

Commissioner's report

IPCC independent investigation into
Surrey Police's knowledge of the alleged
illegal accessing of Amanda (Milly)
Dowler's mobile phone in 2002

April 2013

Introduction

The background to the IPCC's investigation into Surrey Police includes two separate events: the disappearance of schoolgirl Amanda (Milly) Dowler in 2002, as a result of which Levi Bellfield was convicted of her kidnap and murder in June 2011, and the Metropolitan Police investigation into phone hacking by the press, particularly the News of the World.

The criticism of the Metropolitan Police's initial response into phone hacking has been the subject of a vast amount of media coverage and public comment. For the purposes of this report it is important to note that phone hacking of the royal household was first investigated by the Metropolitan Police in 2005/6, as a result of which two people pleaded guilty to phone hacking offences in 2006, and that, following widespread public criticism of the inadequacies of this earlier investigation, the Metropolitan Police began a fresh investigation, named Operation Weeting, in January 2011.

Operation Weeting officers identified that in 2002 Milly Dowler's phone may have been hacked by the News of the World, and the Dowlers were advised of this by the Metropolitan Police shortly before the Bellfield trial started in April 2011. This alleged hacking was reported by the media in July 2011. The public revulsion and outcry over media intrusion into a murdered schoolgirl's phone set off a chain of events which included the decision by Rupert Murdoch to close the News of the World in July 2011, and the public inquiry headed by Lord Justice Leveson into the culture, practices and ethics of the press, including their relationship with the police.

In July 2011, following the conclusion of Bellfield's trial, the then Chief Constable of Surrey Police, Mark Rowley, set up 'Operation Baronet', to look into the disclosure to Surrey Police in April 2002 that the News of the World had allegedly intercepted Milly Dowler's voicemail, and the subsequent failure to investigate these serious allegations. Operation Baronet was tasked with establishing who in Surrey Police was aware of this, what action was taken as a result and why. Part of Operation

Baronet's terms of reference was to refer to the IPCC any recordable conduct¹ matters identified in the course of the inquiry.

Referrals to IPCC

On 21 June 2012 the IPCC received two referrals – from Surrey Police Authority in respect of Deputy Chief Constable Craig Denholm, and from Surrey Police in respect of Temporary Detective Superintendent Maria Woodall. Both referrals related to the officers' involvement in the Surrey Police investigation into the disappearance of Milly Dowler. Both arose from evidence being gathered for Operation Baronet, which suggested that the officers' accounts to that investigation of what they knew about phone hacking might not be true.

IPCC Investigation

The IPCC investigation interviewed the two officers whose conduct had been referred, and also investigated the state of knowledge of other former senior Surrey Police officers, including the senior investigating officer of Operation Ruby (the investigation into Milly Dowler's disappearance) in 2002, as well as the ACPO team in place in Surrey at the time.

Our investigation reviewed all the accounts obtained by Operation Baronet from officers in Operation Ruby and spoke to individuals who were in meetings with, or were, key decision-makers in 2002 and 2007. We also sought to recover all contemporaneous documents; however, not all of the material that could have been expected to be produced could be located.

The task of the IPCC was to determine, on the evidence available, whether there was a case to answer for misconduct against Mr Denholm or Ms Woodall, on the

¹ Serious Conduct where there is an indication that a person serving with the police may have committed a criminal offence or behaved in a manner that would justify the bringing of disciplinary proceedings

grounds that they were not truthful about the extent of their individual knowledge, or actions, in 2002 and 2007 respectively.

A number of more junior officers in 2002, including Ms Woodall, were frank about their own knowledge of the phone hacking. However, witnesses became much less specific in relation to the knowledge and actions of senior officers, particularly Mr Denholm. We could find neither documentary nor witness evidence about why and by whom the decision not to investigate was made, once these allegations were known.

In 2002 Ms Woodall was a Detective Sergeant; her role in Operation Ruby was Action Team Manager. The case against her rested on her actions and knowledge in 2007, when the first phone hacking convictions took place. It is clear that at that point she accessed the HOLMES system to view documents from 2002 associated with phone hacking. However, the relevance or importance of this to her and others is unclear, and we could find no conclusive evidence that she discussed this with anyone else, including Mr Denholm. Given her admissions to the Operation Baronet team about her knowledge in 2002, and her junior rank at that time, the investigation concluded that there was no case to answer for misconduct.

Mr Denholm was a Detective Chief Superintendent and Head of Crime for Surrey Police in 2002. His initial role in Operation Ruby was Officer in Overall Command. The case against him rested on his claim to have had no knowledge about the alleged hacking of Milly Dowler's phone before this was revealed publicly in 2011. Given the extent of knowledge within the investigation team, and Surrey Police as a whole, and the fact that this was referred to in documents which he is known to have received, the investigation found it hard to understand how he, the officer in charge, could not have been aware of the alleged hacking. But despite detailed examination of all extant documents and interviews with all relevant witnesses, the investigation was unable to find any witness or documentary evidence that contradicted Mr Denholm's own repeated assertions to the IPCC that he did not know, and had not made the relevant connections. In view of that, and the passage of time that has since elapsed, during which what might have been crucial evidence has been lost or misplaced, our investigation concluded that there was insufficient evidence to support a finding of a case to answer for gross misconduct.

Conclusions

There is no doubt, from our investigation and the evidence gathered by Operation Baronet, that Surrey Police knew in 2002 of the allegation that Milly Dowler's phone had been hacked by the News of the World. It is apparent from the evidence that there was knowledge of this at all levels within the investigation team.

There is equally no doubt that Surrey Police did nothing to investigate it; nobody was arrested or charged in relation to the alleged interception of those messages either in 2002 or subsequently, until the Operation Weeting arrests in 2011.

Phone hacking was a crime in 2002 and it should have been investigated. Our investigation has heard from officers and former officers at Surrey Police who have expressed surprise and dismay that this was not done. We have not been able to uncover any evidence, in documentation or witness statements, of why and by whom that decision was made: former senior officers in particular appear to have been afflicted by a form of collective amnesia about this. That is perhaps not surprising, given the events of 2011 and the public outcry that the hacking of Milly Dowler's phone produced.

There were two elements in play here. One was the at times unhealthy relationship between the police and the media, exposed in the Leveson inquiry. One officer told the IPCC it was in order to "keep the media onside". This is plausible; a former senior officer from Surrey Police commented that the press was "untouchable and all powerful".

The other is the fact that in 2002 Surrey Police were involved in a major missing persons, later murder, enquiry, and at the time they became aware of the phone hacking their focus was on finding Milly Dowler, then bringing her killer to justice, rather than on the illegal interception activities of the News of the World.

However, it is more surprising that alarm bells do not appear to have rung and connections made in 2007, when two people connected with the News of the World pleaded guilty to phone hacking offences, or later, in 2009/10, when details began emerging in the public domain of further phone hacking activity. In view of the

widespread knowledge uncovered in this investigation, we consider that it is scarcely credible that no one connected to the Milly Dowler investigation recognised the relevance and importance of the knowledge that Surrey Police had in 2002, before this information was disclosed by Operation Weeting.

We will never know what would have happened had Surrey Police carried out an investigation into the hacking of Milly Dowler's phone in 2002. We know from evidence to subsequent inquiries that the law in this area was untested. But the alleged illegal act should have been acted upon, if not in 2002 then later, once the News of the World's widespread use of phone hacking became a matter of public knowledge and concern. Surrey Police has apologised for their failure to the Dowler family - and they were right to do so.

Deborah Glass
IPCC Deputy Chair

April 2013

A Commissioner's report is not an IPCC Investigation report. The purpose of a Commissioner's report is to share with the public the key findings and summary of the IPCC investigation, including the Commissioner's own decision making, the outcome of any legal processes that followed from the investigation, any learning recommendations and relevant context. The investigation report contains full details of the evidence supporting the findings and conclusions and the report into this case is not being published at this time at the request of the Crown Prosecution Service, in view of ongoing criminal proceedings.