are within the remit of Specialist Operations (Special Branch, which used to undertake these inquiries, was merged with the Anti – Terrorist Branch in 2006 to form ‘Counter Terrorism Command’ (CTC)). The following is an excerpt from the letter:

*“A number of recent leak investigations, including some conducted by your officers, have raised questions about the security of sensitive information in the Home Office. Whilst not all the leaks that concern us merit, taken individually, investigation by the police, we are concerned that there is an individual or individuals in the Home Office with access to sensitive material who is (are) prepared to leak that information. We are in no doubt that there has been considerable damage to national security already as a result of some of these leaks and we are concerned that the potential for future damage is significant. The risk of leaking is having an impact on the efficient and effective conduct of Government business, affecting the ability of Ministers and senior officials to have full and frank discussions on sensitive matters and undermining necessary trust. You will not be surprised to hear that we are also concerned that there must be risk to information about sensitive operations which, if leaked, could give rise to grave damage.”*

3. On 9 October 2008 I left the UK to take part in an international counter – terrorism exercise abroad. Prior to leaving I asked Commander White of CTC (the deputy to the officer in charge of CTC, DAC John McDowall) to set up the scoping exercise and I briefed my deputy, DAC Dick, and asked her to oversee the scoping exercise. I believe I made mention of the potential for an investigation to Sir Ian Blair and Sir Paul Stephenson before 9 October but the case was not discussed in any detail.
4. I returned from overseas on 24 October 2008 and DAC Dick briefed me on the progress of the scoping exercise and that the CPS had advised that the leaks might constitute criminal offences. She told me that she had briefed the Deputy Commissioner about the request for an investigation and that he had indicated he wished to be satisfied criminal offences were involved if the police were to investigate and that he wished to be consulted about the terms of reference. I recall I had to travel on 2 November to Scotland to chair a national meeting on counter terrorism around 3/4 November 2008. I asked DAC Dick to brief Sir Paul Stephenson on the full findings of scoping report (as it had just been completed) and to agree terms of reference for an investigation with him and the Cabinet Office. This was because he had expressed a view that an investigation should only proceed if criminal offences were suspected and because he indicated he wished to be consulted about the terms of reference.
5. Upon my return from Scotland DAC Dick told me that Sir Paul Stephenson had been briefed on the findings of the scoping exercise and the possibility that the investigation could involve members of the Conservative front bench (I was aware that a leak investigation conducted prior to my appointment to ACSO had similarly featured a Conservative front bench MP and that a decision had been taken not to proceed – at this time I had no knowledge of the detail of this inquiry). I was told that both he and the Cabinet Office had agreed terms of reference for an investigation and that an investigation was now underway and was being led by a Detective Chief Superintendent with a Detective Chief Inspector as the Senior Investigating Officer (SIO), both of Counter Terrorism Command (CTC). I was also told that the terms of reference focused the SIO initially on some of the most recent leaks in respect of which there were particular concerns and active lines of inquiry. The fact an investigation had started did not surprise me, as the CPS had indicated that criminal offences may be involved and the complaint received from the Cabinet Office indicated the existence of a serial leaker, or leakers, in the Home Office who appeared to have direct access to sensitive and secret

6. In early November I discussed the case with Sir Paul Stephenson who confirmed he had approved the terms of reference for the inquiry with DAC Dick and his awareness of the potential for the inquiry to involve one or more Conservative politicians. On or around 12 November DAC Cressida Dick, briefed me to the effect that a suspect, a civil servant in the Home office, was a suspect for some of the leaks. She and I agreed that due to her imminent departure overseas the oversight of the case would be passed to DAC McDowall. This was because the investigating officers were under his direct command. A few days later DAC McDowall advised me of his decision to have the suspect in the Home Office arrested as part of the investigation. I was told the suspect had been linked to at least five of the series of leaks from the Home Office. A more recent leak, within the last few weeks, had also been linked to him, making six in total and therefore it was decided to arrest him as there was reasonable suspicion he had committed an offence, it was necessary to interview him and there was a power to effect that arrest. It was also considered he posed a continued security threat. I was told that the CPS was engaged and had been consulted in the investigation and we were under advice from a specialist lawyer that the suspected civil servant may have committed a criminal offence of Misconduct in a Public Office. It was recognised that the precise nature and scale of the leaks would not be known until the investigation was concluded and therefore Official Secrets Act Offences could not be ruled out at this point. I supported the decision to arrest the suspect who was named as Christopher Galley and I personally briefed the Deputy Commissioner Sir Paul Stephenson to this effect.
7. Christopher Galley was arrested on 19 November 2008 at his home address. His arrest followed consultation with CPS lawyers and the offence for which he was arrested was 'Misconduct in a Public Office'. Galley's home was searched and documents were seized including letters from Mr Damian Green MP, which indicted some form of relationship existed between them over at least two years. The letters appeared to thank Galley for

material provided and offer encouragement to provide further material. Reference was made in one letter dated 23 August 2007 to Galley's "*recent communications*" and appeared to acknowledge Galley's transfer from the Immigration section to the Home Office Strategy Unit at about this time. The letter expressed hope that communications would continue in this new post. The letters implied that other material, beyond that which was the subject of known leak, might have been passed to Mr Green.

8. Galley was taken to a central London police station and interviewed. During the course of his interview he admitted being responsible for four of the six leaks that were initially linked to him. He denied responsibility for any of the other leaks. In interview he stated he was a committed Conservative and that in 2006 he had approached David Davis (Shadow Home Secretary) telling him he worked in the Home Office Immigration Department and that he was willing to help his party by providing material. He claimed to have met Davis and discussed this with him. He also claimed that Davis invited him to a subsequent meeting where he introduced him to Damian Green, the Conservative front bench spokesman on immigration. Galley stated in respect of meetings he had with Green "*And then in the last sort of ten minutes he sort of explains if you can get your hands on any information, send it to him. He just says any information that you can actually get hold of that might be useful to him and the Home Office, the shadow Home Office*". Galley said he believed Green wanted "*Anything that would be damaging to sort of the Labour Government or the Labour Home Office team at the moment*". Galley claimed that during the course of their initial conversation he told Green he wanted a "*Parliamentary job*" within the party. He said Green offered to look out for a position for him but told him that "*He wanted as much, how can I say, as much dirt on the Labour Party, the Labour Government as possible. And so he wanted as much information to damage them as possible*". Galley also stated "*Well at the end of each meeting he always tends to say, yes I am looking, I'll try and find something, I'll put your name about but nothing ever seems to happen*" This marked the apparent beginning of a relationship between Galley and Green, characterised by Galley's persistent inquiries of Green about a job in the Party (in letters and e-mails) and Green's responses, which suggested he was trying to help Galley. The letters and e-mails recovered appeared to corroborate Galley's account of the initial meeting with Green and the discussion with Green about seeking a job in the Party (a full breakdown of evidenced communications is held by the MPS).

9. Lines of inquiry were identified to further establish the nature of the relationship between the two men in terms of leaked material and to test the hypothesis that Green was not really looking hard to find employment for Galley and whether as he was possibly seen as more valuable whilst he was in the Home Office. E-mails recovered at Galley's home addressed to Green gave details of how Galley was under suspicion in an internal leak inquiry and of his intention to try to evade detection. Galley sent a subsequent text message to Green's mobile phone on 24 September 2008 stating "*Interviewed today by cabinet office about leaked economy and crime paper I think I managed to deflect all questions*". Green appeared to reply the same day "*Good let's talk again after conference unless you are going Damian*".
10. According to his interview, Galley transferred into the Home Secretary's Private Office in 2007 to take up a role in the Strategy Unit. Communications data indicated Galley was communicating to Green what material he would have access to in this role. An e-mail dated 30 March 2008 from Galley to Green stated' "*Anything I can do to help with CT? I have access to the Home Secretary's briefing and speech on the Bill*". Green appears to have replied "*Briefing very useful and the list of undecided's*". In 2008 Galley was promoted in the same unit. In June 2008 Galley texted Green to the effect he had been promoted to assistant to the Director of the Strategy Unit and Green apparently replied '*Congratulations – sounds useful for all sorts of reasons – Damian*'. In one email dated 26 June 2008 Galley communicated to Green '*still have access to Private Office in-box and access to Private Office – access to SPT in-box shortly*' .
11. In his interview, Galley detailed two meetings with Green where he handed over leaked material to Green including material stolen from the Home Secretary's private outer office safe. One meeting was in a wine bar where Green appears to have suggested in e-mail that Galley's colleagues would not be likely to see them "*Anywhere we won't see any of your colleagues! Do you know Balls Brothers opposite Victoria Station? If we say 6.15, and I will be in the back bar, which is usually quieter*".
12. Galley was released on bail later on 19 November 2008 pending further investigation. On 20 November Galley contacted the investigation team and asked to speak to them again as he had more information. The officers told him that if he attended the police station he would be arrested and interviewed again under caution. He agreed and attended the police station on 21 November and was interviewed. During this second interview he detailed

13. Galley went on to add more detail about his relationship with Green in his second interview. Coincidentally on the same day, 21 November 2008, two investigation team officers were present at the CPS Headquarters offices in London for a consultation with lawyers on the case. They discussed Galley's admissions and his claims about the conduct of Green and Davis. One of the lawyers spoke on the telephone directly to one of the detectives who had just interviewed Galley who at the time was still in custody at the police station. The result of this consultation was that the CPS advised that an offence fell for consideration in respect of Green in that he may have aided, abetted, counselled or procured misconduct in a public office or conspired to do the same.
  
14. On 20 November 2008 I was outside London when I received a telephone call from DAC McDowall who informed me that in interview on the 19 November 2008 Christopher Galley had implicated a shadow front bench MP (named as Mr Green) as being complicit in the leaks. Initially DAC McDowall said that the principle of 'securing best evidence' demanded that we acted quickly to secure any leaked documents that may be in Green's possession and any records of communications between him and Galley. He suggested that, ordinarily, he would be arrested and premises connected to him, including his parliamentary office, searched. After discussion we agreed that there existed significant sensitivities and complexities and we should seek advice from both the CPS, the MPS Directorate of Legal Services (DLS) and the parliamentary authorities in relation to the evidence, issues of parliamentary privilege and the search of Green's parliamentary and constituency offices. We discussed the risk of losing evidence but agreed this was outweighed by the need to ensure the legality of any action and to liaise with, and seek guidance from, the parliamentary authorities. At this stage we had no information to suggest Galley would alert Green although it was a risk (we learned later that Galley told Green of his arrest on the evening of 19 November). Later that day, at DAC McDowall's request, the SIO sent a detective to the Palace of Westminster to start a dialogue with the authorities in relation to the issues involved with a search by police of an MP's office. At this stage the name of the MP was not divulged to the parliamentary authorities.

15. During the course of the following seven days the DLS advised us that a search of an MP's parliamentary office would be lawful provided it was carried out with the consent of the parliamentary authorities (the Speaker or his representative). It was also advised that a search warrant could be applied for if consent was withheld. We were assured by the DLS that parliamentary privilege would not prevent the police from searching an office in the Palace of Westminster or from taking action against an MP in relation to potential criminal charges. On 25 November I was briefed by the DCS overseeing the investigation and the SIO regarding the advice of the CPS and DLS. I also spoke to DAC McDowall and we agreed to convene a 'Gold Group' to explore the issues and determine future strategy and action. On 26 November 2008 I convened a Gold Group comprising myself as chair, DAC McDowall, DAC Dick, Commander Sawyer (commander of CTC), the DCS, the SIO and the SO press officer. The SIO briefed the Gold Group on the action taken to date and the information available including Galley's admissions and documents and e-mails recovered. We were also briefed on the consultations with the CPS, the parliamentary authorities and DLS. The Gold Group were satisfied on the advice of the CPS that there were strong and reasonable grounds to suspect Damian Green of a serious offence and that this must be investigated.
16. It remained the case that Galley appeared to be a serial leaker who clearly had access to very sensitive material in close proximity to the Secretary of State with responsibility for national security. It was clear continued investigation was required to test Galley's account and to establish exactly what had been leaked and to whom. (This duty was brought into focus a few days later when David Davis MP claimed in a radio interview to have been in receipt of leaked sensitive material). The issue as to whether Green should be arrested or invited in by an appointment for an interview was debated at length. It was agreed the police have a duty to act without fear or favour and there were strong reasons to suggest an invitation to interview was not appropriate in this case. The process of criminal investigation, as established in law, places a duty upon the police, where there are reasonable grounds to suspect an offence, to identify the facts and available evidence impartially and present this to the prosecuting authority for a decision as to prosecution.
17. On balance it was agreed by the 'Gold Group' unanimously that the arrest of Green was a legal, proportionate and necessary course to progress the investigation. It was decided exceptional measures should be taken to mitigate the impact of the arrest due to his profile. The decision to arrest was taken because i) Galley had been arrested and there did



18. The Gold Group recognised the potential controversy that might be generated but after careful consideration concluded that it was appropriate to continue the investigation and recommended the arrest of Mr Green and search of related premises. It was agreed that the SIO would attend Parliament that afternoon (26 November) and speak with the Sergeant at Arms (SAA) and personally brief her on the investigation and seek her consent for a search of Green's parliamentary office. It was agreed that search warrants would be obtained for Mr Green's constituency home and office and his family home. The SIO was asked to develop an arrest plan to minimise the disruption to Green and his family. This included taking computer experts on the searches that could advise search officers on how to retrieve material quickly with minimal disruption or interference to Mr Green's work schedule and commitments. It also included a plan not to arrest Green in the early morning (dawn) as it was decided to wait until after his school age children were likely to have left for school (this did introduce the risk that Green may have left the house prior to police arrival). The plan was also to include special arrangements at Belgravia police station to ensure Mr Green was not placed in a cell and that he was processed and interviewed as quickly and as privately as possible. I then stated I would inform Sir Paul Stephenson of the Gold Group's recommendations due to the exceptional nature and sensitivity of the case (and who had authorised the investigation) and the fact he was about to assume the role of acting commissioner. I told the Gold Group we would reconvene at about 5.30pm that day following my discussion with Sir Paul Stephenson. I expressly stated to the Gold Group that I wanted to give Sir Paul the opportunity to challenge/veto the arrest given the sensitivity of the case.
19. Following this meeting I went to see Sir Paul Stephenson. I informed him of the developments relating to Galley including details of the letters and e-mails recovered and his admissions in relation to Green. I told him the CPS had advised an offence of misconduct in public office might have been committed. I also summarised the Gold Groups deliberations and recommendations. I said that I anticipated the arrest would cause a 'storm' but this was a matter where the police should investigate thoroughly as we did not yet know whether the Galley's admissions were comprehensive. We agreed that the timing of these developments was unhelpful but outside our control. Sir Paul Stephenson was equally anxious but immediately made it clear he would not 'overrule' the Gold Group's decision. He did express a strong view that the arrest should not be undertaken in a 'dawn raid'. I assured him that the Gold Group had already decided to

ameliorate the effect of arrest by undertaking it later in the day without Green's children being present. At about 5.30 pm I reconvened the Gold group and briefed them on my discussions with Sir Paul Stephenson. I was then briefed in more detail on the arrest and search operation and this was approved by the Gold Group to be conducted the next day.

20. During the afternoon the SIO and other officers attended Parliament and briefed the Sergeant at Arms (SAA) (the No. 2 to the Speaker). The SIO explained the nature of the investigation but did not at this stage divulge the name of the MP (I have recently discussed this issue with the SIO who has confirmed to me that he made it clear that he was investigating a series of leaks from the Home Office when speaking to the parliamentary authorities). The SIO outlined section 8 of the Police and Criminal Evidence Act 1984 and the legal advice provided to him by the DLS. After extensive discussion the SAA took her own legal advice from the Commons legal authorities. She then indicated that she would brief the Speaker and that if the police returned on the morning of the operation (the next day) consent to the search would be given.
21. On 27 November 2008 the DCS head of SO15 investigations and the SIO initiated the arrest and search plan. The search team attended the Palace of Westminster and the SAA called the Speaker and advised him of the police request to search and of her intention to give consent. I was told the Speaker agreed this course of action. Written consent was provided by the SAA both by signing a MPS search proforma and by preparing and signing a letter of consent after taking advice from Commons lawyers. However, the arrest team could not locate Damian Green at his home so the searches of the four premises were delayed several hours. Officers remained in the vicinity of all four locations. After discussion with the SIO it was agreed the searches needed to start. I did not want key people hearing this from the media so I agreed to telephone David Cameron MP, to tell him of the imminent searches involving Damian Green's offices and residences. I advised Mr Cameron that Police were investigating a series of leaks and were about to search a number of premises related to Mr Green, including his Parliamentary office, and that the SIO wanted to speak to Mr Green. I asked Mr Cameron to get a message to him to call my office. (It was agreed at the Gold Group that once the operation began I would call a number of senior stakeholders including Mr Cameron, the Cabinet Office, the CPS, the Home Office Permanent Secretary Sir David Normington and others to ensure they did not learn of events second hand from the media. I was also

- advised by the SIO that a senior CPS representative had indicated the DPP wanted to know when the arrest was made).
22. Sir Paul Stephenson briefed the Mayor Boris Johnson (in his capacity of Chair of the Metropolitan Police Authority) in the margins of a meeting at 10am to the effect a controversial operation was running but he did not go into detail. At 1.14pm after I spoke to Mr Cameron and the search operation started, Sir Paul Stephenson left a message with the Mayor's staff giving more detail and naming Green and detailing our plans to arrest and search. The Mayor telephoned Sir Paul at 1.19pm and was briefed personally. It appears the Mayor subsequently telephoned Damian Green. I am unaware whether this was before or after Mr Green's arrest.
  23. Damian Green was arrested in his Kent constituency near his parked car. He was taken to his Kent residence to speak to his wife and collect some belongings before being taken to Belgravia police station later that afternoon. It is my understanding that when told of why he was being arrested Mr Green volunteered information to the effect that relevant documents were in a folder in his parliamentary office. At the police station Mr Green had to wait for his solicitor to arrive (at 6.02pm) and consulted with his solicitor for just under two hours. He then claimed too tired to be interviewed (at about 8.55pm). Mr Green and his solicitor agreed for the interview to continue but he declined to comment or answer any questions put to him. Upon being released from the police station he attended the green outside the Palace of Westminster and gave a live TV and Press interview claiming he was innocent and had only been doing his duty as an MP.
  24. On Friday 28 November I was particularly concerned to read news headlines quoting the chairman of the Metropolitan Police Authority and Mayor, Boris Johnson, as challenging the Acting Commissioner designate Sir Paul Stephenson and criticising the investigation, suggesting it was not 'proportionate'. I was immediately concerned as to what impact this would have and wished to discuss this with Sir Paul. However, this was Sir Ian Blair's last working day in the MPS and Sir Paul was busy, so I decided to wait until the following Monday. Over the weekend of 29 & 30 November the news story gathered momentum and various people came forward to offer prejudicial remarks about the investigation and the arrest. Unfounded claims were being made that the arrest had been sanctioned at the highest levels of Government and comparisons were being made to Robert Mugabe's regime in Zimbabwe. Various commentators, who appeared not to

understand the criminal law, claimed incorrectly that the search of Parliament was unlawful, as the police did not have a search warrant. Recurring media themes over the weekend were that the search of Parliament was unlawful without a search warrant, that the arrest was heavy handed and disproportionate, that the investigation was politically motivated and authorised at the top of Government (this was untrue as no Ministers were involved or consulted – this was a complaint by senior civil servants to the police). Various spokespeople portrayed an image of Mr Green being a passive recipient of leaked material that embarrassed the Government and that he was merely doing his job as an MP. The MPS was not in a position to counter these claims or publically set out the evidence it was relying on as this could prejudice any future prosecution. Much of the media coverage seemed to be fed by commentators who could not be in a position to know the facts (e.g. recently retired DPP suggesting on Newsnight on 28 November that the MPS had not consulted law officers in the CPS – ‘so it was bound to go wrong’).

25. On the evening of Sunday 30 November 2008 Sir Paul Stephenson phoned me at home. He appeared understandably anxious at the weekend’s media coverage, as was I. I stated my belief that the MPS had acted lawfully and fairly and that we needed to hold our nerve and get on with our job and investigate. Sir Paul told me not to worry and that he was ‘not about to row away from me’. I was concerned about this remark. The next morning, Monday 1 December 2008, I joined Sir Paul (who had this day become Acting Commissioner) in his office with the now Acting Deputy Commissioner Tim Godwin. Sir Paul looked very anxious and told me he had written out his resignation. I asked him why as he had done nothing wrong. We discussed the situation and it became very apparent that Sir Paul was beginning to position himself against an investigation he had sanctioned and an arrest and searches he had supported. I reiterated my position that we had acted lawfully after taking careful legal advice and consulting all parties and that it was our duty to undertake this investigation regardless of whether it was unpopular with the media and some MPs. I suggested the MPS should not panic or be intimidated and to weather the immediate storm as it would dissipate over the course of the week. I stated we were well within our rights and duties to investigate Mr Green. Nothing more was said about resignation.

26. During the morning of Monday 1 December 2008 there were various reports from the weekend media quoting Boris Johnson making prejudicial comments about the investigation and arrest of Damian Green. Later that day Sir Paul brought in Assistant

Commissioner John Yates to join the discussions. AC Yates had experience of investigations in a political environment as he had led the 'Cash for Honours' investigation of the Labour Government two years earlier. I had in fact reviewed aspects of this investigation and was conversant with it. Later that day I was asked to go and see AC Yates in his office. AC Yates told me he felt the inquiry was doomed and that the CPS would withdraw their support due to the outcry in much the same way as they had in 'Cash for Honours' where they had decided at the end of the inquiry that no charges should be brought against anyone despite having given positive indications throughout the investigation. He advised me to stop the investigation and 'cut my losses'. I sympathised about the 'Cash for Honours' case experience but said that the matter was about our duty to investigate, not about 'cutting my losses' or trying to second guess the CPS. I suggested we should not be unduly influenced by the political and media furore, as we know much of it to be unfounded. I said we had a job to do and that a threshold had been reached whereby Green was now legitimately under investigation. I told him I was confident that the CPS would support the MPS in establishing the facts by completing the investigation and that the issue of whether there are prosecutions is a matter for them (The legal test for the police to investigate and arrest is 'reasonable grounds for suspicion' – the test for prosecution is much higher and cannot usually be determined until an investigation is completed and the available evidence determined). AC Yates tried to argue the case to discontinue the investigation against Green for a few minutes but I was clear in my opposition to this course as I felt it was expedient and unethical (we had CPS advice that offences fell for consideration). At this point AC Yates suggested a review. I stated it was premature to have the case reviewed and there was no rationale for it to happen outside of normal timescales. I stated this would be seen as the MPS 'blinking' in the face of largely unfounded criticism and that people should allow the investigation to take its course and judge it at the end when all the facts are known.

27. The following day Sir Paul Stephenson told me that he was minded to have the case reviewed. I opposed the review being undertaken, as did DACs Dick and McDowall, stating it was too early and that the investigators had not had time to analyse the material it had seized in the investigation and that the controversy needed time to settle to allow for a calm and proper review. However, there was a sense of crisis and I was unable to persuade Sir Paul to wait for a few days. Later that day Sir Paul asked Chief Constable Ian Johnston of British Transport Police (now Sir Ian Johnston) to undertake a review.

Also that day Sir Paul made a public statement at a police authority meeting stating the police had to 'act without fear or favour and follow the evidence'. However, he also announced a review of the case and this was widely interpreted in the media as a lack of confidence by the MPS in its own actions. During the course of the next few days I became very concerned as stories were appearing in the press distancing Sir Paul from the arrest of Green and search of Parliament, suggesting he had argued with me that Green should not be arrested and I had ignored him. Some of these stories were attributed to senior Scotland Yard sources. I was concerned because there had been ongoing conflict within the top team about the relationships some members had with certain editors and journalists and that these relationships were considered to be unprofessional and lack the transparency required of chief officers. I had been warned of this by fellow board members when re-joining the MPS and later became aware of serious arguments about this issue. I was also aware that in the preceding few years the MPS had been racked by damaging stories that betrayed well-placed senior sources. It was my own practice to only meet journalists in diarised meetings with a press officer present in accordance with MPS policy. Later in December my family and I were subject of a story in the *Mail on Sunday* suggesting my wife's Rolls Royce Wedding Car Hire business was 'a security risk'. I believe this was a malicious story, which exposed my family to a degree of risk.

28. During the early weeks of December a great deal of negative speculation in the press continued. The investigation received little public support from the MPS and indeed many people commented that the Home Secretary was more supportive of the investigation than the MPS. Stories continued to circulate that Sir Paul Stephenson was not in favour of the arrest. This and other stories (i.e. the police carried sledgehammers, targeted the wrong address, and caused significant damage) were allowed to circulate without being challenged or refuted by the MPS Press Office. I questioned colleagues on the investigation team as to whether claims of Mr Green's offices being 'ransacked' or otherwise left in a mess, officers having the wrong address for Mr Green and arriving with sledgehammers were in any way true. They were (and remain) emphatically denied and I am now aware officers took photographs upon leaving the searches showing the premises were left neat and tidy.

### **Johnston Review**

29. The Johnston review began on Tuesday 2 December and Sir Ian Johnston was asked by Sir Paul Stephenson to report in two weeks – a deadline that others and I considered completely unrealistic. The review was asked to look at issues of lawfulness and proportionality. The review was unlike any review I have ever experienced and it departed from the prescribed ACPO processes for such reviews. Colleagues on the investigation team complained that they felt under investigation but I advised that they cooperate and persevere with the review as it was recognised Sir Ian Johnston had been given an unenviable task.
  
30. On Saturday 6 December 2008 I was asked by Acting Deputy Commissioner Godwin to attend a meeting at New Scotland Yard with Sir Ian Johnston, Acting Deputy Commissioner Tim Godwin and Sir Paul Stephenson (who was at that time Acting Commissioner). Also present was the Acting Commissioner's Chief of Staff, Commander Denholm (one of my commanders) and the head of Public Affairs Department Mr Fedorcio (I cannot remember if AC Yates was present). Prior to the meeting, and during it, it appeared that Sir Paul, Tim Godwin and Sir Ian Johnston had held an advance meeting before joining the others and me. I believe this because they arrived in the room together and I felt the meeting had a certain choreography, as though it had been rehearsed. Mr Godwin chaired the meeting and invited Sir Ian Johnston to brief the meeting on his initial findings. Sir Ian Johnston stressed his findings were preliminary and could change.
  
31. Sir Ian started by saying that he was clear the search of the MP's office and his arrest was lawful. He then indicated that 'on balance' he felt the arrest of Damian Green was disproportionate and that he should have been invited in for an interview. I observed that the key issue was lawfulness and that the issue of proportionality was a very subjective one. I asked him on what basis he had come to a view that the arrest may have been disproportionate. He stated that in his view Galley's conduct amounted to conduct which should be dealt with as discipline. He stated that the Cabinet Office had alluded to this when he met with them (*\* See Confidential Annex*). I challenged this as it was at odds with my own knowledge and stated that the Cabinet Office and the Permanent Secretary at the Home Office knew of our plans to deal with Galley by arrest and criminal investigation and had at no time suggested discipline as the appropriate course. I also

stated that the CPS had expressly advised that criminal offences were in prospect on the information available at the time and at no time was it suggested that discipline was a more appropriate course than a criminal investigation. Finally I stated that Galley had alleged that Green had told him not to mention certain issues and therefore there was a reasonable basis to doubt whether Green could have been relied upon to cooperate and not seek to hide his or others involvement (In the event Mr Green offered little cooperation to the investigation), therefore an invitation to interview was not an appropriate option in the view of the Gold Group.

32. Sir Ian Johnston did not counter these arguments and I sensed Sir Paul Stephenson becoming agitated that I could not accept the key elements of Sir Ian Johnston's analysis on the basis I believed he had got key facts wrong.

33. I also challenged the claim that the arrest of Green was, on balance disproportionate, using the arguments detailed in i – x in paragraph 19 above. Again, I did not feel Sir Ian Johnston's points on the proportionality of arrest were convincing and I offered a number of other points that were actually taken account of by the Gold Group. I made clear my position that we cannot know whether Galley and Green are guilty of anything until after a thorough investigation. We appeared to be going around in circles and at one point I suggested Sir Paul could stop the investigation as Acting Commissioner if he felt so strongly about it. The meeting became quite tense and Mr Godwin eventually intervened told us all to 'take time out'. There was a short interlude and Sir Paul, Tim Godwin and Ian Johnston went off together. After a short while Mr Godwin came back and told us all the meeting was over. The others left and I remained in the office. Mr Godwin left and Sir Paul came into the room and sat with me. He struck up a conversation and I apologised for all the difficulties we were facing and said I did not count on it all turning as nasty as it had (meaning the media campaign). Sir Paul said words to the effect 'it is not fatal you know, you could stop the investigation and withdraw your Commissioners application and it – it will all go away/blow over'. I felt slightly disappointed by this remark as Sir Paul had approved the investigation and arrest and therefore he could stop the investigation if he felt it was the right thing to do. I told Sir Paul that I did not anticipate going forward in the selection process. I expressed the view that I did not think it justifiable or ethical to stop the investigation purely on the basis of a controversy that appeared not to be driven by the public but by those who may have a vested interest in deterring the police from undertaking such investigations. I continued to explain what I

believed to be the role of the police in this case to establish the truth and my belief Mr Green had brought the investigation on himself by his own actions. Sir Paul appeared to accept these points. I reiterated my respect for his position and his right to stop the inquiry. Mr Godwin then rejoined us and I left the room with Mr Godwin. He said something like 'I am sorry about that – that was not the way to handle things' I did not know exactly what he meant by it but I sensed some discomfort on his part. My interpretation was that I had been ambushed and it had backfired.

34. In the days that followed a number of so called 'Reference Group' meetings were held to manage the ongoing controversy. These were usually chaired by Mr Godwin and attended by Sir Paul Stephenson, myself, Catherine Crawford the Chief Executive of the MPA, Dick Fedorcio (Head of Department of Public Affairs), John Yates, Caroline Murdoch (Chief of Staff), Commander Denholm and Commander Sawyer. On one occasion before Christmas Sir Paul chaired the meeting and he and John Yates appeared to argue for the investigation to be stopped. I said the CPS continues to support the investigation but again acknowledged the right of the Commissioner to order the investigation to be discontinued. We agreed that the investigation should continue but were all concerned at the continuing controversy.
35. Sir Ian Johnston's report of his review was handed to the Acting Commissioner and I on 16 December 2008. Its content was as I had expected, it validated the lawfulness of the arrest of Mr Galley and the search of his home and the lawfulness of Mr Green's arrest and the searches relating to him including his Parliamentary office. The report stated the arrest of Galley was proportionate but, in relation to Green stated '*on balance, a potentially better approach was to invite him in for interview under caution by appointment*' and concludes '*there is a strong question mark for me over the proportionality for the arrest of Green, given its timing seven days after Galley's arrest, and given the level of seriousness of the leaks in which there was a reasonable basis for a belief that Green was involved*'. The report listed seven reasons why the arrest of Green was proportionate and fifteen as to why it was not. I, along with other colleagues strongly challenge this list. Many of the fifteen points to be based on inaccurate information or a limited appreciation of the facts. It is perfectly possible to cite fifteen reasons why it was proportionate to arrest Green which are grounded more strongly in fact than the fifteen cited by Sir Ian Johnston. It appears some of the fifteen points relied upon by Sir Ian have had to be redacted due to factual inaccuracy (\* See Confidential Annex). In addition it is

patently obvious to anyone who knows the basics of this case that other points cited as reasons to consider the arrest disproportionate are misleading. Examples of this include the claim that the rationale for arrest in an officers decision log document were not strong — when the Gold Group minutes and other records give much stronger accounts of the rationale (in any case proportionality is a matter of ‘fact’ that administrative competence). The delay in effecting the arrest of Green was in itself a proportionate response as it was recognised that sensitive legal and procedural issues needed resolved, an immediate arrest without seeking specialist advice could more strongly be argued as disproportionate than the delay (the Gold Group had considered the issue of the delay and calculated that Green may well not anticipate arrest and may be unaware of the extent to which Galley had informed police of his involvement), the suggestion in the report that the relationship could be interpreted as less than clandestine flies in the face the evidence’.

36. I, along with my colleagues, was troubled by a series of inaccuracies and material omissions in the report including: i) the omission of details of the senior level engagement and approval throughout the investigation ii) the omission of key elements of Green’s alleged conduct relevant to the decision to arrest iii) the omission of key elements of the reasoning of the Gold Group which supported arrest (including Galley’s claim that Green had told him ‘not to mention’ certain matters) iv) the omission of evidence which challenged public assertions that Galley and Green were motivated purely to serve the public interest v) the inaccurate portrayal of CPS engagement being at a low level (the CPS subject matter expert was consulted along with a senior lawyer who reports to direct to the DPP) (\* See Confidential Annex). I had made these points to Sir Ian Johnston but they did not find their way into his report despite them being central to questions of proportionality. I can only explain this as being a consequence of the chaos amidst which the review was conducted. I was, however, left with the feeling that by failing to include this information the report was in effect screening out those facts which would make a disproportionate arrest conclusion difficult to justify and thereby give credence to incorrect media reporting that I had taken the investigation and arrests forward without the support of Sir Paul Stephenson (or even against his wishes) when this was clearly not the case and therefore the investigation was frivolous and ill conceived. The failure to detail key facts about Galley’s account of Green’s conduct and

the full considerations of the Gold Group in the decision to arrest Green undoubtedly make it easier to assert the arrest was heavy handed or disproportionate.

37. The CPS was provided with a copy of the report and indicated through Commander Sawyer that they did not consider it to be central to the question of whether Galley and Green were guilty of any criminal offence and they advised the investigation should continue.

### **Parliamentary Privilege**

38. During December 2008 Acting Deputy Commissioner Tim Godwin told me that he was going to speak with the CPS and ask them to make a decision early because he did not want the MPS to have a protracted battle with Mr Green's solicitors and the parliamentary authorities over Parliamentary Privilege, particularly if the CPS were not going to prosecute. I suggested things must be allowed to take their course and we need to establish what material the investigation can properly consider in a search for the truth (Mr Green was resisting any attempt by the investigation to view the content of his computers and documents seized from his constituency and parliamentary offices). I believe the CPS did not accept Acting Deputy Commissioner Godwin's arguments for a decision to be made on prosecution before the issue of privilege was determined. The legal arguments in relation to the rights of the police to view material seized from Mr Green's parliamentary and constituency offices were resolved for the purposes of this investigation and further evidence of the relationship between Green and Galley was discovered when the material was eventually viewed in March/April 2009. This included e-mails from Green to Galley and *vice versa*, which threw further light on the nature of the relationship and the leaks.
39. During the course of the investigation I was aware that senior crown prosecutors were engaged in the process of consultation with the police in this case and I spoke to one of them informally at a meeting on other matters and once before the arrest of Mr Green. I also received direct and first hand reports from those officers who liaised with the CPS before and after the arrest of Mr Green and at no time did I sense that the CPS were anything other than supportive of an investigation. The report by the Chief Inspector of Constabulary published on 12 October 2009 confirms that '*Once it was known a Member of Parliament was involved the case was kept under constant review at a senior level within the Crown Prosecution Service*'.

40. The DPP took over personal supervision of the case and chaired a case conference where he indicated it was in the public interest to continue the investigation and he wanted the Parliamentary Privilege issues resolved so he could view relevant material from Mr Green's offices. Commander Sawyer who attended the conference later attended a meeting with Mr Godwin and I. Mr Godwin remarked that Sir Paul Stephenson 'had gone ballistic and would pull the inquiry anyway'. I expressed incredulity at this asking why it was that he was not pleased we were getting support for the investigation from the DPP. I also expressed doubt whether he would 'pull' the investigation at this stage.
41. A process to determine what material was relevant to the investigation and what was subject to parliamentary privilege was agreed with the CPS and the Commons authorities. The matter was complicated by the existence of private material on the computer removed from Mr Green's parliamentary office. Eventually matters were resolved sufficiently to enable police to examine further material relevant to the investigation.
42. In February I gave evidence to the Home Affairs Select Committee, which was convened to examine elements of the investigation of these leaks. The HASC report published on 16 April 2009 offers regret that there was a misunderstanding of the law about the police search of Green's Preliminary office and acknowledges the police had indeed followed the correct procedures after taking appropriate advice.
43. The investigation ultimately continued to its natural conclusion largely due to the continued support of the CPS and the intervention of the DPP who chose to personally supervise the case. The CPS report was eventually published on 16 April 2009. The CPS account of the case I believe vindicated the investigation by concluding the following (taken as unedited paragraph excerpts from the report):

*27. In this case, I have concluded that **there is evidence upon which a jury might conclude that the conduct of Mr Galley in passing various documents to Mr Green amounted to a clear breach of his public duties.** The documents in question were clearly restricted and/or confidential and in leaking the documents to Mr Green, Mr Galley seriously breached the trust placed in him by the public.*

*28. I have also concluded that **there is evidence upon which a jury might conclude that Mr Green aided or abetted Mr Galley's conduct and, in particular, his breach of the public's trust. There is, additionally, evidence upon which a jury might conclude that there was an on-going relationship between Mr Galley and Mr Green, which Mr Green encouraged in the hope and expectation that Mr Galley would continue to supply restricted and/or confidential information to him.***

*30. I have concluded that there is evidence upon which a jury might conclude that there was damage. The integrity of the Home Office arrangements for handling restricted and/or confidential information was breached. That caused damage to the proper functioning of the Home Office, which was exacerbated by the prolonged period of the alleged leaks, the on-going relationship between Mr Galley and Mr Green and the sensitivity of the material to which Mr Galley had access. One of the principal concerns at the Home Office was that whoever was responsible for the leaks in question may have had access to Ministerial papers and that there was a potential risk that highly sensitive material relating to national security might be disclosed. This damage should not be underestimated and once the pattern of leaks was established in this case, it was inevitable that a police investigation would follow.*

*37. My conclusion should not be misunderstood. The unauthorised leaking of restricted and/or confidential information is not beyond the reach of the criminal law. The fact that the overall evidence of damage or potential damage in this case is not such that the offence of misconduct in public office is made out should not be taken to mean that the absence of sufficient damage actual or potential will always lead to a decision not to prosecute. Where the threshold identified in the case of AG's Reference No.3 of 2003 is met, a criminal prosecution would be justified. Each case will have to be carefully considered on its facts. My conclusion is simply that, on the particular facts of this case, there is no realistic prospect of a conviction against either Mr Galley or Mr Green.*

*38. In coming to a conclusion in this case, it has not been necessary for me to resolve the question of the legality of the searches of Mr Galley's home address and Mr Green's home address, his Constituency offices and at his Parliamentary office. I do not propose to do so. However, as noted above, once the pattern of leaks was established in this case it was inevitable that a police investigation would follow. There has been a thorough investigation and, without it, I would not have been able to reach a conclusion on the particular facts of this case.*

46. The Home Affairs Select Committee report was published on the same day and commented (taken as an excerpt from the report):

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

11. The letter to the police said:

*“A number of recent leak investigations, including some conducted by your officers, have raised questions about the security of sensitive information in the Home Office. Whilst not all the leaks that concern us merit, taken individually, investigation by the police, we are concerned that there is an individual or individuals in the Home Office with access to sensitive material who is (are) prepared to leak that information. We are in no doubt that there has been considerable damage to national security already as a result of some of these leaks and we are concerned that the potential for future damage is significant [our italics]. The risk of leaking is having an impact on the efficient and effective conduct of Government business, affecting the ability of Ministers and senior officials to have full and frank discussions on sensitive matters and undermining necessary trust. You will not be surprised to hear that we are also concerned that there must be risk to information about sensitive operations which, if leaked, could give rise to grave damage.”*

In relation to the police search of Green’s parliamentary office the report said –

***‘It is very regrettable that there should have been any misunderstanding over the issue of consent to search Parliamentary premises, but, in seeking consent before applying for a warrant, the police were following the procedure set down in statute’.***

47. During the course of 2009 I became aware that Sir Paul Stephenson had agreed to remove Mr Green’s DNA from the national database and also publish the report from Sir Ian Johnston of the review. Whilst curious as to the rationale to remove the DNA record, as DNA is usually retained on record when a person is arrested, whether or not they are charged, I was concerned as to the motivation of the MPS to publish a report that is heavily disputed and by any test is perfunctory (largely due to the circumstances and timescales of its production). The omissions in the report had the obvious potential to create a misleading account of this investigation and therefore redactions of the inaccuracies alone were not effective in addressing this. Other more comprehensive records of the facts and the discovery of further evidence have superseded the Johnston Review report. An example of how the report can create a false impression is the suggestion in the report published on 12 October 2009 by Her Majesty’s Chief Inspector of Constabulary, which recommends a series of checks and balances, which the Johnston review implies, by omission, did not occur when, in fact, significant elements had in fact occurred in this case. I wrote to the MPS setting out my concerns that the public would be misled by the report’s publication. The initial response, received from AC Yates, did not deal with the issue of omissions. I wrote a second time and the reply appeared to lay the matter at Sir Ian Johnston’s door. Crucially the report of the Chief Inspector of Constabulary did not seek to test the reliability of the Johnston review.

48. I welcome any effort to improve protocols between the Cabinet Office, the police and the CPS in relation to leak inquiries. I am however unconvinced that the recommendations in the Chief Inspector of Constabulary's report can address the fundamental issues at the heart of this controversial case, namely, the fact that it is clearly possible for the leaking of restricted or confidential material to constitute a serious criminal offence (see DPP judgement in this case dated 16.4.09) and, where a suspected leaker, or serial leaker, has access to material that, if leaked, would undermine national security, a duty to investigate is clearly created and in cases like this, where the leaker deceives internal investigators, the use of more intrusive police powers is likely to be required. I question the appetite to remove the criminal sanction for leaking only restricted or confidential as this can still create significant damage. The DPP suggested strongly that such people are '*not beyond the reach of the criminal law*' (DPP 16.4.09). To do so would, in effect, leave us to hope that leakers 'leaked responsibly', the criminal law only being invoked only after Official Secrets Act material was leaked and more serious damage done.
49. It remains my view that the MPS had no practical alternative but to investigate the claims made by the Cabinet Office and the Home Office Permanent Secretary. Whilst the Home Affairs Select Committee suggested the Cabinet Office exaggerated the risk to national security, it remains a fact that there was a serial leaker at work in the Home Office who had access to sensitive material and there was no way of knowing whether this person had already or would in future leak sensitive and damaging information to national security – therefore an investigation was indeed inevitable. The Cabinet Office complaint did not make reference to 'embarrassing material' or the 'smooth running of Government' terms apparently coined by others. Whilst the complaint suggested there had been considerable damage to national security, it also emphasised the impact on the efficient and effective conduct of Government business due to effects on the ability of Ministers and senior officials to have discussions on sensitive matters and the undermining of trust. Therefore the only way to establish i) the degree of damage caused ii) The precise extent and nature of the leaks iii) whether national security had been, or was still at serious risk of being compromised, and iv) whether offences under either the Official Secrets Act or Common Law (Misconduct in a Public Office) had been committed was through a thorough investigation. The role of the police is to investigate if a threshold of suspicion is reached that an offence may have been committed and there is an operational justification to devote resources. The threshold was clearly reached in this

- case. The conduct of both Galley and Green was such that they came under legitimate police investigation. The purpose of an investigation is to establish the truth. If the truth is established the police have done their job irrespective of whether this results in a prosecution.
50. The public controversy surrounding Mr Green's arrest was largely built on a proposition that Mr Green had acted entirely innocently and with integrity at all times and was merely doing his public duty to hold the Government to account. I believe the facts support a different interpretation and justify the investigation.
51. There have been suggestions from some quarters that the police fail if a person arrested is not charged or prosecuted following an investigation. This is a dangerous proposition as it fails to recognise how procedural law and due process is constructed to make the search for truth (establishing innocence equally alongside guilt) the primary goal rather than prosecution or conviction.
52. It has been suggested that, after the scoping exercise, the five leaks of a lower than 'secret' classification that appeared to be attributable to Galley, could have been referred back to the Cabinet Office for investigation. However, this does not recognise the fact that Galley had already lied to internal investigators (apparently boasting to Mr Green of this fact) and they had failed to make even a discipline case against him. The police would at this point be taking Galley on trust that he had not leaked other more sensitive material rather than verifying this by completing the investigation. This and the fact it was, by then, suspected he was stealing documents from a safe and intercepting letters from a Secretary of State to a Prime Minister made it obvious a police investigation was necessary. This is why, in my view, Sir Paul Stephenson was right to agree the terms of reference for the investigation with DAC Dick.
53. Finally I have read the commentary in the report by Denis O'Connor, the Chief Inspector of Constabulary, in relation to the long established principle of policing 'without fear or favour'. The report suggests *'the police need to be able to retain their impartiality and exercise discretion acting 'without fear or favour'. In doing so they need to be confident of moving from a 'without fear or favour' approach based on intentions to one that also considers the likely realisation and outcomes'*. The commentary suggests good intentions are not enough (although I would argue it is a good start point). It is unclear whether this is suggesting the application of a new and different test in cases involving MPs or even a

wider range of high profile cases. The risk I believe the Police Service must avoid is being seen to bend its principles when there is controversy and powerful stakeholders are involved. If the threshold to discontinue an investigation is to change from the existing test (i.e. is it legal, necessary, proportionate and accountable) then this must surely be applied to all citizens in all cases. Ultimately I consider that the key lessons arising from this case are less about new protocols and more about standards in public life and the duty of the police to act operationally independently of politicians.

**11 December 2009**

*[Note: The Confidential Annex is not included in this version of this document.]*