



## Home Affairs Committee

Oral evidence: [Regulation of Investigatory Powers Act 2000](#),  
HC 711

Tuesday 11 November 2014

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Written evidence from witness:

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Members present: Keith Vaz (Chair); Michael Ellis, Lorraine Fullbrook, Dr Julian Huppert, Mr David Winnick.

Questions 166 - 235

*Witness:* **Sir Bernard Hogan-Howe**, Metropolitan Police Commissioner, gave evidence.

**Q166 Chair:** May I welcome the Commissioner, Sir Bernard Hogan-Howe? This is one of the regular sessions we have with the Commissioner to discuss issues of concern to the Committee. In particular, we are conducting an inquiry into RIPA. We are also looking at gangs, youth crime and other matters. It is likely, as it normally is, Commissioner, to be very broad in respect of what we ask you.

I want to ask about something just in the public domain, relating specifically to Operation Fairway. There is an article in *The Times* today, following a freedom of information request by the newspaper to the Metropolitan Police, which reveals that your organisation holds 2,000 records with the words “reporter”, “journalists”, “photojournalists” and “photographers”. That has caused great concern to members of the Society of Editors and the press as a whole. Why are you collecting information on journalists in that way?

**Sir Bernard Hogan-Howe:** First, Chair, I saw the reports at the same time as everybody else did, in the press, so I will give a fairly quick and shallow account, but I will do my best to help.

It is talking about the unit called the National Domestic Extremism Unit. The Committee may know that for a long time that unit was part of ACPO, but more recently over the past 12 to 18 months it moved into the Met. The records we are talking about would in part have been supervised by ACPO before, but recently are our responsibility entirely.

I understand that a journalist had asked for how many of our records in that unit relate to journalists, photojournalists and a further two terms. Getting that information was proving quite problematic, so they simply did a word search of the database using those terms. They got back that there are 2,000 references to those four groups. That is not the same as saying that there are 2,000 journalists on whom we hold records. Probably, by being very open, we are being very accurate but have not necessarily elucidated too much.

The critical thing that those who are worried might want to know is how many journalists we have records on. One explanation for so many records—apart from just a word search—is that on occasions officers might have put in intelligence at the scene of disorder, because that is one of the things that the National Domestic Extremism Unit looks at, and there will have been journalists involved there. That is a broad term for journalists being around.

Those are the first accounts that I have had, but if we have any more information we will obviously be happy to share that with you.

**Q167 Chair:** Thank you. We are concerned about the thought that any journalist and their confidential sources are the subject of an investigation or being retained in the files of the Met. That follows the incident concerning Chris Huhne and the actions of not the Met, but Kent police, although it says it was Essex police because they were working together on that. Can you assure the Committee that you do not routinely collect information on journalists and look at their sources?

**Sir Bernard Hogan-Howe:** We don't. The only reason that we have an interest in anyone is if we consider them to be suspicious about the involvement in crime. That is the main reason that we have an interest in people, either as a victim or as a suspect.

**Q168 Chair:** We will come back to RIPA in a moment with Dr Huppert, but may I move on to another area? Since you were last here the Home Secretary has announced a review of police bail. There have been many public comments about that. Paul Gambaccini and others have said they have suffered 12 months of trauma while being on police bail. You will know the aftermath of the phone hacking issue where a number of journalists have not been charged—not just journalists, but others associated with News Corporation—and are still on bail. Do you think that is the right thing to do? Are you concerned by the number of extensions of bail that there are for no apparent reason?

**Sir Bernard Hogan-Howe:** I think the first thing, Chair, is that a review sounds like a good idea. I suppose we, the police, have always made a case that sometimes we need long bail. I think I can go through and explain why that is sometimes appropriate. Certainly in some of those cases, you would see why people would get concerned; if it was a very long period when the person is under suspicion and that person is worried about the consequences. In the past, we have said it should be remand in custody prior to an appearance at court. After charge, it could then just run for a long time. Eventually

Parliament brought in that it should last no more than around 100 days after the first appearance.

It may well be that there is a need to have a limit. I suppose in setting that limit, whatever it might be—whether days, months or years—the things that we would ask people to consider are obviously the complexity of the investigation that is being carried out and the fact that in some of the cases we have a suspicion at the beginning and if it is well founded, someone may be hurt, such as in the case of sex abuse or child pornography. There are times when we have a suspicion at the beginning and if we wait long enough to produce a case, as we see with terrorism cases, it may be a long time in terms of making the arrest. Therefore, we always have to make a judgment about whether we go early with the arrest or late. If you go too early you sometimes have to build a case afterwards to evidential charging standards. Some of those cases are not straightforward, such as complex fraud and some of the cases I have already mentioned, and of course some of the things the Committee might talk about today will be historical offences. Again, as I think the Home Secretary has talked about today, trying to recover historical records can be quite a difficult thing, which alone needs time.

**Q169 Chair:** So you welcome the review, but you would be advancing, presumably on behalf of the Met, the view that the extension of bail over a period of time is important for the reasons you have just outlined.

**Sir Bernard Hogan-Howe:** I think so, and there are alternatives. We can release people from bail and say “That bail is stopped,” but it doesn’t stop the investigation. Frankly, that doesn’t really change the stress on the individual. Bail can often impose conditions. It might be that to control the suspect or protect the victim we will set conditions about where that person goes and who they meet. Those are reasonable things. If you think about victims of sex abuse, for example, they often do not want to meet the person who has been their abuser again. We want to ensure that that does not happen so far as conditions on bail help. There are many things to think about in that consideration, but I accept the broad point that no one wants it going on for a very long time where anybody thinks, for example, that the inquiry was being lazy or just not being rigorous enough. I agree there is some compromise to strike.

**Q170 Chair:** Since you were last here we have concluded a report on the police and the media. Since you have taken over as Commissioner, apart from one celebrated case—the Andrew Mitchell issue, where you caused an investigation to take place—leaks from the Met seem to have come to a grinding halt. When David Crompton gave evidence to us in the Cliff Richard matter, he was quite clear that he thought the leak to the BBC had come from Operation Yewtree. We appreciate that Martin Hewitt runs that in the Met. Have you spoken to him? Are you reassured that that was, in fact, not the case? As you know, the Committee was quite critical of Mr Crompton. We felt he should have phoned you and got you to investigate this. His response was, “If I had rung the Commissioner, the source would

have been notified,” thus seeming to indicate that that was where he thought the source was. Are you happy now that this leak was not from Yewtree?

**Sir Bernard Hogan-Howe:** So far as we can, we have looked at it at some level, and we cannot establish evidence that shows the Met was the source. I suppose, with this leak to a northern journalist, if you look at what has happened with Yewtree, it has been in an investigation room for two years. If it was a leak from the Met, it would have been the first time in two years that had happened; that’s entirely possible, of course, but it seems unlikely. We are still looking for the evidence. As you know, and as this Committee discovered, there was, in fact, a contradiction between what the South Yorkshire police believed had happened and what the BBC believed had happened. I suppose, on those grounds, we think it is at least contentious that the Metropolitan police is involved in this, but I am open-minded; if we see evidence or intelligence that leads us to think that is the case, of course we will pursue it.

**Q171 Chair:** Have you received any communication from David Crompton since he appeared to give evidence to us?

**Sir Bernard Hogan-Howe:** We have been talking—as you say, AC Hewitt has been talking—to South Yorkshire police, having that conversation about whether we can share all the information they have. It is public knowledge that the previous police and crime commissioner—recently there has been a change in the police and crime commissioner in South Yorkshire—asked for someone to review South Yorkshire’s handling of this leak process. I do not know whether that has concluded, but if they conclude it isn’t South Yorkshire and there is something for the Met to investigate, we will seize on it and do something about it.

**Q172 Chair:** Thank you. We will pursue that with them.

Let us move on to corruption issues and Operation Tiberius. Thank you very much for arranging for your officers to come over to the Committee. A number of Members looked at the mountainous detail contained in the files about this matter. It did not reassure me when I saw all this information; it worried me a great deal. Obviously, we could not look at everything in that short period of time, but it has been estimated that between 1,000 and 2,000 police officers are corrupt—that is what the estimates are. Do you think that is an accurate figure? Do you have any figures on corruption in the Met?

**Sir Bernard Hogan-Howe:** First, Chair, can I just check the source of that? I think I know what I saw reported publicly. What is the source of that 2,000 estimation?

**Chair:** I think this is sources that are in the public domain.

**Sir Bernard Hogan-Howe:** Right. But I would like to know what caused them to imagine that.

**Chair:** I can tell you. On 18 October 2014, a Home Office report analysis estimated that up to 2,000 officers of all ranks could be corrupt.

**Sir Bernard Hogan-Howe:** I was just checking if it is the same source I saw publicly quoted. I think it is an extrapolation from a small sample. I think it is talking about the whole pool of people, which is, in fact, about a quarter of a million people. There are about 130,000 police officers in the country and about another 60,000 or 70,000 police staff. So that is the group of people, and I believe that the people behind the analysis—I am not sure how they came to that calculation—are talking about an extrapolation from some cases and saying, “If it was 1%, the number would be this.” That was for the country—England and Wales—not the Metropolitan police. I don’t think I can be as precise, for the reasons that that piece of work would be precise, but I am sure things are an awful lot better than they were 20 years ago. I think the nature of corruption has changed, and I think we are in a far better position to deal with it when it occurs, as, with human behaviour, it will.

**Q173 Chair:** You have been Commissioner for almost exactly three years and two months. In that time, how many of your officers have been charged with and convicted of corruption?

**Sir Bernard Hogan-Howe:** I was not prepared for that question exactly, but we can share that information with you. But I can certainly tell you that, over the last 12 months, we have had 18 people who have been removed from the organisation for an allegation of corruption or, alternatively, misuse of information. What has changed from the documents that you saw—Tiberius—is that 20 or 30 years ago we saw people, and sometimes even groups, who had been corrupted by organised criminals. What we see now is often individuals—rarely will we see groups of officers—and they are not always controlled or organised by organised criminals. They have got into corrupt relationships with individuals and they share information, which is more available to them now because of the better IT that we have, although I always hope it will be better than it is. There is, sadly, more opportunity to share information, but less threat from organised criminals who believe they will be successful in corrupting officers. But it will happen from time to time.

**Q174 Chair:** When appeared before us on 25 March, you said you had read only parts of Othona. Have you now been able to read the whole of it?

**Sir Bernard Hogan-Howe:** Having been suitably chastised, I have read the whole lot. It is quite a document, just for those who have seen it—I think reassuringly comprehensive, although it leaves lots of questions unanswered. I think what we all have to keep in mind is that of course that relates to a period of at least seven years; so it brings together an awful lot of intelligence and sometimes evidence of a significant period in the Metropolitan police’s history, which needed to be investigated. Of course, with Tiberius, the whole point was that they were determined to do something about this threat that they had identified.

**Q175 Chair:** And have you now stopped shredding documents at the Met?

**Sir Bernard Hogan-Howe:** Yes, we stopped that immediately after Mark Ellison's review, if you remember; so what Mark Ellison identified—as, frankly, the Home Office has discovered today—is that first of all if you do not have a list of what you have or you have destroyed, you really struggle to answer the question, “What have you got?” I think that is exactly what many public bodies are discovering.

Secondly, there is this challenge, as I think Parliament has discovered, between the proper destruction of documents and the documents that should be retained for a very long period of time—if not for ever, certainly for the lifetime of many of the people involved. The first thing we did was to stop destruction.

The second thing we have done is that we appointed a judge, who is actually a retired Crown court judge from the Norfolk area, who is overseeing an independent look at how we look back at all our records, including the ones we talk about in Tiberius, to make sure that we have found all the documents. In that case alone we found 3,003 packing boxes of material, and it has taken 12 weeks to catalogue everything in them, because the original indexing was wrong in some cases; so we have had to catalogue what is there. That is just one aspect.

The final thing is asking AC Hewitt, the new assistant commissioner we appointed four months ago—partly because of the issue that we are talking about—to identify if there is any way in commerce where they are able to help us go backwards and capture all the legacy documents we have, index them by computer, and make sure that as far as humanly possible we lose nothing; because it is very clear that in this type of inquiry there is every possibility. As the Home Office are finding with this inquiry today, with the Wanless inquiry, you look suspect if you cannot articulate why you got rid of something, or even know where things are. So it is quite hard to go back, but we should; and frankly that piece of work, where we are exploring with a commercial entity, to do this, came from a discussion with Baroness Lawrence.

**Q176 Chair:** So you have got how many crates of documents, now?

**Sir Bernard Hogan-Howe:** In that particular case, on the anti-corruption side, 3,003.

**Q177 Chair:** Crates? Containing how many files?

**Sir Bernard Hogan-Howe:** Goodness knows. I honestly could not answer you. I think it is thousands, anyway, of documents. You can imagine that one box—

**Q178 Chair:** Is not that a big worry to you—that there are so many files relating to corruption in the Met?

**Sir Bernard Hogan-Howe:** Not really. I am being very precise about all these boxes, but some will be HR records for the anti-corruption units; it is everything that we know. So I

gave Martin the task of finding out what we have got, and if it has got anything on it to do with this area. I do not want to come back in another two weeks' time and say, "I'm sorry; we've just found another one." So I think we have made it a very wide trawl, and it is of a very long period, because some of these records do go back before 1994, and therefore it is not that surprising, in a very big organisation, that there are lots of documents.

**Q179 Dr Huppert:** Sir Bernard, as I am sure you remember, as part of the DRIPA package, it was agreed there would be code changes—the code of practice about accessing information from normally confidential sources, such as journalists, and so forth. Have you seen proposals for that, and are you comfortable with them?

**Sir Bernard Hogan-Howe:** I have not seen all of it. I have certainly heard the spread of them. I thought broadly they seemed a good idea, but if there is anything explicit I would be happy to give a view.

**Q180 Dr Huppert:** In particular, are you comfortable that it is possible, reasonably, to exclude all journalists from having evidence of their communications being collected?

**Sir Bernard Hogan-Howe:** Entirely? I would say no. I would argue no. The starting point for me would be, given the present debate about journalists and RIPA, that first of all I think we would all agree that if a criminal is involved in criminal activity then we expect to be able to investigate them, and no matter who you are or what you are then that should be the case.

The second, and contradictory, tension is that obviously for some people you would argue for some sensitivity at least, and privilege at most, if we are talking about very sensitive things: so a lawyer with their client, a journalist with their source—you can argue it. This place would argue for parliamentary privilege as well. It could go to medical privilege and so on. It seems to me that when the individual is exercising that privilege, they deserve at least some consideration, and probably some protection, provided that privilege is not being abused. That would be our broad position.

**Q181 Dr Huppert:** When you say some consideration, do you mean a slightly more senior officer looking at it? Do you mean judicial approval? What would your view be?

**Sir Bernard Hogan-Howe:** If you separate out the two types of data that we are talking about, we have the interception of communication and the collection of data. For the interception of communication, one line is directly to the Home Secretary. Whatever we and the Home Secretary or Parliament could agree about a process of checks and balances along the way, I would argue that it is pretty good at the moment because it ends up with the Home Secretary. She, and whoever does it in the future, would generally want to be sure that what they receive is in a good position. If the interception of a telephone, broadly, or any communication en route between people is anywhere near this sort of sensitive area,

there is a process by which more checks will be made about, “Why do you want it? What do you expect to do with the material?”

I have certainly seen cases in the past where we have been looking at lawyers who have not been advising their clients in a legal way but have been acting as criminals. Of course, what you have to contemplate is that they will sometimes be good lawyers. They will be acting in a good way for 90% of their clients and not for a smaller percentage. We have always put a firewall between that communication, where it is legally privileged, and the police do not receive it until it has passed that firewall. A separately qualified, independent QC will often be the firewall in receiving material, and they then discriminate on what the police—the SIO in the case—should receive. That is on intercept.

If you look at communications data, it is certainly possible to argue that various forms of trip should be passed. The ones we have at the moment are senior police officers. It sounds as though people are not that reassured by that, which I understand. There are various options. There could be more senior police officers, but that might not be too reassuring. You could think about interception commissioners, who already have some pre-authorisation in some cases for surveillance or interception. You could also argue for judges.

**Q182 Dr Huppert:** Would you be relaxed about looking at all of those options?

**Sir Bernard Hogan-Howe:** I think you have to. The only problem would be the definition, not whether it is a good or bad idea, and then how you carry it out. How do you define a journalist?

**Q183 Dr Huppert:** I think that many people would be quite reassured by judicial oversight of many of these things. One issue that you and the Home Secretary have highlighted is IP matching, which was in the Queen’s Speech two years ago. Have you had any discussions about proposals to resolve that problem?

**Sir Bernard Hogan-Howe:** Matching what?

**Dr Huppert:** Matching IP addresses—a limited number of addresses that are shared between devices.

**Sir Bernard Hogan-Howe:** I know that discussions are still ongoing about that, because it has not technically been a straightforward issue. We are obviously working with the providers to see what help we can get, but that is a broader debate. I articulated last week in the speech I gave that how we maintain our coverage is vital to us, but I am not informed about how—

**Q184 Dr Huppert:** Have you not spoken to the Home Secretary?

**Sir Bernard Hogan-Howe:** No. In the discussions you had with Sir Paul and Mick Creedon last week, you mentioned an acronym that I had never heard of. In the few hours that I have been able to get a briefing, I do not know what that—is it BSP6?

**Dr Huppert:** IPv6.

**Sir Bernard Hogan-Howe:** I'm sorry. I have no knowledge of what that means. I did my best to find out.

**Q185 Dr Huppert:** I will happily explain it to you some time. It is how the IP addresses are done.

One other quick question: you are presumably aware of Project Spade, which is the 2,300 people who purchased child abuse images from Canada. Have the Met arrested people who are on the Project Spade list?

**Sir Bernard Hogan-Howe:** Yes. While I am talking, I will see whether we have the numbers, but I think we had 190-odd notifications. We have arrested about two thirds to three quarters. Of the ones that we have not arrested, many are already charged with other offences or are in prison. There is a handful—three or four—where we are still trying to identify the person at the other end of the address. Broadly, we have carried out everything that we could in the time we had.

**Q186 Dr Huppert:** That is very helpful. I will not press you for more details now, but could you write with the exact numbers?

**Sir Bernard Hogan-Howe:** Yes, I will.

**Q187 Dr Huppert:** I would also be interested to know—again, I totally understand if you do not have this with you—what they were charged with, if any of them were actually abusing and where the delay could have been. We had a case in Cambridge where someone continued to abuse children during the 16-month delay. I would be grateful to know if that is the case here.

**Sir Bernard Hogan-Howe:** If you will forgive my off-the-top answer, I am pretty sure that one person was charged with contact abuse, or one was discovered.

**Q188 Dr Huppert:** If you could write, that would be very helpful.

**Sir Bernard Hogan-Howe:** I will.

**Q189 Chair:** On Spade, Toronto wrote to the NCA. As we know, that stayed with the NCA for 16 months. How quickly after you received the information did you begin your investigations?

**Sir Bernard Hogan-Howe:** I will take some advice on that, but I think that it was fairly quickly. Obviously, we had work to do to identify who was at the other end of the phone or internet. I think that it was within weeks or months; it was not a very long period from the notification we received. The other thing that people tried to do was to co-ordinate it around the country, rather than fire off in different ways, which might have alerted some people where conspiracy was involved.

**Q190 Chair:** Is this because the NCA has provided a new layer of bureaucracy? If it had not been in existence, presumably Mr Paulson would have rung you and sent you the details. Would he?

**Sir Bernard Hogan-Howe:** It would be an easy defence for me to use, but I do not think it would be fair to say that it was a bureaucracy. The NCA has been trying to manage a difficult problem of tens of thousands of reports and trying to give us some information about where the people are and what the connection is. Number two is to make some risk assessment—

**Q191 Chair:** No, they have given us the explanation. They did not know that it was there until Toronto had rung them and told them that they were about to do a press release. Then they sent it on to you. You are defending them solidly, but they have admitted to sitting on this for 16 months.

**Sir Bernard Hogan-Howe:** They will have to give an explanation of that. The only thing that I could help them with is that, to be fair, they worked with some Merseyside academics to come up with something that would help them to prioritise. Now, we could either have done that 43 times or have taken the singular approach. They would have to talk about how they dealt with the material once the work had been done.

**Q192 Lorraine Fullbrook:** Sir Bernard, I would like to ask you about gangs and youth crime, particularly about the 20-week pilot study. The Metropolitan police has been testing the software designed to identify gang members most likely to commit violent crime. Would you give the Committee an update on the evaluation of the pilot study?

**Sir Bernard Hogan-Howe:** At the moment, we do not have any definitive evidence. We are working with a private provider, which is doing it free. We are getting a benefit and frankly, so are they, in terms of intellectual property. The idea is try to predict who gang members might be and where they might develop. The provider is helping to challenge some of the assumptions that we make, and is bringing other sets of data, from social welfare and health together with the police data that we have, to see whether we can be

more predictive in our work on the gangs. At the moment, it is a little bit too early to draw any conclusions; but if you would like to be involved and come to have a look, you would be welcome to.

**Q193 Lorraine Fullbrook:** Yes, please. That would be great because we are doing our own inquiry into gangs and youth crime.

**Sir Bernard Hogan-Howe:** The first thing that we did, as the Chair pointed out, three years ago when I arrived, was to declare that we have a problem. The sad thing was that, in London, we had not been prepared to do that.

**Q194 Lorraine Fullbrook:** Is it only designed for gangs and youth crime, or could you pick up serious and organised crime using that software?

**Sir Bernard Hogan-Howe:** I'm not sure. I would hesitate to say because, as you know, the distinction between the Trident-type younger gangs and the ones that we see in Tiberius is usually age. This work is concentrating on the gangs with members aged between 14 and 24. The Tiberius-style gangs, who are going to import 40 kilos of heroin, are 35 onwards and have a long distance between themselves and the crime. The young can be dangerous, so it is that group that we are really focusing on in the gang work.

**Q195 Lorraine Fullbrook:** But they could be working for the 35-year-olds as well.

**Sir Bernard Hogan-Howe:** I acknowledge that and I agree with you entirely. I do not think that we ignore that spectrum, but before we were ignoring the bottom end of the market. That is what we are trying to remedy now.

**Q196 Chair:** Have the water cannons arrived?

**Sir Bernard Hogan-Howe:** They have.

**Q197 Chair:** Are they parked somewhere safely?

**Sir Bernard Hogan-Howe:** They are.

**Q198 Chair:** Do you have permission to use them now?

**Sir Bernard Hogan-Howe:** No. Well, we do in one sense—to train with.

**Q199 Chair:** Was that a no?

**Sir Bernard Hogan-Howe:** We don't need permission to train with them, so we are training. We do need permission to use them in the public domain.

**Q200 Chair:** And the Home Secretary has not given you permission yet?

**Sir Bernard Hogan-Howe:** That is correct.

**Q201 Chair:** Why has it taken so long?

**Sir Bernard Hogan-Howe:** I have enough problems answering the questions that I am responsible for. We are just waiting for the Home Secretary to consider that. We await that outcome, but we cannot force it. It is not a straightforward issue.

**Q202 Chair:** But the last time you came before us was in March. We are now in November.

**Sir Bernard Hogan-Howe:** That is correct.

**Chair:** That is a very long time to wait to get a letter back from the Home Secretary. Does it make you feel that she is not going to support what you and the Mayor want to do, which is to use the water cannons on the streets of London? We are used to delays from the Home Office, but never of that kind of length.

**Sir Bernard Hogan-Howe:** I think that the Home Secretary has asked for some more information before she makes the decision. I am sure that, once that is provided, it will be easier. To be fair, being able to use water cannon is not just my or the Met's, but ACPO's policy. Of course, in the United Kingdom, the PSNI has that opportunity anyway.

**Q203 Chair:** You quote ACPO, but Sir Hugh is not a great fan of water cannon, is he?

**Sir Bernard Hogan-Howe:** Well, he used them in Northern Ireland.

**Chair:** Now he isn't—

**Sir Bernard Hogan-Howe:** He is the president of ACPO, and he and we have agreed a policy, which is that we think water cannon should be available. Nobody is a great, passionate zealot for using the things, but we are arguing that it is reasonable to have them in our armoury to prevent some of the alternatives, which are pretty awful.

**Q204 Chair:** What will happen if the Home Secretary turns around and says, "No, you can't use them."? Will you carry on using them just for training? What do they cost, by the way?

**Sir Bernard Hogan-Howe:** Off hand, I think our three cost about £250,000 together.

**Q205 Chair:** Right. And what if she says you can't use them?

**Sir Bernard Hogan-Howe:** Then, of course, we will have to consider our next option. It will either be keep them, and if there is an outbreak of public disorder look at licensing them as a fall-back position. Alternatively, I suppose we would have to consider whether we continue to keep them. But that is as much a political decision in London as an operational one. We are just content that we have the option.

**Chair:** Thank you for being so open with us. Dr Huppert has a question.

**Q206 Dr Huppert:** The Chair has asked some of the questions I wanted to ask. You said that you are supportive of this. Somebody said that they "have their limitations. They are not the answer. I am not a passionate zealot for this. Of course these things are expensive. Most of the time, they just sit there doing nothing." Do you remember saying those words?

**Sir Bernard Hogan-Howe:** Yes, but you need to put it in context. That was not the only thing I said about the issue. I am not too sure, therefore, what the question is.

**Q207 Dr Huppert:** But you did say that you are not a "zealot for this. Of course these things are expensive. Most of the time, they just sit there doing nothing. They are not the answer." What is the other context that we are missing?

**Sir Bernard Hogan-Howe:** The positive arguments. You just listed the negative ones.

**Q208 Dr Huppert:** I do not see in this transcript—

**Sir Bernard Hogan-Howe:** Ah, you see, you should have had a comprehensive transcript.

**Q209 Dr Huppert:** If you would like to send one, that would be very helpful.

**Sir Bernard Hogan-Howe:** My broad argument, which I stand by, is this. I am not a passionate zealot for guns either—I hate guns—but we have them. It was in that context that I was making that point. If you are not careful, you get identified as the person who wants only water cannon, and that becomes the thing that defines you. I don't agree with that. I was making the simple argument that, in the riots in 2011, officers could not go forward. They were being bricked for six to eight hours, and we needed something to prevent that from happening. We needed to put the missile throwers beyond range. There are limited options. Baton rounds are a alternative. We have baton rounds, but does anybody want to see us using them? Frankly, it would have been possible on the Saturday to

have used them in Haringey. I would prefer that that never happens on the UK mainland, because it never has. Anything that prevents us from getting to that level of police violence is to be preferred. At the end of the day, it is a change in culture—I accept that—but it is water.

**Chair:** Those are the arguments for and against. The Committee will write to the Home Secretary to ask her about this, because we think that an eight-month delay following the purchase of those vehicles, using public money, needs an answer.

**Q210 Mr Winnick:** If I may, I will start with the water cannon, Sir Bernard. Are you saying to the Committee that water cannon would have helped in the disturbances of 2011 that caused such disquiet, destruction of property and fear among ordinary people?

**Sir Bernard Hogan-Howe:** Only on one day—on the Saturday. On the Sunday and Monday, it was a different type of disturbance. On the Saturday, the disturbance was limited broadly to the Haringey area. It pushed up a little into Wood Green. On the Sunday and Monday, as you know, it spread out over 16 and then 26 boroughs across the rest of London in moving, roving groups. On the Saturday, we had a fairly static riot in one place. On that night alone, it would have helped, although it would not necessarily have resolved it. Had we been able to resolve it on the Saturday, I suspect we would not have seen the Sunday and Monday happen. In that context, I think it could be helpful.

**Q211 Mr Winnick:** So, in effect, you are rejecting the view held by quite a number of people in the police force and outside that water cannon on the mainland—leaving aside Northern Ireland and the unique situation that existed there during the troubles—would simply escalate the situation, rather than resolving it and restoring the rule of law?

**Sir Bernard Hogan-Howe:** The first thing, Mr Winnick, is that the distinction between them and myself is that I was there and I saw the consequences for the officers who were not able to deal with things and were not able to support the fire brigade in carrying out its role. On that Sunday morning, I met the officers, and they were humble about the fact that we had not been able to get the numbers there—they just stood there being bricked for a long time. I thought that we had to seriously consider our options.

Secondly, I invite the Committee to consider the situation. On that Sunday morning, we'd already got a terrible situation. We'd had part of London burned, a fair number of people injured and a huge amount of damage. If we'd had a lot of people dead, the question would have been, "Why did you not use baton rounds?", not, "Why were you asking to use water cannon?"

From the very beginning, back in 2011, we asked ACPO and the Home Office to consider what options we want if we don't want to deploy baton rounds or physical violence—do we have other options? All we have asked all the time is for the water cannon option to be considered. It is a change in culture, but I seriously think that it is not a terrible

thing to deploy water against people who otherwise will be violent and may cause very serious injury to people.

**Q212 Mr Winnick:** That will, of course, remain a controversial matter. If, at the end of the discussions with officials and the rest that are presumably taking place, the Home Secretary says that the answer is no, I take it that that will be no?

**Sir Bernard Hogan-Howe:** Of course. The law is the law, and if it says that there is no licensing of the equipment on the mainland, that will have to be the answer. But I presume that there will be debate along the way. We have started that debate and will have to await the outcome.

**Q213 Mr Winnick:** But you will not be able to use water cannon if she says no, that is the essence of it.

**Sir Bernard Hogan-Howe:** No. I suspect that if it gets to a really bad night or a really bad day, everyone will have to think seriously about how they deal with that. Of course, you will remember that, after 2011, the Government said that water cannon were available within 24 hours.

**Q214 Mr Winnick:** I want to turn for a moment to undercover policing. You will know about Bob Lambert—indeed, you will know more about the case than most of us—and the allegations that have been made against him that he fathered a child and deserted the mother, who did not know about his real existence for some time. Her view, shared by other women in similar circumstances, is that she was violated by the state. How far do you believe that changes and reforms in undercover policing, if there are any, will be any improvement on what has happened previously?

**Sir Bernard Hogan-Howe:** As I have said when I have appeared before this Committee before, you can never eradicate bad human behaviour, but on the whole I would try to reassure you that the systems and oversight that we have put in place are far better, as is the oversight of the surveillance commissioners. We have all got far more intrusive than perhaps we have been in the past.

A simple but important example is that many of the operations that run into this type of problem are run over many years. The benefit is that the undercover officer establishes a legend that is therefore more believable; the risk is that things such as you have mentioned develop in terms of relationships. It used to be that a commander in the Met or an assistant chief constable in the rest of the country could carry on authorising these operations, year after year after year. Now, after a year, a commander has to justify the operation to a chief constable or an assistant commissioner; it can only carry on beyond a year if it has been pre-authorised by a surveillance commissioner, who is an independent body, as you know; and anything that runs beyond a year must be reviewed monthly, as it

would be during the year, by a commander or an assistant commissioner. That is just one example of where we are being far more intrusive, but I think that there are many more.

**Q215 Mr Winnick:** Do we take it that sex is out, if you like? Will undercover police officers effectively be told that, no matter what, they are not to engage in sexual relationships within the group they are infiltrating?

**Sir Bernard Hogan-Howe:** First, it has never been our policy for that to happen. Secondly, we are explicit—if we ever needed to be—that that is our policy and it will not happen.

**Q216 Mr Winnick:** If there was such a ban in practice, which certainly was not the situation before, as we know from the case that I mentioned and other similar ones, will that be as clear a signal as there could be to the group that has been infiltrated that the person is a policeman?

**Sir Bernard Hogan-Howe:** Well, undercover officers face many tests, and that could be one of them, but we think that there are ways to manage that. Quite often, officers are tested by drug taking. Should they take drugs? Should they commit another criminal act? If you are in a scenario in which you are suddenly offered a gun, do you take it or do you reject it and see what the consequences are? Some of these decisions have to be made at the moment by someone in very dangerous circumstances.

Although undercover officers have come under quite a lot of criticism, as has the system for supporting them, on the whole they do a fantastic job for us in some incredibly dangerous circumstances. So we have to allow them a little leeway in terms of that moment when they may be tested, but in terms of sexual relations that is something that, on the whole, ought to be able to be mitigated against. Could you say that it will never happen? We employ human beings, so I cannot say that, but our policy is clear and I think that it is avoidable.

**Mr Winnick:** We can differ on that, but thank you very much.

**Q217 Michael Ellis:** In my view, Commissioner, the vast majority of your undercover officers are heroes and they do excellent work, often in very difficult and dangerous circumstances. That bears repeating. Obviously, there will be those who misconduct themselves and that is reprehensible, but I am talking about the bulk of your officers. Sajid Javid, the Culture Secretary, made some remarks recently about plans that a future Conservative Government would have for a Bill of Rights, which would include a provision for freedom of the press. Going back to what the Chairman was asking you a few minutes ago, do you think that that would be reasonable? Would you support that, or would you have any problems with it? Would you agree that there should be a provision for freedom of the press, to protect the rights of journalists?

**Sir Bernard Hogan-Howe:** We will reserve our position on a Bill of Rights, because that is a wider discussion which I am not necessarily qualified—

**Q218 Michael Ellis:** But the general principle?

**Sir Bernard Hogan-Howe:** The general point about—I tried to indicate in my earlier answers that I think criminals deserve investigation no matter who they are. Only the sovereign is protected in that way. Apart from that, if they are carrying out certain roles, we have to consider certain responsibilities. To take it in a slightly different but relevant direction, we have to seriously consider asking doctors to inform us about certain issues. For a rape victim, you might say, “Of course rape is a serious issue, but if the victim does not go to get medical attention, that might be the more serious issue.” If someone has been shot, you might say, “We always want to know that because that is a serious thing that we want to start investigating.” But if it stops the person who has been shot getting help, there is a balance to strike for the medical profession. It would be unwise to have absolute lines in either direction to either provide any protection to a group of people who might be committing crime or to miss the opportunity to protect sensitive relationships.

**Q219 Michael Ellis:** I accept that, but within the balance of common sense and giving leeway and discretion where appropriate, would you have any problem with the protection of journalists and their sources?

**Sir Bernard Hogan-Howe:** No; in a liberal democracy, we need a strong press. They need to protect their sources.

**Q220 Michael Ellis:** Can I ask you about the internet and your views on that? I believe that you gave a speech—I saw it reported—in the United States very recently. Was it last week?

**Sir Bernard Hogan-Howe:** Yes.

**Q221 Michael Ellis:** I noticed that the new head of GCHQ also gave a speech; I do not know whether that was a coincidence. Both speeches covered the issue of the lack of regulation of the internet. Was it you who referred to it as the dark web, or was that the GCHQ head?

**Sir Bernard Hogan-Howe:** I think we both used similar terms.

**Q222 Michael Ellis:** Do you accept that, post-Snowden, there is a lack of trust among many in society towards authority? That trust has certainly been adversely affected and manifests itself in a reluctance to see any or many forms of control of the internet. What proposals do you have?

**Sir Bernard Hogan-Howe:** This is the point I was trying to make in my speech, and I think Robert was trying to make a slightly different point about the web. My starting position is that there is a danger. If we celebrate a lack of censorship—no one wants to see censorship on the whole—and if we say that the web is an ideas exchanging zone, it is where to meet and a means to communicate across the world, that is a great strength. It is what it has grown through and we all see the fantastic opportunities. But the corollary of that is that people can commit crime online or not be discovered making telephone connections because of that protection; I do not think that that is a good idea. Someone's jurisdiction needs to extend into the web.

We cannot have an area where people can commit crime with impunity. Getting that balance right between promoting a fantastic thing that we all benefit from and not allowing terrorists, serious criminals and child pornographers to exchange material has to be struck. On the back of the post-Snowden revelations, I accept that many people are starting to get concerned about state intervention in privacy. There is a balance to be struck, but in striking that, we should not end up in a position where people can get away with crime because of the protection.

**Q223 Michael Ellis:** So you do not think that the internet should be some sort of sanctuary from the law, in the sense that if someone uses the internet, they are somehow absolved of responsibility or are not answerable to the law, whereas legal provisions cover any offences that might be committed if they use an old-fashioned telephone or mobile phone. In that sense, there is the issue of communications data, about which you have spoken before. To paraphrase what you said, it can be a matter of life and death to have this information. Do you sustain that view?

**Sir Bernard Hogan-Howe:** Yes, I think so. There are a couple of areas. If we are investigating a murder, an attempt or conspiracy to murder, or a terrorist incident, life is often at risk; not always but sometimes. The other area is where we are looking for somebody who is missing—a child or person—it can be helpful to discover them before they hurt themselves or someone else does, or they have an accident from which they cannot recover.

For all those reasons, we as police officers always argue we want it for fantastic reasons and that we would never misuse it. Generally in my experience, I don't think we do. I respect the fact that some people have had their confidence checked by what they have discovered that the police security services can do.

The final thing I would say is that we should look at some of the doubts that have been raised, by people such as Liberty, about how the security services do their job. They have a very difficult job to keep us all safe and they have to gather intelligence. The distinction between their role and that of the police is that we gather evidence. We are interested in intelligence, but vitally important is what we can put in a court. Unless we can put it to a court we are not always a lot further forward.

**Q224 Michael Ellis:** In summary, do you think this is an issue where we should look at the level of seriousness before we intrude, and how we apply the law to the internet, as opposed to whether we should?

**Sir Bernard Hogan-Howe:** That may be reassuring for people. As I said earlier, we know that we have two broad avenues for material: intercept, where the standard of intervention is very high for serious crime; and communications data, where it is relatively low. You will have seen the numbers; it is something like half a million requests. That sounds terrifying until you realise that one murder can lead to 30 requests, so I would modify that a little.

That number in itself sounds big, so it is reasonable to look at two things. One has already been looked at by the Government but I would look again at the number of organisations that can request the data. Secondly, how high the bar should be before obtaining the data. Those are reasonable things that anyone would want to consider.

**Chair:** That is very helpful. Dr Huppert has a quick supplementary and then we must move on.

**Q225 Dr Huppert:** People often construct straw men in these circumstances. Have you come across many people who argue that there should be no power for the police to do anything at all online?

**Sir Bernard Hogan-Howe:** Almost, if I am honest. The ones who criticise the present arrangements have not been able to articulate what they would like in their place. They just want to articulate what the problem is. I am happy with the present system so my challenge to those people is to articulate better what they propose. For me, that has sometimes been absent.

**Dr Huppert:** We have discussed issues of judicial oversight.

**Sir Bernard Hogan-Howe:** That was my idea.

**Q226 Dr Huppert:** One last quick question. You talked about the half a million data requests. How much work has the Met Police now done on transparency to publish, what they ask for, what the crimes are and how many lead to arrest and how many to prosecution?

**Sir Bernard Hogan-Howe:** In terms of what?

**Q227 Dr Huppert:** Of the requests that are made by the Met Police. The number is available but not what they are about, how many people are affected, or what they lead to. Can you do that?

**Sir Bernard Hogan-Howe:** I am not sure that we have done an awful lot. That is perhaps something we could consider. I suppose we would have to consider it with the intercept commissioners and the surveillance commissioners. I know that you talked last week to the interim commissioner. Perhaps that is something to be considered jointly. Although their report is on the whole pretty helpful, not too many people read it. It may be that by expanding that report we have a better idea of the things that you mention.

The reason I am not as concerned in the Met is that our volumes are bigger. If you are a very small force you may be more careful if you identified. The more identifiers, the more likely you are to identify the individual or the particular operation. You have to consider that. It may be that using the commissioners would be the best way to work through that.

**Q228 Chair:** Thank you. I have a couple of final questions, going back to RIPA. Have you seen any guidance from ACPO to local police forces, including your own, asking them to use national security excuses to refuse freedom of information requests from the *Press Gazette*?

**Sir Bernard Hogan-Howe:** No. From what I have seen of that exchange, I think it is a genuine response to section 19. Under intercept we have a duty not to reveal this information, rather than to reveal it, in terms of where the warrants are and who they are against. It is in that context that the refusal has been made.

**Q229 Chair:** The Committee is about to begin an inquiry into the Mr Bigs of serious and organised crime, especially the proceeds of crime. We wrote to you about that and I know you are concerned. The figures we have from the NAO show that 80% of the £920 million that is owed by convicted millionaires has not been repaid. Has there been any progress in recovering that?

**Sir Bernard Hogan-Howe:** We have done pretty well in the Met. We had in Merseyside because I think it is something that needs to be pursued. I think you will find that over the last three years ours has increased, but the overall percentage, as you say, is too low. Sometimes that is because we could be better at it. Sometimes I think the law could be looked at because the criminals and their legal advisers have, frankly, got better at protecting their assets and will challenge more with the legal process. They have learned lessons along the way. It is a good piece of legislation.

**Q230 Chair:** So it does need legislation? When you wrote to me about this you said that we needed to ensure that before people were either released, obviously you can't hold people indefinitely beyond their sentence—

**Sir Bernard Hogan-Howe:** I'm sorry, I thought you were talking about criminal assets.

**Chair:** I am talking about assets. Did you not write to me about this and say that you needed to see a change in the law to try to recover some of this?

**Sir Bernard Hogan-Howe:** Yes, I agree. I am not disagreeing with that, but when you talked about releasing it confused me. There are some arguments for changing and simplifying the process and putting more responsibility on the criminal to justify returning their assets. The one that works very well is the criminal cash procedure. Where they have cash that they cannot justify or have a criminal background, they are virtually certain to lose it because they can very rarely explain the cash. However, when you have assets—a house or whatever—then you can often end up with complex discussions about who owns it and controls it. It is that area where there is most opportunity for forensic mischief.

**Q231 Chair:** We are also looking at the College of Policing and seeing how it has performed a year and a bit on. If you were marking it out of 10, how do you think they have done? You are not on the College of Policing.

**Sir Bernard Hogan-Howe:** No, sadly.

**Chair:** We have suggested that you should be in our recommendations.

**Sir Bernard Hogan-Howe:** Yes, we are still waiting.

**Q232 Chair:** How do you think they have done?

**Sir Bernard Hogan-Howe:** I think they have done pretty well. They have only been in existence for a relatively short period when you consider their predecessors. I think they have got a good leader and I think he is doing an awful lot to try to improve things. I think he is struggling a little bit with lack of resources, because at the same time that they were created they had their resources reduced, as we all did. For something the size of the Met to have resources reduced, we have still got a strong core. That has been a real challenge for Alex and his team, but I think they are going in the right direction.

One of the things that I think would help, and something I am going to write about shortly, is that I think that we collectively need a body of knowledge from which policing should develop. Our academic institutions don't care about policing. You have engineering faculties and medical faculties, but nobody cares about policing. We just have the responsibility for keeping 60 million people safe. It seems to me that we need a body of knowledge in the big universities from which something like the College of Policing can then train, set standards and monitor.

**Q233 Chair:** And you don't think that should be kept within the college? You think that is too big a task for it?

**Sir Bernard Hogan-Howe:** We are working with the Mayor of London and, in fact, trying to get partnership with New York, to set a pot of money to try to get our big universities to create chairs of policing and then to create faculties. They can feed from it and we have talked to the chair of the College of Policing to see how they will work with us too.

In short answer to your first question, I think they have had a good start. I am confident in the leadership and they have got a good relationship with policing. I don't envy them the task in the scale of it and the resourcing they have; I think that is a real challenge for them.

**Q234 Chair:** Do you think the overall landscape of policing is now settled, or do you think there is more to be done? The Home Secretary had a very ambitious programme four years ago and everything has been shaken up. You are keeping counter terrorism and you must be very pleased about that.

**Sir Bernard Hogan-Howe:** I think that keeps the country safe. The test is always, what's national security and what is best for that? My view is that where we are is good, particularly at the moment. We are, as you know, busy and I don't think it would be wise to disturb that, particularly at the moment. A future Government might decide to review it and I think that is perfectly understandable, but I think we have to wait at the moment. I think the decision of the Home Secretary to postpone that was entirely right because I think we would have distracted some very busy people who are dealing with some very serious issues, which would have been unwise.

**Q235 Chair:** Commissioner, thank you very much, as always, for coming in. Thank you for the way in which you respond to the correspondence that we send you. You always respond in a very open, transparent and prompt way and we are extremely grateful.

**Sir Bernard Hogan-Howe:** Thank you.

