

**Letter from Patricia F Gallan QPM, Assistant Commissioner, Specialist Crime & Operations,
Metropolitan Police, to the Chair of the Committee, 26 January 2016**

**House of Commons Home Affairs Committee Report - Police investigations
and the role of the Crown Prosecution Service**

I am writing to you following the publication of the report by the House Of Commons Home Affairs Committee, "Police investigations and the role of the Crown Prosecution Service" (Third Report of Session 2015-16) on 17th November 2015.

The purpose of this letter is to respond, as requested, to two areas discussed within the report. Firstly I will set out the findings of the review of the Metropolitan Police Service investigation into the allegation of rape by Lord Brittan conducted by Dorset Police (Operation Vincente), and secondly I will set out the steps that the MPS is taking to improve the handling of such cases. This includes the oversight of investigations and the mechanisms in place to update suspects.

Operation Vincente Review:

You are aware that a review of the investigation into Operation Vincente was commissioned by the Metropolitan Police Service on 12th October 2015. This was undertaken by Dorset Police under the leadership of Deputy Chief Constable James Vaughan. The Terms of Reference for the review were as follows:

The purpose of the external organisational review is to carry out an independent examination of the investigation to constructively evaluate the conduct of the investigation to conduct of the investigation to ensure:

- *It conforms to national and local (MPS) approved operating standards*
- *It is thorough*
- *It has been conducted with integrity, proportionality and objectivity*
- *That no investigative opportunities have been overlooked*
- *That good practice is identified*

The review team will:

- *Examine the investigation strategy and ensure it captures all investigative opportunities and has been updated where the landscape of the investigation has changed.*
- *Consider compliance with, and divergences from, relevant standard operating practice and whether these are legitimate and justified.*
- *Examine the Gold Group minutes and decision logs to ensure there are*

appropriate levels of oversight and governance.

- *Ensure the investigation is proportionate and being conducted diligently.*

The Review Team had access to all files and documents they considered necessary to carry out the review and were able to speak to anyone they wished to within the Metropolitan Police.

The final report was handed to the MPS on 13th January 2016. It is not our intention to make the full report or the summary available publicly due to the personal and sensitive details contained within it. We have made available as requested to the committee, the summary and the key observations of the review in confidence, the reason is that you will be aware it surrounds allegations of a sexual offence and a suspect who is now deceased and cannot therefore respond to any statements made within the summary. These are attached at Appendix A and have been edited only to remove personal and sensitive details, references to material received in confidence and references to legally privileged advice.

MPS Processes

In the "Conclusions and Recommendations" section of the Committee's report (point 14), a request is made that the MPS and CPS set out the steps we plan to take to improve the handling of high-profile cases, particularly in relation to avoiding delays in the investigation process and in ensuring that there are no delays in informing suspects of the progress and outcome of their case. In response to this I hope that the following information is useful:

- The responsibility for ensuring that suspects are provided with timely updates on the progress of their case will rest with the Police Service throughout the course of an investigation. The Committee is however right to identify that both Police and CPS must work collaboratively to ensure that both investigations and prosecutions can progress expeditiously. In London a joint framework is being developed that will highlight performance in this area and identify areas where each organisation can address potential blockages and factors causing delay. Senior level joint performance meetings will ensure that challenges are tackled. In high profile and serious cases it is commonplace for police and prosecutors to jointly attend coordination meetings, known as Gold Groups, in order to manage the wider implications of the investigation.
- Each investigation undertaken by the MPS will have a supervisory structure in place that is commensurate with the seriousness of the allegation under investigation and the surrounding context. This will vary considerably. The supervisory process is designed to ensure that regular reviews of cases are carried out and that the investigation of such matters is both proportionate and expeditious. There is a similar process in place in relation to the

management of suspects on bail. This process is not applied exclusively to high-profile cases and is applied to all investigations. I understand that the Home Office will shortly evaluate some pilot sites that have been testing changes the way in which pre-charge police bail operates.

- In circumstances such as Operation Vincente, where the suspect in the case remains under investigation but not subject to police bail, it is now our expectation that officers will document their strategy for ensuring that a regular review of the status of the investigation is undertaken. This positive requirement will ensure that the rationale for how frequently suspects are updated is clearly set out. Whilst this is especially relevant for cases involving high profile suspects the principle is also applicable in all other cases.
- We recognise the importance of keeping all parties involved in the investigation up-to-date with progress. In the case of victims, we are governed by the Victim's Charter which requires us to update victims within specific timescales. In the case of suspects, no such code of practice exists. We agree with the Committee that suspects should be regularly informed of the progress of their case albeit it will rarely be possible to give them details of what enquiries are being undertaken.

I hope this information assists the Committee.

**Patricia F Gallan, Assistant Commissioner
Specialist Crime & Operations
Metropolitan Police**

Appendix A.

Dorset Review of Operation Vincente: Key Observations and Conclusions

1. Key Observations and Conclusions

- 1.1 The MPS completed a crime report as soon as they received the transfer from South Yorkshire on 30 November 2012 and so complied with their obligation under NCRS.
- 1.2 An investigation into allegations made by the complainant was necessary, proportionate and fully justified despite the significant passage of time.
- 1.3 Whilst the SIO recorded an investigative strategy and a number of appropriate entries in a decision log, it was not a comprehensive document and omitted key elements of decision making.
- 1.4 Whilst more recent governance of Op Vincente was clearly intrusive and strong, at the critical points of early decision making, it appears lighter touch and is not reflected in sufficient detail in Gold Group minutes.
- 1.5 The first ABE of the complainant by South Yorkshire Police was of a poor standard and a subsequent interview conducted by the MPS, whilst much improved, still lacked sufficient probing at key points and fell short, overall, of achieving the best evidence available from the complainant.
- 1.6 Skilful investigators pursued appropriate lines of enquiry from the complainant's account and obtained credible evidence. At the conclusion of these lines of enquiry, any reasonable investigator could properly conclude that the allegations made by the complainant were far from fanciful and continued to be proportionate and justified.
- 1.7 The initial SIO was, by his own admission, inexperienced in rape investigation and whilst he appropriately sought specialist assistance and referred the case for Early Investigative Advice, he drew an early erroneous conclusion that the offence of rape was not made out, due to his perceived issues with consent. The reviewer concludes that there were ample reasonable grounds to conduct an investigative interview of LB and that the enquiry could not be properly progressed without doing so. Such action was necessary, proportionate and justified and far from **unlawful** as was contended by the SIO when he subsequently gave evidence before the Home Affairs Select Committee.
- 1.8 The Early Investigative Advice file lacked essential detail and was incomplete.
- 1.9 It is surprising that a relatively junior member of staff made the decision to close this case without auditable reference to senior command.

- 1.10 The MPS appropriately commissioned an internal review of the case by a suitably experienced senior rape investigator. This review concurs with the findings and directions provided in the internal review.
- 1.11 The timing and location of the suspect's interview at his solicitor's offices was appropriate and sympathetic to his failing health, providing due regard to his public profile.
- 1.12 It is regrettable that equipment failure led to the interview being conducted by way of contemporaneous notes. This had a significant impact upon the depth and quality of the interview, albeit it is acknowledged that postponement would have led to greater delays and may have had a further impact on the suspect's health.
- 1.13 Identification procedures were properly and professionally applied by suitably experienced and skilled personnel. The reviewer questions the necessity of the procedures but accepts that this is a somewhat subjective interpretation of the Codes of Practice and case law. These procedures added to delays in bringing the case to conclusion and the rationale behind the decision making was not recorded.
- 1.14 The reviewer concurs with the final decision making of the MPS in respect of the 'Full Code Test'. The complainant provides a fairly compelling account of events. She is a competent witness, who displays no malice in her motivation. Her accounts of her situation in 1967 are corroborated and it is plausible that she was moving in similar social circles to LB. The early disclosures in later years provide some consistency in her account and she appears to have little to gain from making a false allegation. There is some ambiguity surrounding the issue of consent, which would prove difficult before a properly directed jury. Proving that consent was not given or could have reasonably been implied would be the first difficult step and proving that LB understood this to be the case would have proved more difficult still. When all these factors are taken into account, the reviewer concludes that following a thorough investigation with no useful lines of enquiry left unexplored, the case is more likely to lead to acquittal than conviction. Therefore the Full Code Test is not quite met.
- 1.15 Senior CPS colleagues correctly applied the Directors Guidance in their refusal to further review a file and provide charging advice upon completion of the investigation. However, the reviewer is sympathetic to the notion that an independent assessment may have better served the public interest. In cases surrounding very senior members of the British establishment, particularly those engaged or formally engaged in home affairs or law enforcement, an independent review would provide necessary rigour and integrity in decision making.
- 1.16 The operational context in which investigators and senior command were operating within the MPS during the period of time under review was extraordinary by any standards and resources were understandably very stretched. Commanders were operating multiple

Gold Groups for very complex and high risk cases, which included numerous non-recent allegations against other prominent people. Operations Fairbank and Yewtree are but two high profile examples of ongoing casework, which was in addition to the usual high demand for specialist resources to deal with homicide and rape.

2. In Specific Response to the Terms of Reference:

2.1 The purpose of this external organisational review is to carry out an independent examination of the investigation (Operation Vincente) to constructively evaluate the conduct of the investigation to ensure:

a) *It conforms to national and local (MPS) approved operating standards;*

The investigation broadly conformed to MPS and nationally approved operating standards in its structure, application and form. This review highlights areas of both strength and weakness in the quality of the enquiries carried out.

b) *It is thorough;*

The reviewer is satisfied that all reasonable and proportionate lines of enquiry have been exhausted by skillful and tenacious investigators.

c) *It has been conducted with integrity, proportionality and objectivity;*

The reviewer is satisfied that the investigation was launched in good faith, against a credible account provided by a compelling witness and was undertaken with integrity. Enquiries were proportionate to the matters in hand and remained objective throughout.

d) *That no investigative opportunities have been overlooked;*

The reviewer is satisfied that all reasonable investigative opportunities have been thoroughly explored.

e) *That good practice is identified*

Both strengths and weaknesses in the investigation are referenced throughout the main body of the report.