# Drawing back the curtain:
# A post-Leveson examination of celebrity, privacy and press intrusion

Natalie Peck

Submitted for the degree of PhD in Journalism
Centre for Law, Justice and Journalism
City, University of London

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## ABSTRACT

The private and public domains are usually regarded as a dichotomy: what is in one is not in the other. There can be many reasons for intrusions by the news media into the private lives of people. This thesis assesses the extent to which celebrity is a useful conduit for understanding why the media intrudes into people's private lives and the extent to which celebrity affects any public interest justification for doing so. In essence: does celebrity make a difference in press intrusions into the private lives of others, or is it just one of many factors.

The private lives of celebrities have been subject to invasion by the press for many years, while the conceptual definition of privacy has been fiercely debated by academics and lawyers. In 2011, as a direct consequence of the revelation that the *News of the World* had illegally accessed murder victim Milly Dowler's voicemail during an active police investigation into her disappearance, the first part of the Leveson Inquiry was launched in order to examine the relationship between the British press and the public, the police and politicians.

The significance of the Leveson Inquiry on public life and the media and political spheres means that an analysis of press intrusions into the private lives of both celebrities and those, like the Dowler family, who were unlucky enough to fall under scrutiny due to tragic events, is essential in understanding the relationship between celebrity, privacy and the press in twenty-first century England.

This thesis utilises an observation study of the Leveson Inquiry public hearings from the Royal Courts of Justice, and the resulting evidence, to investigate the impact of celebrity on the nature and extent of press intrusion into the privacy of celebrities, and how it differs in the cases of non-celebrities who become of interest to the media.

The thesis concludes that the element of celebrity has a major impact on press intrusion into the private lives of individuals regardless of their personal status, as ordinary individuals are targeted due to their proximity to a celebrity, or as a result of being caught up in extraordinary circumstances. However, social media platforms are threatening the role of the press in revealing private information about individuals to the general public, as both traditional celebrities and 'internet micro-celebrities' communicate directly with global audiences.

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# CHAPTER ONE – INTRODUCTION

> It is as if some ancient rule setter folded his arms back when the concept of celebrity was emerging and said, 'OK, you can be famous, but by way of payment, you must surrender your private life and be willing to talk about it as if everyone is entitled to know.' I don't think that's particularly fair.
>
> *(Simon Pegg, Nerd Do Well, 2011)*

Press intrusions into the private lives of the rich and famous are not a novelty; for decades they have produced headlines, filled column inches and imprinted enduring images in the minds of the public. Celebrities, royalty and public figures such as politicians, sportspeople and authors have fallen foul of the flash of a paparazzo's camera or the knock of a door-stepping reporter at the family home.

What goes on behind the curtain of anonymity for the majority of the public is often exposed in the interest of selling the news and satisfying public curiosity about celebrities' private lives. The gains are clear: a hefty paycheck for the photographer in the right place at the right time, whether through luck, skill or a serendipitous mixture of the two. More copies of a tabloid newspaper picked up, or a news website visited, to keep an ambitious editor at the top and a media mogul satisfied. A heightened public profile for the celebrity individual or individuals involved as a result of such exposure, whether the exposure is desired or not.

However, the ordinary person is not excluded from press intrusion. While not a celebrity, famous or well known, such a person might enter the public consciousness by way of a variety of incidents; falling under suspicion in a high-profile crime investigation, unknowingly caught on CCTV doing something irregular or simply being in the wrong place at the wrong time when a terrorist attack occurs. They might choose to broadcast aspects of their daily lives on YouTube, happy to turn the camera on themselves but not pleased to have another's camera turned on them outside of their control.

In 1890, apparently ignited by the former's personal experience of press intrusion, lawyer Samuel Warren and his colleague Louis Brandeis set down one of the earliest and most enduringly definitive explanations of the importance of privacy to the modern man: "the right

to be let alone".[1] Since then, the question of how far the press can draw back the curtain on the private lives of others has been of public debate. Privacy is a nebulous concept that many have tried to pin down with varying levels of success. What is clear, however, is that what is private about those we wish to know more about will always be of the most fascination to the public, and therefore, to the press.

## 1.1 Introduction

The critical moment in the national and international history of this debate stemmed not from the press invading the privacy of a celebrity, but an ordinary girl. On 4 July 2011, it was revealed to the public that the *News of the World* had illegally intercepted the voicemail of Milly Dowler, the 13-year-old abducted and murdered by Levi Bellfield in 2002, during the police investigation into her disappearance.[2] Eleven days later, then Prime Minister David Cameron announced in the House of Commons that Lord Justice Leveson[3] would chair a public inquiry into the ethics and culture of the British press.[4] The terms of reference for the inquiry, established under the Inquiries Act 2005 meant the judge had the power to summon witnesses including newspaper reporters, managers, proprietors, police officers and commissioners, and politicians to give evidence under oath and in public.

The public hearings of the inquiry, which began hearing evidence from witnesses on 21 November 2011, were to become one of the greatest shows on earth for those interested in the workings of the British press and the relationship between newspaper editors and proprietors, the police and politicians. In the first of four modules[5], concerning the relationship between the press and the public, celebrities including actors Hugh Grant and Steve Coogan, singer Charlotte Church and author JK Rowling were among the victims of press intrusion who submitted written and oral evidence to the inquiry. They appeared alongside Bob and Sally Dowler, Milly Dowler's parents, Gerry and Kate McCann, parents of Madeleine McCann, Christopher Jefferies, the landlord of murder victim Joanna Yeates, and others thrust into the

[1]Glancy (1979) notes Warren was the son of a wealthy paper manufacturer, husband to the daughter of a senator and moved in the elite circles of Boston, members of which were favoured targets of sensationalist newspapers. He had grown tired of his private life and those of his family and friends being subject to exposure in the press.
[2]The interception - commonly known as phone hacking - was reported in the *Guardian*, namely in the article 'Missing Milly Dowler's voicemail was hacked by News of the World'. The article was co-authored by investigative journalist Nick Davies, who had been working to expose the practice of phone hacking by the press for many years.
[3]Sir Brian Leveson PC QC was appointed president of the Queen's Bench Division in October 2013 but is referred to throughout this research as Lord Justice Leveson (or styled as Leveson LJ) as he was for the duration of the inquiry's public hearings and the publication of the Leveson Report in 2012.
[4]Cameron's statement can be accessed here:
http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110713/debtext/110713-0001.html.
[5] More information on these modules, and the inquiry, can be found in Chapter Three (3.6).

public eye due to tragic circumstances or through having a relationship with a public figure. Also, the inquiry heard from a range of reporters and broadcasters, editors and newspaper proprietors, regulators, police officers and commissioners, academics and campaigning groups and commentators. The point of gathering this evidence was to get to the bottom of what many considered to be an impossible task: identifying where it had all gone wrong to the extent that journalists would hack the voicemail of a missing teenager by journalists during an active police investigation. Leveson LJ would then have to recommend what to do about it.

The judge published his eagerly awaited report on 29 November 2012. In the opening to the report's Executive Summary, the judge wrote his inquiry was "sparked by public revulsion about a single action – the hacking of the mobile phone of a murdered teenager" (ES: 3).[6] This research asserts a position that Miller Dowler was the example used by celebrities to demonstrate to the public 'it's not just us'. That is not to say it was necessarily a cynical ploy on the part of the celebrities who gave evidence to the Leveson Inquiry, their legal representatives, their peers, or even the Leveson Inquiry team, but the juxtaposition of celebrity and non-celebrity witnesses in the first week of public hearings was manifest. It is no coincidence that the voices of the victims of press intrusion were the first to be heard when the evidence sessions began.

Some of those who considered themselves victims of press intrusion had gained Core Participant status[7] at the inquiry as a collective known as the Core Participant Victims (hereafter referred to as CPVs) and were represented in the proceedings by barrister David Sherborne, who had acted for many of the celebrity CPVs in previous legal cases against the press. In the first week of oral evidence sessions, the inquiry heard from six public figures, actors Hugh Grant, Steve Coogan and Sienna Miller, former footballer Gary Flitcroft, former Federation Internationale de l'Automobile (FIA) president Max Mosley and author JK Rowling[8]; four individuals with links to public figures, writer Joan Smith (the former partner of Denis MacShane)[9], Mary-Ellen Field (a former work associate of supermodel Elle Macpherson), Sheryl Gascoigne (the ex-wife of footballer Paul Gascoigne) and HJK (an anonymous individual who had formerly been in a relationship with an unnamed celebrity);

[6] Due to the formatting of the Leveson Report, any references to its contents are made by Volume (I-IV with the Executive Summary as 'ES') and page number.
[7] This submission was made to Leveson LJ in court 76 of the Royal Courts of Justice on 6 September 2011.
[8] I use the term 'public figure' here as while Miller, Coogan and Grant are undoubted 'celebrities' due to their professions, the others are arguably not.
[9] Smith's status as a prominent journalist could put her in the 'public figure' category but she was the victim of phone hacking due to her relationship with MacShane, who was a Member of Parliament for Rotherham from 1994 – 2012.

and three families who had been victims of crime, Bob and Sally Dowler, Gerry and Kate McCann and Jim and Margaret Watson. Also giving evidence were lawyers Mark Thomson, Mark Lewis and Graham Shear[10] who represented many of the CPVs between them in legal claims against the press, and journalist Tom Rowland, who had been a victim of phone hacking by the *News of the World*[11].

This rota demonstrated that press intrusion into the lives of public figures, particularly celebrities, those with links to those persons with a public profile and ordinary citizens caught up in extraordinary circumstances, was far-reaching, and no publication was to be safe from interrogation by Leveson LJ in pursuit of an answer to the terms of reference set for him. When Peter Wright, picture editor of the *Daily Mail* implied the inquiry had focused too heavily on complaints from celebrities over the concerns of the public, the judge responded with irritation: "I've not just heard from high profile celebrities at all"[12].

The Leveson Inquiry may go down in history as just another airing of Fleet Street's dirty laundry, but it was unique for several reasons. Firstly, technology allowed greater access than had been previously available to public inquiries. The hearings were live-streamed, and all documentation that could be made public uploaded to the inquiry website. Secondly, despite the British press's reluctance to report on itself[13], the celebrity element to the public hearings meant comprehensive media reporting of at least some of the inquiry. This reporting was not limited to the famous faces but covered the evidence of newspaper editors and proprietors who preferred to keep themselves behind closed doors. Even the Prime Minister was asked to account for his relationships with *News International's* Rebekah Brooks and former *News of the World* editor Andy Coulson, who had resigned as Cameron's head of communications in the wake of the Dowler hacking revelations. Thirdly, with one of the main concerns of Leveson LJ being to investigate how the press intruded into the private lives of individuals, and to what extent this was ethically sound, he was required to ask CPVs and other witnesses

[10] Both Lewis and Shear had been placed under surveillance by the *News of the World* and so gave evidence in this capacity as well as appearing as legal experts.
[11] Rowland believed he had been the victim of this practice due to his contact with celebrities and well-known individuals.
[12] Leveson Inquiry, afternoon hearing, 11 January 2012, p.13 (lines 5-6). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-11-January-2012.pdf.
[13] This reluctance to draw back the curtain on the industry was demonstrated at the 2012 Press Awards when Nick Davies and Amelia Hill won 'Scoop of the Year' for their expose on phone hacking at the *News of the World.* As Davies thanked the judges, he said: "it must have taken an above average generosity for this decision".

to publicly revisit private information that had been exposed by the press. On occasion, this needed them to reveal information that had previously stayed out of the public domain.

During the public hearings, the judge told Miller, who was constantly followed by paparazzi photographers until winning a series of legal battles against them from 2008 onwards: "I'm very conscious that you have strong views about privacy and that the very act of coming to give evidence to me exposes you and means that you're talking about things which actually you're quite keen not to want to talk about".[14] Likewise, Jefferies was told: "It must be singularly unpleasant to have to revisit the events through which you lived and then to have to recount them in public for all to hear, thereby giving further oxygen to the unpleasantness that you have suffered. I'm very grateful to you for having done so. I'm sure you appreciate the importance that I attach to trying to get to the issues that I have to resolve, but I do recognise the imposition of a breach of your privacy that it involves".[15]

With the revelations of the Dowler hacking, the wave of anonymised injunctions being used by public figures to keep details of their private lives out of the media, and the commencement of the Leveson Inquiry, the year 2011 was an important historical moment in the privacy debate in English law and press regulation.

## 1.2 Aims

This research started as an examination of the privacy landscape in the legal jurisdiction of England and Wales in the years following the death of Princess Diana. The intention was to set the scene in understanding the nature of press intrusion as they try to satisfy the public desire for information about celebrities. The initial argument asserts public outrage at the 'dark arts' of the press, namely paparazzi intrusion, had simmered down following Diana's fatal car crash in 1997 but once again reached a boiling point in the summer of 2011 (as outlined above). The events of 2011 resulted in a shift in the contemporary context of this research and an advancement of the socio-historical and legal framework in which it sits. Therefore, this research sets out to examine the impact of the element of celebrity on the nature and extent of press intrusion into the privacy of celebrities, and how it differs, or does

[14] Leveson Inquiry, morning hearing, 24 November 2011, p. 21 (lines 15-19) Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-24-November-2011.pdf.
[15] Leveson Inquiry, morning hearing, 28 November 2011, p.9 (lines 9-17). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-28-November-2011.pdf.

not differ, in the cases of non-celebrities who become of interest to the media pursuing stories either about celebrities or memorable events, in a post-Leveson context, reflecting on the events of the past twenty years.

The initial aim in this respect is to identify the theoretical context for this research. The vast amount of privacy literature must be considered to ascertain useful definitions of privacy, the distinction between public and private spaces and the value of privacy. It would also require an examination of star theory and celebrity studies to understand the portrayal of celebrities and public figures as a site of representation in the media, employed as a locator of cultural discourse for discussions about personal and public matters.

The next aim is to set out the historical and legal context of debates on privacy and celebrity in English law and press regulation, to analyse how the socio-legal history affected the conduction and outcomes of the Leveson Inquiry and the various matters examined in this research.

Next, this research presents the cases of several individuals who have been victims of press intrusion into their private lives. These case studies focus on the British press, namely the English versions of national newspaper titles, as this research applies to English law. That is not to say this research is devoid of international examples, used for comparative analysis, particularly in respect of decisions made in the European Court of Human Rights (hereafter ECtHR). The presentation of these case studies will allow me to: a) identify the element of celebrity in each instance in regulatory or legal action taken against the press; b) identify the harm caused by the privacy intrusion; c) explore the extent to which the development of regulation, law, government and public inquiries have impacted on the privacy debate; and d) pose questions about the future of the privacy debate in relation to the changing nature of celebrity, specifically in regards to the internet. This research will also consider the success of the Leveson Inquiry in respect to addressing privacy intrusion concerns and the factor of celebrities invading their own privacy throughout.

### 1.3 Research questions

The main research question considers the relationship between celebrity and the British press, although more specifically in this case the differing relationships between celebrities and non-celebrities and the British press, and the impact of these relationships on debates on

privacy and the public interest.[16] It focuses on different types of intrusion: both in terms of method and harm caused.

Main research question:

- To what extent does the element of celebrity impact on press intrusion into the private lives of individuals?

Supplementary research questions:

- To what extent does royalty operate as a form of celebrity, and what impact does this have on press intrusion?
- How do methods used by the paparazzi contribute to press intrusion?
- What are the effects of press intrusion on non-celebrities associated with celebrities?
- How do non-celebrities implicated in high-profile crimes experience press intrusion?

## 1.4 Inspirations for research

I was initially drawn to this area of research while undertaking investigative journalism training at City, University of London, developing a particular interest in the effects of media law and regulatory bodies on the workings of the press. During this time I became an avid reader of the writings of legal and media commentators such as Roy Greenslade, Joshua Rozenberg and David Allen Green, especially as the public awareness of celebrity injunction cases increased over the course of 2011. This interest in privacy compounded a developing interest in the work of Daniel J. Solove in endeavoring to construct a meaningful definition of privacy in *Understanding Privacy* (2008). In my occasional vocation as a freelance film reviewer and interviewer I had come into contact with celebrities, and their public relations teams and managers, and became fascinated with the exchange of information between celebrities and the public via the media.

The academic work of Chris Rojek on celebrity culture was a particular stimulus for this research, namely *Celebrity* (2001). Another inspiration was the work of academic Su Holmes,

[16] This is particularly pertinent to this research as Leveson refers to the following as a key area of proof in conducting the inquiry: "...harassment and pressure placed both on members of the public caught up in stories attracting enormous press coverage and those in the public eye whether because of their celebrity or otherwise" (I: 43).

in particular, the paper 'Starring…Dyer?': Re-visiting Star Studies and Contemporary Celebrity Culture'. In the abstract Holmes describes her theoretical approach as bringing together the history of academic discourse on celebrity and the province of modern fame, and in doing so, evaluating established theory within a contemporaneous cultural context. She writes: "In terms of an interest in celebrity, it may appear that media commentary and academic discourse occupy separate spheres […] I want to bring aspects of these spheres together…in order to stimulate questions about their present and future relationship" (2005: 7). This research approaches privacy literature in a similar way in an attempt to root conceptual ideas in concrete examples.

While there exists much research on the development of privacy theory, star theory, and British press regulation, there has not been a significant marrying of these overlapping areas on press intrusions into the private lives of celebrities. Neither has there been a comparative study of the construction of celebrity concerning victims of crime and internet 'micro-celebrities'. In addition, journalism has become a part of the celebrity system through its power hierarchies (Marshall, 2005) as demonstrated at the Leveson Inquiry, which deserves further exploration in a post-2011 context.

Much has been written on the Calcutt Report (1990) and the later 'Review into Self-Regulation of the Press' (1993) but though the press claimed ethics and regulatory standards were being upheld it was clear by 2011 the situation had not improved and had in fact worsened. This was evident in revelations emerging from the Information Commissioner's Office Operation Motorman, the phone hacking allegations made against *the News of the Wor*ld and the ongoing unethical methods of the paparazzi. It is the aim of this research to bring details of press practice from various public domain sources, along with information revealed from the Leveson Inquiry, to examine the relationship between celebrity, privacy and the press.

### 1.5 Research focus

Celebrities are the site of cultural discourse, in particular, they "have become focal points for the discussion of a wide range of issues and concerns" (Marshall, 2005: 27). As this research contemplates 'celebrity' as both the status of an individual and a element relevant to the nature of press intrusion, it is important to define it clearly. In his report, Leveson LJ choose to categorise some witnesses as 'people with a public profile', containing sub-groups to steer

through issues such as commercial gain and those who expressed an explicit desire to seek fame. Others have described celebrity as a glamorous or notorious status in the public sphere (Rojek, 2001). Loughlan, McDonald and Van Krieken holistically define celebrity as a social, political and economic phenomenon, which is explored further in this thesis in Chapter 2. But they also break down the elements of celebrity in relation to the individual as: the capacity to attract attention, benefit derived from being highly visible or well-known, positive or negative, heightened by "a degree of ordinariness", reliant on distinct narrative and attracting constant scrutiny of private lives and public roles (2010: 6). Following this categorisation, it stands that a non-celebrity does not have the capacity to attract attention, derives no benefit from being well known and is indeed not well known, is not heightened by ordinariness, has no public narrative and attracts no scrutiny of their private lives and public roles. However, this is not the case when a non-celebrity becomes of interest to the press.

This research focuses on the victims of press intrusion, both celebrities and non-celebrities. Intrusion into individual privacy has a variety of effects on the most intimate parts of people's lives that can only be fully understood and appreciated through the description of experience and harm. As Dershowtiz argues "rights come from wrongs" and are best understood through the framework of the individual human experience from which they emerge (cited in Solove, 2008: 75). This research aims to draw parallels between the experiences of victims of press intrusion to address the research questions. Based on an examination of a wide and reliable evidence base at a time of great change in global media and technology, it also serves to help in fashioning tools to effectively regulate the British press, by presenting an understanding of a moment in time: working to separate the element of celebrity from presentations of the public interest. While celebrity and public interest are conceptually different, this helps in the examination of cases where there is limited, or no, legitimate public interest.

### 1.5.1 The summer of discontent

The right to privacy was at the forefront of public debate in Britain by summer 2011, and the furore over anonymised injunctions was the final step in shifting the discussion about privacy law out of the courtrooms and academic journals and on to the front pages of the national press for the first time since the death of Diana. Legal commentators claimed that the government would not attempt to create statutory privacy law (Rozenberg, 2010: 3) and would continue to respect common law precedent, though the formation of a Joint Committee on Privacy and Injunctions was set up in September 2011 to examine the practicalities of

passing new legislation to this effect. At this point in history, privacy had become something of a global cultural phenomenon and had certainly reached a crisis point in Britain.

Questions about how privacy should be defined and valued, largely confined to the pages of academia since Calcutt, were being debated in the public arena. News reports and self-reflexive opinion pieces on privacy and the press pushed the issue further into the public's collective consciousness. In regards to anonymised injunctions, the increased ability to disseminate information through social media allowed individual users to publish names and supposed facts at their discretion, undermining judicial decisions on injuncted information. Footballer Ryan Giggs found this out to his detriment when he took out an injunction against former lover Imogen Thomas and the *Sun* newspaper. Though he officially lost his anonymity in when outed in Parliament by John Hemming MP in May 2011, in reality, his name had circulated on Twitter thousands of times for weeks. Former *Guardian* editor Peter Preston put the increase in seeking injunctions to keep information out of the press down to a reaction to the decline in libel rewards and claimed lawyers were moving into a "fresh, potentially lush area of litigation" where sweeping injunctions have become "the weapon of first resort" (2011). Others would argue that injunctions were the only tool available to prevent the revelation of private information before it was too late.

### 1.5.2 Privacy and the public interest

This research began as a probe into the status of privacy in English law but the fast-developing socio-legal and socio-historical climate of the initial investigation and fieldwork period forced the scholarly investigation to narrow, though this was not unwelcome. As previously outlined, the concept of privacy has been thoroughly mined by academics from philosophical, sociological, historical and legal disciplines. In academic terms, navigating privacy literature can be as difficult as attempting useful discussion and definition of privacy itself. This lack of clarity is not solely applicable to the world of academia. The pressure on judges to sharpen definitions of privacy has increased since the passing of the Human Rights Act in 1998 (hereafter HRA). The notion of 'the public interest' that has been so important in deciding how to balance the right to privacy against freedom of speech, enshrined in Article 8 and Article 10 of the Act respectively, is regularly challenged inside and outside of the courts.[17]

[17]On this topic, Tugendhat and Christie wrote: "Notwithstanding the fact-based approach requiring a balance of article 8 and article 10 rights in each case, there is yet to emerge a clear set of principles that enables a structured approach to issues of public interest" (2006: 157).

Variations on the phrase 'there is a difference between what is in the public interest and what the public are interested in' continues to be banded around legal and media commentary.[18] This debate was afforded much airtime at the Leveson Inquiry and in the final report.

Solove describes privacy as a social issue "fraught with a litany of pressing problems" (2008: 39) and, indeed, practical solutions must be steered through the choppy waters of a useful conceptual framework. It is against this cultural and legal context that this research examines how privacy is defined, conceptualised and valued by academics, judges, lawyers and journalists who deal with privacy on a pragmatic level in later chapters.[19] It is within the context of this murky debate on privacy that the harm caused by press intrusions can be best understood. It is not the intention of this research to suggest that reading about a celebrity's sexual life or eating habits in the press is as relevant to the public interest as professional misconduct by a public official, although these two examples have often crossed over in the past. However, simply dismissing interest in the personal lives of celebrities is unhelpful in understanding why the producers and consumers of celebrity-oriented journalism are interested in these aspects of the private sphere. As pointed out by Whittle and Cooper, though critics despise journalists unmasking private behaviour, it must be taken seriously (2009: 65). However, the political economic context in which the British press were operating in the late twentieth and early twenty first centuries also has to be acknowledged. The Leveson Inquiry was saturated with discussion about the public interest, and the extent to which newsroom culture and commercial interests factored into how stories have been pursued.[20]

The emotionality of celebrity journalism which characteristically delves into the personal lives of its subjects can be seen as a spoiling agent in the public sphere, and the pleasure it affords the public is denigrated in criticisms of "infotainment" and "tabloidization" (McGuigan, 2000). The MPs' expenses scandal of 2009 partly explains this in practical terms. When the story broke, the focus on expenses claims for moats, bath plugs and duck houses was dismissed by the elite as being more about the public curiosity that the public interest (Brooke, 2009). As the scale of expense system's abuse was revealed it was no longer referred to, in Stephen Fry's words, as a "rather tedious bourgeois obsession" but taken altogether

[18]Gritten explains that the press will often plead full disclosure of private detail is "'in the public interest', a phrase that more and more comes to mean 'something that the public is interested in'" (2002: 146).
[19] This follows the endeavours of Solove who notes the effective resolution of privacy issues gets lost when "navigating the conceptual labyrinth of privacy" (2008: 11).
[20]In a press statement in November 2012, Leveson LJ noted his concern at a "particular kind of lobbying, conducted out of the public eye, through the relationships of policy makers and those in the media who stand to gain or lose from the policy being considered …[which] undermines public trust and confidence in decisions on media matters being taken genuinely in the public interest."

more seriously (Hunt, 2009). The discussion of the intimate lives of celebrities in many cases lacks the clear public interest in knowing how elected members of Parliament are spending public money, but there is an elitist attitude to overcome in explaining why the public should not be interested in the private dealings of others. As Brooke says of the MPs under scrutiny: "Their continued suppression has given an unbearably compelling value to the claims. Secrecy has a tendency to do that. It's always the clubs we can't get into that seem the most glamorous. Once we're in we wonder what all the fuss was about".

### 1.5.3 The value of privacy and moral values

Privacy has become a valuable commodity that can be traded for social advantages including media exposure. When talking about injunctions on *Newsnight* in May 2011, Hugh Grant referred to privacy as a commodity that is stolen and bought by the tabloids. Indeed, the press were and in many cases still are in the business of running competitive stories on celebrities that have a guaranteed audience to boost revenue in an increasingly competitive and saturated media market.[21] The dwindling circulations of many British national newspapers exemplify this, as titles are increasing their focus and investment in online platforms.

In a sphere of news that is full of safe ideas and accepted moral values, the viewer has more power than the journalist in a commercial culture (Davies, 2008). These values can be explicit in relation to celebrities and other public figures. In particular, adultery and interactions with sex workers, lying about indiscretions and presenting a false and hypocritical public image are all 'bad' and covertly run underneath news stories reflecting an assumed public consensus.[22] In 2011, the British press reporting on a clash of moral values on the right to privacy; a battle fought within the pages of the newspapers themselves in which the press were unarguably self-interested.

For academics trying to define the value placed on privacy, and how that value is in conflict with other interests, it is impossible to divorce from one's own value judgments completely. This is relevant to this research as authored by an individual who has worked in journalism, public relations and press reform campaigning from 2010. Both Solove (2008) and Rozenberg (2010) have recognised that value judgments are impossible to escape when dealing with

[21] Paul Dacre, editor of the *Daily Mail*, put forward the argument that if mass circulation newspapers are not allowed to report on scandal as well as public affairs they will lose readers, having a detrimental effect on the democratic process (Whittle and Cooper, 2009).
[22] Davies explains this further: "Our stories overwhelmingly tend to cluster around the same narrow set of political and moral assumptions about how the world should be run" (2008: 15).

privacy to the extent that writing about it cannot be wholly objective.[23] However, within this personal experience lies an advantage. Academic literature concerning concepts and values of privacy are often divorced from the contemporary legal analysis of privacy in relation to press intrusion, then further removed from how privacy disputes are represented in the British press. This research aims to draw these threads together in a coherent way to articulate how value-laden discourses emerge. As definitions of privacy, celebrities and the public interest become increasingly murky in the real world, one must examine the information-rich legal, philosophical and journalistic worlds to examine how and why the private lives of others are of such interest to the public, and how the press operates to gain access to them.

### 1.5.4 Supply and demand: celebrity journalism and public desire

The relationship between the public desire for celebrity news and the culture of journalism itself lies at the heart of this research. Indeed, celebrity-inspired journalism has become such a feature of the press that its origins cannot be easily identified (Marshall, 2005). The public is constantly confronted with information about the private lives of an ever-expanding pool of public figures, from actors, pop stars and sports personalities to politicians, entrepreneurs and company directors. Often these individuals are presented by the press, or by themselves in the media sphere, as role models, individuals about whose lives the public arguably has a right to know. Some celebrities will actively opt-in to this presentation, and some will have it thrust upon them to varying degrees.

Ten years ago, the *Economist* stated that Britons buy almost half as many celebrity magazines as Americans despite having a population one-fifth of the size. The article commented on how often celebrity news makes the front page of British tabloids newspapers, "providing a formidable distribution channel for stories about celebrity sex, drugs and parenthood" (2005). To mention journalism and popular culture in the same breath is regarded as a crude affront to some who believe true journalism lies not in the daily reporting of celebrities walking down the street. However, popular culture, which centres on mass media, is linked to journalism by storytelling. This is not a reductive intent to argue that journalism 'is nothing but' popular culture (Dahlgren, 1992). Celebrities and to an extent other public figures live in a media bubble where their every move is likely to be observed. Their public faces can almost never

[23] Rozenberg's view, with which I concur, is: "After putting both sides of every argument during my twenty-five years in broadcasting, I have not found it particularly easy to come down on one side of the fence or the other" (2010: 8).

be taken off, and their private lives are often mercilessly exposed to the glaring spotlight of publicity. As the late Lord Bingham writes in *The Rule of Law* (2010) the challenge is "to afford the media the greatest freedom to investigate, report, inform and comment but with a reasonable measure of protection, not least of those who are in the political and public arena". As the boundaries between celebrities and other public figures blur, knowledge about them becomes necessary in informing the public's knowledge of all spheres of life.

Examining social norms can be a long gradual process and in practical terms, disclosing secrets does not always lead to change but often affects a few unfortunate individuals (Solove, 2008: 96).[24] The exposure of the Clinton-Lewinsky affair made a reluctant celebrity of the latter as her private life was laid out for the world to pass judgment on.

### 1.6 Real world context

One of the problems resulting from the fusing of aspects of legal precedent and political science, social history and the media is the vast amount of sources to consider. Though its focus has narrowed over the course of the fieldwork period, it is necessary to place this research within a complex historical and sociological context. This research falls across three disciplines: social sciences, the media and the law, and within those systems, privacy theory and literature on the public and private spheres, celebrity studies, star theory, media studies and English law, both in domestic precedent and as informed by the ECtHR. As previously stated this study has been limited to English law but is comparative where necessary as discussions of privacy concerns, laws and regulations are often informed by contrast to other jurisdictions.

This research has been kept as practical and applicable to the contemporary world as possible, from the initial literature review, through the fieldwork period, to the presentation of the research findings and concluding recommendations. As Solove says: "pragmatism emphasizes that we begin philosophical inquiry with the problems we need to solve. In other words, pragmatism suggests a particular relationship between theory and practice – a view that theory should emerge from practical problems and help guide us in addressing them" (2008: 75).

[24] Monica Lewinsky described the exposure of her affair with President Bill Clinton to biographer Andrew Morton: "It was such a violation…I felt like I wasn't a citizen of the world anymore". Lewinsky was referring not only to being forced to describe her personal sex life under oath, which was then extensively recounted in international news reports on the scandal, but to the investigation into the affair when her bookstore receipts, personal emails, and unsent love letters to Clinton were retrieved (Rozen, 2001).

## 1.7 Thesis structure

In the pursuit of studying privacy, media and the law in relation to the research question, this thesis will examine: (1) how privacy is conceptualised in legal and academic discourses, and how the evolution of the public sphere has affected how we define private space; (2) the relationship between the culture of celebrity journalism and the public in demanding intrusive reporting into the personal lives of those in the public eye; and (3) why a crisis point was reached in 2011, leading to the revelations emerging from the Leveson Inquiry, the Select Committee hearings and subsequent information published by key players in the media sphere including Glenn Mulcaire, Neville Thurlbeck, Andrew Marr, Andrew Neil and Pete Burden, among others, as this information will compare and contrast with the presentation of the experiences of those individuals who have had their privacy invaded by the press.

As outlined in section 1.5.3 it is crucial to understand how privacy is both something of value and a site of moral discourse to explore the press and public interest in the private lives of celebrities. This research has been informed by Solove's taxonomy of privacy to aid the conceptual understanding of privacy as described in *Understanding Privacy* (2008) and previous papers.[25] His research largely concerns the United States, but his broader conceptual theories can be applied to an analysis of English law. Solove has been accused of being too clinical in his analysis.[26] However, his taxonomy rather accepts the concept of privacy for the pluralistic jumble that it is rather than suffering from what has been described as "definitional fuzziness".[27]Taking this approach into consideration, the case studies serve to explore both the element of celebrity and methods of press intrusion.

Chapter Two picks up from this introduction and sets out further arguments on the definition of privacy, the failure to sufficiently define privacy as a concept, the various approaches taken by academics about the concept and its real world implications. It includes an explanation of Solove's taxonomy of privacy, a more detailed exploration of the value of privacy, the definition of the public and the private and the relationship between celebrity and privacy.

[25] These include 'Conceptualizing Privacy' (2002), 'A Taxonomy of Privacy' (2006) and '"I've Got Nothing to Hide" and Other Misunderstandings of Privacy' (2007). Some contents of these publications are incorporated in *Understanding Privacy* (2008).
[26] Bartow describes Solove's taxonomy as suffering from "too much doctrine, and not enough dead bodies […] it frames privacy harms in dry, analytical terms that fail to sufficiently identify and animate the compelling ways that privacy violations can negatively impact the lives of living, breathing human beings beyond simply provoking feelings of unease" (2006: 52).
[27] Ibid.

Chapter Three outlines the socio-legal history of the privacy debate from the gauntlet set down by Warren and Brandeis in 1890 and the impact of the HRA. It outlines various areas of English law used by individuals to address invasions of privacy, the findings of the Younger Committee, the Calcutt Report and the Leveson Report, and the criminal cases against newspaper publishers in light of illegal activity in gaining private information about celebrity and non-celebrity individuals. It would become necessary to incorporate the evidence emerging from the Leveson Inquiry, the phone hacking trials and other public domain material in the context of English law to understand how the press approach privacy as a concept, with is further explored in the methodology and fieldwork.

Chapter Four focuses entirely on methodology and the acceptance and rejection of various potential methodological frameworks for this research. It outlines the difficulties faced in the fieldwork process, along with a thorough analysis of the chosen method of case studies to adequately unite the theoretical context of privacy literature and star theory with a socio-historical background of English law in regard to press intrusions into the private lives of celebrities and non-celebrities. The research portion of this thesis dedicates four chapters to case studies and the analysis thereof.

Chapter Five examines the status of the Royal Family and their representative significance as public figures to national population. This is set against the context of Princess Caroline von Hannover's cases against Germany in the ECtHR and the resulting legal precedent. The two case studies are that of Princess Diana and the Duchess of Cambridge, formerly Kate Middleton, which investigates the media representations of both women and their respective relationships with the press through individual journalists. It contrasts their use of the regulators and legal action and their relationship to the public, taking into consideration the conceptualising of British Royalty in the public sphere.

Chapter Six concerns invasions of privacy by the paparazzi and how this relates to literature on invasion and the disruption of seclusion (Allen, 1988). The chapter sets *Cox v MGN* as a ground-breaking legal case paving the way for Sienna Miller’s successful restraining of the paparazzi via a series of harassment-based injunctions. Miller is analysed against Tinglan Hong and a myriad of contextual examples to explore the various harms resulting from paparazzi intrusion from harassment to publication and explores how photographers have formed part of a web of intrusion into the private lives of celebrity individuals and those associated with them.

Chapter Seven looks at the cases of two non-celebrities who experienced harm by press intrusion as a result of association with celebrities. One, Mary-Ellen Field, was accused of leaking private information about her client Elle Macpherson to the media and as a result suffered in terms of her reputation and career, her finances and her health. The other, HJK, was in a romantic relationship with a celebrity, which was cut short after the press became aware of the relationship, and also suffered in terms of his career, his health and his personal life. Both individuals were the targets of phone hacking, either directly or indirectly.

Chapter Eight focuses on two non-celebrities who experienced harm by press intrusion as a result of their alleged involvement in high-profile crimes, and examines the lack of restraint of the press in these instances. Christopher Jefferies took legal action against both the press and police. Rebecca Leighton took legal action against the police, but both demonstrate a clear understanding of the impact of press intrusion into the lives of a targeted individual and their family and friends and associates, and how celebrity is constructed out of criminality, resulting in an equivocal experience between those accused of crimes that capture the imagination of the press, and celebrities.[28]

Chapter Nine examines an entirely new area of privacy concerns, one that has not yet troubled the courts or press regulators. It focuses on internet micro-celebrities, specifically individuals who have become celebrities as a result of running popular YouTube channels, and looks at their rights to privacy, the impact of direct interaction with audiences on privacy intrusion, and the complicated relationship between YouTubers and the British press.

Chapter Ten offers a series of conclusions, outlines the implications of this research and recommends areas for further study. Throughout the Leveson Inquiry, the judge repeatedly stated that he did not want his final report to go by way of Calcutt and be rendered only of academic interest. In one example of this, he told broadcaster Jeremy Paxman: "The one thing I am determined not to do is to produce a document which simply sits on the second shelf of a professor of journalism's study".[29] However, given the wide-ranging brief and exhaustive terms of reference that he was, it was in many ways an impossible task.

[28]This is, in part, inspired by Penfold-Mounce who concludes in *Celebrity Culture and Crime*: "By studying celebrity and crime, the tension between accepted norms and the breaking of these boundaries has been revealed along with how this rule-breaking causes a combination of fascination, excitement and repugnance, as well as being an embodiment of widely held immoral behaviour" (2010: 182).

[29] Leveson Inquiry, afternoon hearing, 23 May 2012, p.144 (lines 18-20). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/05/Transcript-of-Afternoon-Hearing-23-May-2012.pdf .

# CHAPTER TWO – THEORETICAL CONSIDERATIONS

> Despite the profound importance and increasing prevalence of privacy issues, efforts to conceptualize privacy have been plagued by a curse of difficulties.
>
> (*Daniel J. Solove (2008), Understanding Privacy)*

The adjective 'private' has a longer history than its noun 'privacy'. Privacy, as we understand it today, is a relatively modern concept, gaining its first legal usage in 1886 in America (Paine, 2000:3). Privacy and the status of privacy law have increasingly become a popular topic of academic debate since the 1960s, although most privacy scholars point to 'The Right to Privacy' (Warren and Brandeis, 1890) as the catalyst for these contemporary debates.

The complexity surrounding how English law has dealt with the individual right to privacy, particularly in respect of those in the public eye, had been of note to those in the legal and media profession. The introduction of the Human Rights Act 1998 had a notable impact on developing this area of law in the English courts from 2000 in the absence of a Privacy Act.[1]

Solove and other scholars have pointed to the burgeoning technological developments of the 2000s, and the freedom these afford dissemination of information in bringing privacy to the forefront of academic debate. In reality, the need to conceptualise privacy has been simmering on the backburner of the philosophical and legal spheres for decades. Freedom of speech, often located as the foe of privacy, has been recognised as a common law right in English law for many years and is often more readily articulated than its opponent, particularly when concerning freedom of the press. Freedom of expression and freedom of the press are often conflated in public discourse, though the concepts are notably distinct.

Due to the nature of the private, that it concerns the personal and intimate details of life, public discussions about the idea of privacy often appeal to people's anxieties and fears. Solove (2008) argues that though it seems that everyone is talking about privacy, it is not clear exactly about which he or she are talking. There continues to be a chaotic state of legal and philosophical conceptualisation regarding privacy. This confusion can often overspill into

[1] This is realised in the balancing of Article 8 (the right to respect for private and family life) and Article 10 (freedom of expression).

discussions on the right to privacy of public figures and celebrity individuals, further complicated by a general divorcing of academic discourse from media commentary on these issues.

The aim of this chapter is to explore and set out the relevant theories and concepts that can be employed to analyse the relationships between celebrities, the press and the public in respect of privacy by examining: a) if privacy be conceptualised without losing clarity and b) how celebrities are represented in the media as locators of cultural discourse for the public.

## 2.1 The failure to define privacy

Before one can begin to examine the social, historical and judicial context of these relationships, the word 'privacy' deserves some attention. The majority of scholars and legal practitioners dealing with privacy have attempted definition at a semantic and conceptual level, accompanied by an explanation of the severe problems that can arise from this exercise. Solove dedicates a chapter to this dilemma in his pivotal text *Understanding Privacy.* He calls privacy a "concept in disarray", describing the difficulty in explaining how full and disparate notions of privacy are without becoming vague (2008: 1). He notes that the conception of privacy as an "abstract mental picture" is different to the usage of the noun 'privacy', as the word is often used to describe some things that fall outside of a useful framework.

Privacy has been described as a "chameleon-like word used denotatively to designate a wide range of wildly disparate interests" (BeVir cited in Solove, 2008: 7), something about which "nobody seems to have any very clear idea" (Thomson, 1975: 295) and a complex value "engorged with various and distinct meanings" (Post, 2001: 2087). Exploring the concept of privacy has been compared to exploring an unknown swamp (Inness, 2008). Several arguments have been made as to whether privacy is separable from other interests (Allen, 1988; Gavison, 1980). Solove argues that because of this, privacy has lost some precise legal connotations, as people claim it should be protected but cannot fully explain why. This research does not concur fully with Solove on this point, as though a statutory definition of privacy does not exist in English law, there have been precise steps to narrow down boundaries through legal precedent in some areas, and it seems that a tort of 'misuse of private information' may now exist.[2]

[2] For more on this see Chapter Three (3.1).

The best way of understanding privacy is to accept it has no singular essence and instead exists as a main concept that encapsulates many different sub-concepts.[3] Trying to confine the concept of privacy to a standard definition is impossible without disregarding certain theories, or descending into vague and woolly descriptions that fail to be of any practical use. Solove calls privacy an "umbrella term" which can describe a plurality of things (2008: 45). Marx similarly argues for distinctions of the public and private to be multidimensional, continuous and relative, fluid and contextual (2001: 157). Using a mutable framework, one can agree on what should be included or at least that many concepts could legitimately be described as concerning privacy. Philosophical debates, definitional prescription, legal and journalistic concerns and definitional pragmatism operate separately but share common concerns in pinning down what privacy is, from which a suitable framework can be constructed.

## 2.2 Approaches to privacy

Solove (2008) groups the approaches of other privacy scholars as: the right to be let alone (stemming from Warren and Brandeis), limited access to the self (the ability to shield oneself from unwanted access by others), secrecy (the concealment of certain matters from others), control over personal information (the ability to exercise control over information about oneself), personhood (the protection of one's personality, individuality and dignity), and intimacy (control over, or limited access to, one's intimate relationships or aspects of life). In examining how press intrusions into the private lives of celebrities operate, the appropriate privacy theory largely falls into the categories of limited access, control over personal information, and intimacy, thus forming narrowed control-based framework for the exploration of the socio-legal history of privacy and celebrity in Chapter Three. However, it is crucial to interrogate other approaches to privacy theory in order to understand the complex nature of conceptualising the term: to find a way out of the unknown swamp into a clear framework is imperative.

### 2.2.1 The right to be let alone

Warren and Brandeis (1890) may not have coined the phrase "the right to be let alone"[4] but they certainly popularised it in their profoundly influential essay, leading to a greater focus on the development of privacy theory and law. Gavison (1980) points out this right is relevant to

[3] Solove compares the word 'privacy' to the word 'animal', in that the latter refers to a large group of organisms within which are many subgroups. For most purposes, he argues, the word 'animal' will suffice (2008: 45).
[4] Adopted from Thomas Cooley's treatise *Law of Torts* (1880).

the horizontal person-to-person conception of privacy, rather than to state interference, and therefore properly applies to the type of intrusions carried out by the press. Indeed, in 'The Right To Privacy', the authors famously stated: "The press is overstepping in every direction the obvious bounds of propriety and decency. Gossip is no longer the resource of the idle and of the vicious, but has become a trade" (1890: 196). While the importance of Warren and Brandeis's work in igniting a discussion on the relationship between the media and the value of private information, many scholars reject their conception of privacy as too broad (Allen, 1988; Gavison, 1980; Solove, 2008).

### 2.2.2 Limited access to the self

Gavison (1980) and Allen (1988) employ a functionalist definition of privacy as restricted access to the self. Gavison primarily characterises privacy as anonymity, or the ability to separate off from society at will. She continues with a definition that includes limited access or inaccessibility, access control and limitations on unwanted access. Though Allen rejects the last two points, the concept of limited access is key to her theory, which asserts that as privacy and related liberties allow people to cope with the requirements of living with others in society, it can be defined as restricted access. She argues that: "personal privacy is a condition of inaccessibility of an individual, his or her mental states, or information about the person to the senses or surveillance devices of others: the individual is beyond another's five senses" (1988: 15). This inaccessibility can manifest itself as physical, dispositional and informational. Allen's theory is then especially relevant to celebrities, or individuals thrust into the public eye through press intrusion, as privacy losses occur when a person is to some degree or in some respect made more accessible to others.

### 2.2.3 Secrecy

The key failure of privacy-as-secrecy is that it does not allow for individuals to keep things private from some but not others (Solove, 2008). Secrecy emits an element of control, for example, one often expects an element of privacy in public, though it is not a private space. Privacy might not necessarily be opposed to publicity, and might provide an individual with control over certain aspects of his or her life, whereas secrecy implies a need to conceal information for fear of exposure (Inness, 1992).

### 2.2.4 Control over personal information

The problem with control-based definitions of privacy is their exclusion of many aspects of life that we consider to be private. Intrusion into privacy does not just involve the revelation of personal information but can include manipulation by subliminal advertising or forced exposure to propaganda (DeCraw, as cited in Solove, 2008). However, this theory too narrow and simultaneously too broad for not all personal information is private (Inness, 1992). In English law, as in many other jurisdictions, records of births, marriages and deaths are a matter of public record. Residential addresses appear on the publicly-available electoral register unless the inhabitants choose to opt out of this process, and many individuals list their career histories on recruitment websites. Rachels (1975) argues that the value of privacy be based on one's ability to control who has access to us and information about us in creating various social relationships with others. An individual may willingly violate this control in revealing personal information to a doctor or participating in group therapy. Thomson (1975) offers another control-based definition: that privacy as a cluster of rights that intersect with other rights relating to personhood, though this is inadequate as it eliminates the need for a distinctive right to privacy.

### 2.2.5 Personhood

Theories of personhood are constructed around the protection of the integrity of personality, which is often presented as regarding autonomy, individuality, and selfhood. This conception is too broad, for our personalities are not purely private. We often readily express in public much that is unique about ourselves (Solove, 2008). It is on this basis that Inness rejects Thomson's assertion that privacy rights are merely a composite of more general rights of personhood (1992).

### 2.2.6 Intimacy

Whether privacy is a state of control or simply separation from the public sphere, a definition fundamentally affects when one claims to be experiencing privacy and therefore the value placed on this experience (Inness, 1992). Inness argues that information-based accounts of the content of privacy are most used in regards to media and the law, and are therefore the most familiar. However, privacy does not relate to all information about an individual: it is the intimacy of the information that comprises a loss of privacy if revealed. Privacy-as-intimacy

includes ideas of intimate access and actions. Inness characterises these intimate decisions as relying on motivation-dependent content. Rachels (1975) defines intimacy as that which an individual will want to reveal only to a few people. The main problem with this conception is although forms of privacy often include intimacy it does not capture the dimension of private life that is devoted to the isolated self as distinct from relationships with others (Solove, 2008).

Solove draws on Ludwig Wittgenstein's concept of 'family resemblances' to theorise that privacy consists of a cluster of many different things. Simply put, this means conceptions can be useful without having to be circumscribed by rigid boundaries. If theorists and practitioners avoid looking for a common denominator in privacy problems, the need to engage in debate over the conditions for privacy is removed. This use of pragmatic philosophy means privacy can, and should, be studied in terms of the relative rather than in the abstract. It must work within history and culture and allow for a variability of contextual norms and attitudes, as knowledge without context loses much of its meaning. Marx (2001) also advocates a pragmatic approach. He states academics must examine public and private geographical places as legally defined, public and private information access as legally defined, customary expectations and manners regarding public and private, the accessibility of information to the enhanced senses, and the actual state of knowledge as publicity known regarding social status.

## 2.3 A taxonomy of privacy

To deal with this need for context Solove created a 'taxonomy of privacy', a bottom-up cultural analysis using historical, philosophical, political, sociological and legal sources (2006; 2008). This analysis focuses on activities that can and do create privacy problems rather than what constitutes privacy[5]. Solove splits his taxonomy into four main areas: (1) information collection, including surveillance and interrogation; (2) information processing, formed of aggregation, identification, insecurity, secondary use and exclusion; (3) information dissemination, including breach of confidentiality, disclosure (including true information revealed to others), exposure, increased accessibility (where information already in the public domain is made easier to access), blackmail (which has links to exposure, disclosure and

[5] Solove's geographical research focus is primarily the United States, where legal realities are distinct to those in the English courts, but this theoretical framework is universal.

breach of confidence), appropriation and distortion (which can include defamation); and (4) invasion, including intrusion[6].

Solove's taxonomy and the illustrative arguments he puts forward are often indicative of a vertical state-citizen relationship rather than a horizontal, citizen-citizen scenario. However, information dissemination and intrusion have much in common with press techniques for acquiring personal information about an individual, from the surveillance activities of the paparazzi, reporters physically intruding by door-stepping friends and relatives and running news stories over an extended period. This creates a narrative relationship through which audiences gain access to an individual through privacy intrusion.

## 2.4 The value of privacy

It is impossible to escape value-laden normative views when dealing with privacy, as they are bound up in the legal and philosophical landscape (Solove, 2008). Theorists constantly question what privacy denotes and what connotations it carries (Allen, 1988).[7] Privacy is valued because it allows relationships to form, aids self-development and participation in democratic processes (Inness, 1992). Indeed, it is hard to imagine how individuals could freely participate in public life without some degree of control over their reputation and privacy (Solove, 2008). Gavison (1980), Allen (1988) and Warren and Brandeis (1890) all point to the importance of law as the means through which society can promote the value of privacy that philosophy and social science finds necessary for participation in public life.

Though privacy is value-laden, there is no real intrinsic value to privacy. Not all conditions of privacy are useful or merit moral approval (Allen, 1988). However, Inness (1992) argues that the value of privacy comes from the positive principle of respect for people as autonomous beings and that by respecting each other as "emotional choosers" we accord each other privacy. As such the sphere of autonomy is controlled by the individual's moral rulership. In previous theories of privacy, value has been automatically assigned to the concept. Allen refers to Carl D. Schneider's definition of "private affairs" reliant on a value-laden definition

[6] Intrusion is related to disclosure, and can be made possible by intrusive information-gathering activities including surveillance. The psychological effect of this on an individual over extended periods of time "can be quite invasive, penetrating, disturbing, frightening, and disruptive" (Solove, 2008: 163).

[7] 'What would be lost if we lost our privacy?' is a question explicitly asked by Inness (1992), Allen (1988) and Solove (2008).

of limited access to the self (1988: 40).[8] Seclusion, isolation, secrecy and anonymity, to name but a few concepts included under the umbrella of privacy, are not conditional to morality. Arguably these conditions of privacy can be 'morally wrong' depending on the context. As Joseph Pulitzer famously said: "There is not a crime, there is not a dodge, there is not a trick, there is not a swindle, there is not a vice which does not live by secrecy".[9] In this vein, former *News of the World* reporter Paul McMullan caused a stir at the Leveson Inquiry when he declared: "Privacy is the space bad people need to do bad things in…privacy is for paedos; fundamentally nobody else needs it".[10]

Certainly, privacy can be viewed as a threat regarding solitude and disengagement and can reduce accountability, impeding transparency and openness (Solove, 2008). When the term 'invasion of privacy' is used, one assumes the intrusion is morally wrong has occurred and those losses are always bad. Inness (1992) points to the legal and philosophical similarity over the value of privacy, which concerns a sceptical debate about the conceptual and moral distinctiveness of privacy, and the discussion about the content and function of privacy. Intrinsic value debates point to a definition of value that evades analysis about legal cases and other privacy disputes in the socio-legal sphere. Solove refers to an "age of balancing" where there is no uniform value across all contexts, adding: "When individualism is not considered at odds with the common good, we can better assess its values contributions and limitations" (2008: 91). Still, invasion of privacy is a value-laden concept around which questions remain on how privacy is to be expected, desired and how the amount of privacy to which a person is moral entitled can be measured.

### 2.4.1 Legal value

In English law, debate on the value of privacy has formed around the sanctioning of the Human Rights Act and the domestic courts deference to Strasbourg as judges make decisions about an individual's reasonable expectation of privacy in the balancing of Articles 8 and 10. Hartshorne (2010) discusses how the 'misuse of private information' originating in *Campbell*

[8] Allen gives the following analogy: "For example, if Jane is secluded alone in her home, we need to know something about her and the reasons she is in seclusion before we make a moral judgment about her privacy" (1988: 40).

[9] "Get these things out in the open, describe them, attack them, ridicule them in the press, and sooner or later public opinion will sweep them away. Publicity may not be the only thing that is needed, but it is the one thing without which all other agencies will fail" (Ireland, 1914: 115).

[10] Leveson Inquiry, afternoon hearing, 29 November 2011, p. 91 (lines 3-7). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Afternoon-Hearing-29-November-2011.pdf. McMullan's evidence was so controversial that journalist Deborah Orr described it as "so shocking, so absurd in its self-aggrandising amorality, that it has automatically filed itself in the 'satire' section of my memory bank" ('The psychology of Paul McMullan and his phone-hacking justifications', *Guardian*, 3 December 2011).

*v MGN*[11] promotes and protects the physical, psychosocial and social development of individuals, and is therefore critical in personal autonomy terms and for escaping persecution from the outside world. In the case of *Von Hannover v Germany*[12], the ECtHR pointed to physical and psychological integrity, including a right to reputation, as important aspects of the right to privacy. Hartshorne compares a common law approach to examining the legal value placed on privacy: an individual can be compensated for mental distress but there is no solution to the loss of right to informational privacy itself, the ECtHR approach, where an individual's pain and suffering are taken into account.[13]

### 2.4.2 Privacy as a commodity

Privacy has become a commodity, a valuable asset that is sometimes traded for other social advantages. For a celebrity, this could mean media exposure and a heightened public profile (Paine, 2000). What becomes difficult for those in the public eye is how to control privacy once part of it has been sold off for something else. Fame has also been described as a "spring-loaded door that slams behind you after you walk through it" (Gritten: 2002). Once an individual has invited the media in, they will return whether wanted or not and will report things that are irrelevant to why one first became famous. Celebrities enter an odd space of moral neutrality, as once famous their every false move can be ruthlessly scrutinised by the press. Once a celebrity or non-celebrity individual is caught in public discussion a loss of privacy occurs, the right of the individual is in opposition with the value of public comprehension (Post, 2001). Volkh called this value the "right to speak about each other" (cited in Solove, 2008: 83) As a result, celebrities are condemned for actions commonly carried out by others in society once private information is revealed. In this context, some commentators view privacy as a vestige of a genteel age that has long since passed away. Westin argues that Warren and Brandeis's call for a right to privacy "was essentially a protest by spokesmen for patrician values against the rise of the political and cultural values of 'mass society'" (1967: 348).

The concept of privacy is constructed through social norms and the law. Privacy is a set of protections from the plurality of problems that all resemble each other yet not in the same way

[11] *Campbell v MGN Ltd [2003] QB.*
[12] The original case of *Von Hannover v Germany* [2004] EMLR 379; (2005) 40 EHRR 1, though there are implications from *Von Hannover v Germany* Nos. 2 and 3.
[13] *Peck v UK* demonstrates this in practice.

and as such, Solove argues "we should act as cartographers, mapping the terrain of privacy rather trying to fit each situation into a rigid predefined category" (2008: 44).

## 2.5 The public and the private

People have an "intrinsic need to know" what is occurring beyond their experience, which has been described as a hunger for human awareness engendering a sense of security, control and confidence (Kovach and Rosenstiel, 2001). Individuals in society have an innate need for narrative, for "stories that tell us how to live" (Gritten, 2002: 58). To satisfy this growing desire for cultural narrative, the ubiquity of print culture, particularly in the later years of the nineteenth century, increased the representation of these ideas through the presentation of the reputations and images of public figures. This passion for private information about others resulted in a clear split in the press between papers concentrating on sensational news and those concerned with serious objective commentary. Public culture swiftly became one of "attitudes struck, opinions exchanged and stands taken", providing unprecedented opportunities for role-playing and the expansion of the public imagination by the press (Rojek, 2001: 160).

In *Celebrity*, Rojek describes the emergence of celebrity as a public preoccupation as the result of three major interrelated historical processes: the democratisation of society, the decline in organised religion and the commodification of everyday life[14]. The surfacing of celebrity culture is historically tied into wider processes around the splitting of the public and private sphere in European bourgeoisie society. This historical division between the public and private sphere is best described by Habermas in *The Structural Understanding of the Public Sphere*. It acknowledges how the public sphere has been referred to as both political and literary; a world in which people depended on communicating through "critical debate in the world of letters, or through rational-critical debate in the political realm" (1989: 55). This seminal work has been turned over and questioned by sociologists, though many agree it offers a coherent framework for understanding the role of the media in shaping public discourse.[15]

[14] For Rojek, celebrities humanise the process of commodity consumption as consumers desire to possess them. They become nodal points of articulation between the social and the personal; simultaneously embodying social types and providing role models via the media.
[15] As noted by Iosifidis, Habermas's work offers a "starting point for understanding the role of the media in public communication" (2011: 33).

During the eighteenth century, the public sphere arose as a result of the completion of an intimate family sphere, separated from that of trade and transaction. These newly privatised individuals came together to form a public, and reflected critically, and in public, on what they had read, namely the fictional writing emerging at the same time. The reading of novels soon became customary among the bourgeoisie and the newly emerging literary sphere that "constituted the public that had long since grown out of early institutions like the coffee houses" was now held together by the "medium of the press and its professional criticism" (1989: 51). This resulted in the formation of a public sphere of rational-critical debate "within which the subjectivity originating in the interiority of the conjugal family, by communicating with itself, attained clarity about itself" (1989: 51)[16].

Habermas asserts the bourgeois public sphere arose historically in conjunction with a society separated from the state as the 'social' could be constituted as its own sphere, as reproductions of life took on private forms while simultaneously the private realm as a whole assumed public relevance as "the general rules that governed interaction between private people now became a public concern" (1989: 127). Gradually, this public sphere has been replaced by what Habermas refers to as the "pseudo-public", a sham-private world of cultural consumption in which social forces enter the intimate family sphere via the mass media, who recommend themselves as addresses of personal needs and difficulties, and authorities for advice on the problems of life. Publicity has undermined the first relationship between the intimate sphere and the public sphere as the boundaries between the two have become blurred in the private domain, offering copious opportunities for identification with those in the public eye. Habermas explains this:

> The problems of private existence are to a certain degree absorbed by the public sphere; although they are not resolved under the supervision of the publicist agencies, they are certainly dragged into the open by them. On the other hand, the consciousness of privacy is heightened precisely by such publication; by means of it the sphere generated by the mass media has taken on the traits of a secondary realm of intimacy (1989: 172).

[16] Habermas states the previously state-governed public sphere was fast becoming a public of private people making use of newfound reason, "already equipped with the institutions of the public and with forums for discussion" (1989: 51).

About this process, Bucher describes how the editorial function of the press has resulted in a transformation of publications from "institutions" or "merchants" of news into carriers of and dealers in public opinion (cited in Habermas, 1989: 182). Over the course of the nineteenth century, the profiles of prominent public figures emerged alongside the development of more salacious stories and "muckraking to discover scandal" with media profiles changing from "carefully choreographed studies" of public moments to revelations about their private lives over the course of the nineteenth century (Marshall, 2005: 21).

King (1987) notes the myth of celebrity incarnates itself so astonishingly within reality because it is produced by the human history of the twentieth century. Where once the hero-myth was reserved for people of "real achievements", today's celebrities have their private lives and careers moulded by the media and their handlers to resemble a diluted version (Gritten, 2002: 62). Our subconscious desire for heroes, ecstatic experience and transgression is symbolically accommodated by celebrity culture (Rojek, 2001), which develops a relationship between production and consumption (Habermas, 1989; King, 1987). Celebrities embody cultural contradictions in the realm of identity and the division of the public and private realm. They represent the complex way in which we reproduce the world and separate ourselves into public and private people[17] and allow us to cope with this division (Dyer, 1986).

## 2.6 Celebrity and privacy

According to Loughlan et al (2010) , a celebrity individual is required to be interesting, with a distinct narrative. Returning to the idea of cultural storytelling and identification, Gritten describes how the media have latched onto news about celebrities as providing a form of narrative where famous people are treated as "recurring bit-part players in a huge, constantly unfolding drama" in which the audience can monitor fluctuating fortunes, career upheavals, romances and marriage break-ups (2002: 58). News stories about these individuals are constantly shaped by a sense of on-going narrative in the public sphere, where celebrities are given greater presence than those who make up the rest of the population. This celebrity status operates at the very centre of Western culture as an embodiment of media construction, audience construction through a real, living and breathing human, resonating with concepts of individuality within a public space (Marshall, 1997).

[17] The presentation of a "public face" is developed by individuals for managing social interaction (Rojek, 2001: 102).

Rojek locates mass media representation as the key principle in the formation of celebrity culture (2001: 13). The 'celebrity' is a site of negotiation between the public, the media and the celebrity individual (Dyer, 1979; Marshall, 1997). King points to the triangulated relationship at the heart of celebrity: one that operates around "the contradictory positionalities of character as a notional entity, personality as the private biographical reality of the actor as a person pre-given in the host culture, and persona as the public image of the actor as a concrete person that is inferred from his or her screen presence and associated publicity" (1987: 156). Dyer (1979) describes the celebrity as a set of media signs, in reference to how the public make sense of the star and relate to general ideas about society and the individual. In this respect, the media has much to gain from aiming for an excess of disclosure, even if it entails trampling on an individual's privacy (Gritten, 2002).

Turner (2004) argues one can map the precise moment when a public figure becomes a celebrity through privacy as when media reporting is transferred from portraying their public roles to investigating their private lives. Law professor Diane Zimmerman argues that gossip is a basic form of information exchange that educates the public on human behaviour, and as a result disclosures about private lives may change hypocritical social norms that societies proclaim in public but flout in private (Solove, 2008).

A free flow of information may threaten individual privacy, especially that of celebrities whose intimate details are broadcast across the world, but is crucial for changing and reinforcing social values. Celebrity status is configured by the connection, as portrayed in the media, between celebrities' personal and working lives. These media descriptions deepen the meaning of the celebrity as a sign, connecting famous individuals to a larger cultural context. Dyer refers to this as "an obsession with the reality of the private self" which speaks to society's investment in the private as the real (1989: 19). The celebrity becomes a site of tension between false and authentic cultural value[18] positioned somewhere between the dominant culture's rationalisation of what it sees as irrational and the popular audience's desire for identification (Marshall, 1997).

Celebrities humanise the process of commodity consumption. Consumers desire to possess them, and media influence is a major factor in this everyday interpersonal exchange. As such

[18] Marshall (1997) explains that celebrity as a cultural sign simultaneously gives value to meaning and communication while the individual is ridiculed and derided for embodying success without the requisite association with work, thus the celebrity sign embodies the individual as a commodity. King adds: "It is a truism of the literature that the star system, whether in film, stage or the music business, develops out of and sustains capitalist relations of production and consumption" (1987: 149).

celebrities embody social types and provide role models as "nodal points of articulation between the social and the personal" (Rojek, 2001: 16).[19]

It is important to explore Dyer's work into the public individual in private, set out in *Heavenly Bodies: Film Stars in Society*. As previously discussed, the celebrity, or the star in this context, operates as a set of media signs in a socio-historical context. This chapter has already addressed how Dyer observes the construction of stars as forcing us to think in terms of the 'really'. The magic of stars is that they seem to be their private selves in public and are complicit in doing do, being in the business of being in public. It is ironic then that Dyer notes the assertions of the reality of the inner self takes place in the mass media, one of the aspects of modern life associated with the invasion and destruction of the private self. Celebrities are the perfect example of media hype creation as they are "foisted upon us by the media's constant need to manipulate our attention", though the audience has some control over this in selecting from the complexity of the star image "the meanings and feelings, the variations, the inflections and contradictions" that work for them in terms of identification. He continues:

> The private/public, individual/society dichotomy can be embodied by stars in various ways; the emphasis can fall at either end of the spectrum, although it more usually falls at the private, authentic, sincere end. Mostly too there is a sense of 'really' in play – people/stars are really themselves in private or perhaps in public but at any rate somewhere (1986: 15).

The celebrity is an "agent", both a proxy for someone else and an actor in the public sphere (Rojek, 2001: 243).[20] The central paradox between the public and the private constantly jogs questions of the individual and society as tempered by the celebrity, though the whole phenomenon is unstable, "constantly lurching from one formulation of what being human is to another" (Dyer, 1986: 18). Celebrities are intense sites for determining the meaning and significance of the private sphere and its implications for the public sphere, as fundamentally celebrities represent the disintegration of the distinction between the private and the public (Marshall, 1997). The issue become even more complex when a celebrity is off duty but visibly trying to go about their own business in a public place. According to Gritten, it is at this point that the disparity between a perceived public role and private persona can seem

[19] This is usually thought of in polarised terms, they are cultural fabrications and implies a split between the public and private self (Rojek, 2001: 10).
[20] As noted by Dubied & Hanitzsch (2013), as celebrity private lives are exposed by the media, celebrities become "carriers of identity markers, as exemplars for particular ways of life and expressing oneself, and as models whose stories are subject to public conversation".

"huge and insurmountable" (2002: 89). The public face, or presenting the construction of a public face as different to the private, is an inescapable condition of celebrity (Rojek: 2001).

Historically, the mass media constitutes the principal channel of communication between the celebrity and the audience, who respond to a famous individual through abstract desire. As Rojek notes, the peculiar tension in celebrity power is the physical and social remoteness of the celebrity[21]. The relationship between the audience and the individual can never be consummated and so media representations, much like autographs, enable fans to "savour proximate possession" of the celebrity (2001: 63). The media compensates for this distance with a glut of information, and celebrities enjoy special media privileges to communicate with the public. The "celebrity biography" is fed to us by the tabloids press and popular magazines and is often presented as being increasingly sensational (Marshall, 1997: 3). Rojek calls sensationalism the mass media's response to the "routines and predictabilities of everyday life": referencing Boorstin's term 'pseudo-event', an arrangement of newsworthy events and personalities by negotiators acting on behalf of celebrities e.g. managers, publicists and agents, and editors (2002: 18). This technique is often employed in politics as an attempt to constitute a particular politician as news, and political leaders soon become adept in staging celebrity (Marshall, 1997; Rojek, 2001)[22]. This is one example of how celebrity journalism can distort, mislead and overwhelm the other functions of the free press. However, journalism must provide a public forum for public criticism, and comment on celebrity has become a legitimate part of public conversation.

The forms journalists use to alert the public to celebrity issues can encourage moral judgment, though the press can become 'the boy who cried wolf': "squandering its ability to demand the public's attention because it has done so too many times about trivial matters" (Kovach and Rosenstiel, 2001: 122). The press prefers long-running, simple stories that audiences can dip in and out of. Headlines about event relationships tend to have only a short-term effect, though they have their uses in selling newspapers and filling gaps in television news programmes. The media prefers stories with a much longer life, stories about celebrities that run and run (Gritten, 2002)[23]. The death of Princess Diana and the Clinton-Lewinsky scandal

[21] Chapter Nine explores how this relationship is changing.
[22] Rojek calls the politician "the family patriarch represented as the benevolent leader whose power is tempered by his responsibilities to others. The politician's autonomy and power are built on his or her ability to establish the similitude of meaning of the office with his or her meaning and demeanour in the private sphere; the politicians individuality must be compatible with his or her public role and persona to the point where there is a natural link made between the individual and the office" (2001: 231).
[23] Frank Rich, *the New York Times* journalist, terms these stories as a 'mediathon'. Gritten notes how these are used to fill space on news pages and airtime on television more effectively than one-off news stories with little context.

are trophies in this respect because they get entire nations talking and continue to feed of off themselves (Gritten, 2002; Kovach and Rosentiel, 2001). A media story can become an industry in its own right as it is manipulated and presented in new forms with emerging information, giving rise to all kinds of new angles, editorialising and comment. Kovach and Rosenstiel describe this as the "lure of infotaiment" where tabloids use celebrity scandal as news revealed as truth (2001: 152). The story itself is presented as a secret where a reporter is needed to let the audience in on the intimate details.[24]

Rojek coined the term "celetoids": individuals whose public identity is constructed around the sexual scandal. They symbolise hypocrisy or corruption and deflate the sanctimony of public figures to highlight allegations of moral bankruptcy in public life (2001: 22). Monica Lewinsky is referenced to as falling into this category. To take a more recent British example, one could look to Imogen Thomas, the glamour model and former Big Brother contestant, who was revealed to have had an affair with footballer Ryan Giggs[25]. Rojek sees celebrity culture and the celetoid as direct descendants of the revolt against tyranny, presenting the decline of ascribed forms of power and a greater equality between the classes (2001: 29). Kovach and Rostenstiel look back at the yellow press, particularly the tabloids of the 1920s, where "building community and promoting democracy remained a core value and the desire for truth was fulfilled". They assert that the job of the news media is to give an increasingly complex and dynamic public what it needs to sort out the truth for itself over time, and that even the "Lords of the Yellow Press" sought to assure readers that they could believe what they read in it (even if the pledge was not always honoured), arguing: "At their worst moments, Joseph Pulitzer and William Randolph Hearst appealed to both the sensational tastes and the patriotic impulses of their audiences" (2001: 23). Kovach and Rostenstiel argue that journalistic truth is a concept that must build over time, with the search for this truth becoming a conversation between the media and the audience, but that entertainment focuses on what is most diverting, which has the potential to hinder this conversation.[26] This is of course indicative of the extent to which market forces affect the content and practices of the media, notably in terms of the British tabloid press. As noted by Petley, though newspaper editors and proprietors bemoan the introduction of regulation underpinned by government legislation, newspapers are in fact subject to 'market censorship' which manifests as "the

[24] Kovach and Rosenstiel are critical of this: "If you feed people only trivia and entertainment, you wither appetite and expectation for anything else, destroys authority to deliver more serious news, playing to the strengths of other media rather than your own" (2001: 154).
[25] For more on the *CTB* injunction, please refer to Chapter Three (3.2.4: v).
[26]Journalism is reactive and practical not philosophical and reflexive, but "a journalism that justifies itself in the public's name but by which public plays no role except for the audience" (Gritten, 2002: 27).

exercise of both proprietor and advertiser power over newspaper content, lack of adequate journalistic resources as a result of cost-cutting, an insistence on 'giving people what they want' as consumers rather than what they need as citizens, the tyranny of majority tastes, and a general subjugation of the news agenda to purely commercial ends, which, crucially, includes pressuring governments to enact policies which support newspaper owners' commercial interests" (2002: 534).

### 2.6.1 The power of celebrity

Many assumptions are made about the value of celebrity culture. Boorstin, writing at the beginning to sixties at a time of cultural flux with the rise of the mass media, describes celebrities as mere imitations of reality rather than reality itself. He defines a celebrity as a person "who is known for his well-knownness*"* (*Newsweek*, 2009). The forms of mass cultural and mass entertainment are positioned at the low end of the hierarchy of taste and value, and individuals who emerge from these domains are "tainted with the contusion that they are unsophisticated individuals whose appeal is to base and undeveloped tastes: ...their appeal is not to some level of abstract and the aesthetic but what may described as verging on raw sentiment and affection" (Rojek, 2001: 225).

However, celebrities are undeniably powerful. They define the construction of change and transformation in contemporary culture and thus their movements are significant. Rojek claims they occupy this space because they emerge from a legitimate place connected to the people (2001: 244). At the same time, celebrity status is vulnerable as it emerges from the twinned discourses of democracy and capitalism (Marshall, 1997). The celebrity represents the potential of democracy, a celebration of new kinds of values and orders and the debunking of the conventional divisions of traditional society. The celebrity is dependent on an entirely new order, a heightened significance of popular culture and embodies the empowerment of the people to symbolically shape the public sphere (Marshall, 1997). There is a convergence of power between the political leader and other forms of celebrity, a marrying of politics and entertainment. Though they may be made to seem distinctly different, especially in debates about public interest, they symbolically blend.

Marshall refers to Weber's definition of the 'charismatic figure' where a leader is dependent on status and ability to "transcend the sphere of everyday economic routines" (1997: 22). The politician plays into an area of social life where identification is fundamentally irrational: the

effort to provide cultural linkage between a candidate product and a large public is a great play in the realm of affective power.

In this context, the celebrity is simultaneously a construction of the dominant culture as rational and political, and a construction of the subordinate audiences of celebrity culture. Marshall positions the celebrity somewhere between the dominant culture's rationalisation of what it sees as irrational and the popular audiences uses, identification, and expression of the affective power (1997: 50). This transforms the public sphere into a forum where popular reality can shift the personal into the political sphere, a space where realms usually considered outside of the bounds of public debate can be discussed. The irrational, emotional, personal and the affective are pushed to the forefront of public debate through celebrities. Marshall further explains this link between the political as public and the celebrity as private further:

> First the political leader, like the celebrity, is produced as a commodity. Second, the symbolic content of the political leader as commodity arises primarily from the similar groundwork of common cultural detriments. Entertainment celebrities, like political leaders, work to establish a form of cultural homogeny. *The meanings of masculinity and femininity, the meaning of family, and the definition of common cultural identity are the various territorial domains upon which popular culture all celebrities navigation in their formation of public personas.* Popularity, or the temporal establishment of a connection to significant configuration of cultural symbols, is sentential for both the politicians and the celebrity (1997: 214 [emphasis mine]).

Rojek is critical of the celebrity as embodying democracy as the central political paradox of democracy is that "the system formally delivering the means of equality and freedom to all cannot survive without generating structured inequalities of status and wealth", and the celebrity is most transparent expression of this paradox:

> Celebrity culture is the expression of social form. The grotesque, bloated cultural shape assumed by some of our celebrities is the development of the common constituents of social form. As long as democracy and capitalism prevail there will always be an Olympus, inhabited not by Zeus and his court, but by celebrities, elevated from the mass, who embody the restless, fecund and frequently disturbing form of the mass in the public face they assemble (2001: 198).

## 2.7 Privacy as a moral panic

Day-to-day, we talk about privacy as though it is unquestionably moral. In *Flat Earth News*, Davies describes one of his rules of production as "to go with the moral panic" where the nation is sold a heightened form of its own emotional state by recycling readers' values (2008: 142). He uses the death of Diana to demonstrate how the narrative surrounding her death involved the press "recording the genuine shock and sorrow, playing it back at increased volume, heightening the shock and sorrow, and then playing that back too, all the time condemning heretic unbelievers with such passion that the Queen herself ended up being denounced for failing to show enough misery" (2008: 142).

Through a set of definitions put forward by Cohen (1973), we can see how journalistic processes in the Britain are the most important factor in creating moral panics (cited in Critcher, 2005). Cohen defines moral panics as where: (1) A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; (2) its nature is presented in a stylised and stereotypical fashion by the mass media; (3) the moral barricades are manned by editors, bishops, politicians and other *right-thinking people*; (4) socially accredited experts pronounce their diagnosis and solutions; (5) ways of coping are evolved or (more often) resorted to; (6) the condition then disappears, submerges or deteriorates and becomes more visible [emphasis mine, numbers inserted by Critcher].

Cohen explains that sometimes the object of a panic is quite novel and at other times it is something which has been in existence long enough but suddenly appears in the limelight. Though panics can pass over and be forgotten, at other times they have grave and long-lasting repercussions and might produce such changes as those in legal and social policy or even in the way the society conceives itself (Cohen: 2006).

Privacy itself occupies a moral polychotomy. The British press has created a narrative in which rich and powerful individuals stifle free speech. This is framed as a moral panic, while the privacy intrusion by the press is tied up in a separate moral discussion. When we hear that an individual's privacy has been invaded, we readily assume that something morally reprehensible has occurred. We talk about privacy as though it is "unquestionably moral" (Allen, 1988: 40). Similarly, when we talk about the public interest, and what it should

include, we are relying on a series of individual and subjective moral theories. One is concerned with freedom of speech and the other with privacy invasions.

## 2.8 Conclusion

The way we define what is private has changed. The family and the notion of a private sphere were not at the heart of what we now consider to be privacy. During the nineteenth century and the growth of individualism, family life started to separate from industry and profession, and so the concepts of 'work' and 'home' became very distinct. Solove (2008) uses the example of sexual life, recognised as one of the most important elements of the personal sphere by the ECtHR. Sex in private now refers to sex in seclusion and information about sexual activity is viewed as private. In Medieval England, sexual transgression was community's business (Solove, 2008: 54). Privacy is something that we construct through our norms and the law, but these are not fixed. We now talk about a 'reasonable expectation of privacy'; an expectation that determined by existing standards. The private sphere has since been constructed as revelatory, the ultimate site of truth and meaning for any representation in the public sphere:

> In a sense, the representation of public action as a manifestation of private experience exemplifies a cultural patter of psycho-organisation of the public sphere. The formation of the public subject is reduced to various psychological motivations, pressures at the micro level, the expression of family interest and personality traits. The celebrity is the avant-garde of this movement to vivisect public action by identifying the originary private experience (Rojek, 2001: 247).

Those who are successful in following the path of achieved or attributed celebrity must surrender a portion of the self and leave the world of anonymity behind. Celebrities acquire so much honorific status and wealth that their downfall "becomes a matter of public speculation and is on occasion even desired" (Rojek, 2001: 79). Politicians, especially, must adhere to a defined set of standards to avoid such a fall from grace, as being elected implies accepting a contract with the electorate that must not be breached. Politicians should avoid preaching against or advocating legislation against behaviour that they practice in private, and although one might ideally wish politicians to be "models of prohibity, restraint and fidelity" they often fail to live up to public expectation (Gritten, 2002: 145). As Leveson LJ noted in 2012, the existence of a private sphere is vital for human development, and as such should be a space in

which individuals are able to experiment with preferences and build personal relationships beyond public scrutiny and judgment (Vol I: 73). Celebrities are, after all, only human.

It is not just the concept and importance of the public figure, whether politician or celebrity, that has evolved, but the audience too, having emerged from the social categories of class and mass (Marshall, 1997: 62). Marshall puts the ascendancy of the celebrity as a phenomenon down to the formation of the collective as an audience. In the attempt to engage the popular and the collective in the formation of the modern celebrity, the crowd theorists of the turn of the century made a complete circle back to the importance of the leader in directing the crowd, while importance was given to the impact of the crowd in breaking down social barriers. As we move through the twenty-first century, Lumby notes that celebrity is becoming increasingly divorced from the elements which have defined them through history, "wealth, 'natural' ability, looks, intelligence, family, character or social charisma" and that the acquiring fame is both "radically democratic and brutally random" (2007: 341).

Journalism, then, is a "modern cartography" creating a map with which citizens can navigate society (Kovach and Rosenstiel, 2001: 164). A heavy burden rests on the ethics and judgments of the press, though we quite often see this thrown off in pursuit of the latest celebrity story. This is the site of legal debate stretching back from present day into the earliest breach of confidence brought by the Royal Family, *Prince Albert v Strange*[27]. Simmonds glibly refers to this in her satirical book *Princess Di: The national dish*: "As uncounted victims of the Public's-Right-To-Know have discovered, scraping off the mud once flung is likely to result only in sticky fingers and further clods and these…are to be avoided" (1984: 71).

Those victims should remember, and take some consolation from the fact, that public knowledge is not intimate knowledge. Public debate defines people for its own purposes and in its own ways; all public knowledge deals in stereotypes and generalisations, so that all individuals who become the subject of public knowledge risk misrepresentation (Post, 2001: 2090). The media offer images with which the audience can identify, and celebrities come to represent subject positions that audiences can adopt or adapt; or as we have seen, criticise (Marshall, 1997: 64). As with politicians, we elect them, and we can tear them down.

[27] Please see Chapter Three (3.1).

For celebrities, every legal or regulatory case is a test case. A case by an ordinary member of the public will generally arise from some isolated incident or be brought as a matter of principle. For celebrities, in contrast, every case on privacy becomes a test case of where the boundaries between public and private life lie, for that particular person, in a particular society, at a particular time (Loughlan et al., 2010: 91). Giving evidence to the Leveson Inquiry, Camilla Wright, proprietor of *Popbitch*, explained that the purpose of the gossip newsletter and website was to allow the public access to the facts about celebrities, given their ability to shape and influence the lives of their audiences[28]. On this evidence, the Leveson Report said: "Ms Wright argued that it is only right that publishers should bring material to the attention of the public if it brings to light what she described as the 'gap between people's private life and public life'. This she argues is not only very much in the public interest but is a reflection of everyday concerns that individuals may have, as well as the reality of celebrities and others putting potential personal or private information into the public domain through Facebook and other social media, that might sit uneasily or indeed at odds with their public persona" (Vol I: 169).

In *The Celeb Diaries*, former *Heat* magazine editor Mark Frith declares the period between 2000 and 2010 as the 'Celebrity Decade' with the world of celebrity increasingly acting as a "human zoo" (2008: 2). As outlined by this chapter, celebrities have become the discursive talking points for the political dimensions of a host of formerly private and personal concerns, and via journalistic reportage have become the effective conduit for discourses about the personal (Marshall, 2005). Thus the sacrifice of their privacy is demanded by the public and the media, and though sometimes granted, is often fought against by way of legal and regulatory systems.

Though Paul McMullan was best remembered for the previously mentioned "privacy is for paedos" declaration, which carried little weight with Leveson LJ, he was arguably the most succinct in articulating the value of private information to the press: that circulation defines what is printed. He told the inquiry:

> I see no distinction between what the public is interested in the public interest. Surely they're clever enough to make a decision whether or not they want to put their hand

[28] Leveson Inquiry, afternoon hearing, 26 January 2012. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-26-January-2012.pdf.

> in their pocket and bring out a pound and buy it. I don't see it's the job – our job or anybody else to force the public to be able to choose that you must read this, you can't read that.[29]

Private information might be desired but there is no 'right' to it. The distinction between the public interest and what the public are interested in had played out over a number of cases and events in British public life in previous decades, some of which will be identified in the next chapter.

[29] Leveson Inquiry, afternoon hearing, 29 November 2011, p. 39 (lines 16-23). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Afternoon-Hearing-29-November-2011.pdf.

# CHAPTER THREE – SOCIO-LEGAL HISTORY

> Anything that defines what privacy is should also help to define what is in the public interest. That should protect and enhance genuine public interest journalism, and at the same time protect people's privacy. The two things should go hand in hand and are not mutually exclusive; one thing should protect the other.
>
> *(Steve Coogan, Joint Committee on Privacy and Injunctions, 5 December 2011)*

Article 8 (1) of the European Convention on Human Rights (ECHR) states that "everyone has the right to respect for his private and family life, his home and his correspondence".[1] The HRA came into force in October 2000 and enshrined this right into British domestic law.[2] This moment in legal history came to have significant ramifications on the way invasions of privacy dealt with by the courts in the following years, but questions of confidentiality and privacy had been under consideration by the judicial system far back into the previous century. To understand how the privacy debate was played out at the Leveson Inquiry in 2012, and until the present day, one must go back to 1848, over forty years before Warren and Brandeis considered the right to privacy in their famous essay.

## 3.1 Setting the scene for English privacy law

*Prince Albert v Strange* is the foundation in English law regarding privacy breaches. It is the first instance of an injunction applying to an intrusion by a third party over pictures. In 1848, copies of private etchings of the Royal Family, created by Queen Victoria herself, had been made by a staffer named Middleton at the Royal's trusted printers and passed on to another publisher, William Strange. Strange wanted to hold an exhibition of the copies and publish a catalogue describing the etchings. There was no breach of confidence between Prince Albert, the Queen's husband, and Strange, but the judge in the injunction case ruled there had been a breach of trust by Middleton, and so the injunction held (Rozenberg, 2010). As acknowledged by Loughlan et al. (2010) it was not just that the Prince wanted the etchings to be kept private,

[1] The full ECHR can be found here: http://www.echr.coe.int/Documents/Convention_ENG.pdf. Former News of the World news editor Pete Burden used Article 8 as the prologue to his memoir News of the *World? Fake Sheikhs and Royal Trappings* (2008).
[2] The full HRA can be found here: http://www.legislation.gov.uk/ukpga/1998/42/contents.

he wanted to prevent the disclosure of any information about them entirely. Since then the development of the tort of breach of confidentiality, defamation and harassment law, and Article 8 have been used by celebrities to try and curb press invasions into their private lives. The potential for the implementation of a tort relating to privacy invasions has been banded around for many years but was decried as an attempt to curb press freedom by journalists, lawyers and politicians. Even after the events of the Leveson Inquiry, it seemed unlikely that such a tort would ever be formed. However, in 2014 in the case of *Vidal-Hall & Ors v Google Inc,* Tugendhat J confirmed: "the tort of misuse of private information is a tort". Though the case concerned a group of users who claimed Google had tracked their internet use without consent and did not concern privacy invasions by the press, the judge relied on the precedent set by *Douglas v Hello* and *Campbell v MGN*.

As described by Cole and Harcup, the history of press self-regulation and the relative freedom that affords means there have long been concerns about the ethics of journalists - particularly newspaper journalists (2010: 76). This chapter also seeks to address the political, social and economic factors that have exacerbated or contributed towards concern over the standing of ethics within sectors of the industry. As noted by Iosifidis, issues around concentration are not just the product of recent times, as "rapid commercial growth and the strong trend towards monopoly that the press has experienced since the early part of the twentieth century in both Europe and the USA have raised questions over the public task and public responsibility of the medium" (2011: 45). This is notable in respect to privacy concerns, as developing technologies have allowed increased and intensified intrusion methods, while competition for print sales and online traffic has also grown. In terms of regulation, the Press Complaints Commission has faced particular difficulties in controlling the newspapers' excesses in respect of breach of privacy, in particular in regards to celebrities or members of the British Royal Family (Feintuck and Varney, 2006).

### 3.2 Privacy landscape in English Law (1972 – 2012)

The privacy landscape has developed in varied and unexpected ways in relation to press intrusion across the world in recent years, but in this legal jurisdiction, a series of moments can be identified with regard to the treatment of celebrities and non-celebrities by the press, press regulators and the courts. The Leveson Report[3] lays out this history in exhaustive detail

[3] The full Leveson Report and Executive Summary can be accessed here: http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780.asp.

in Part D going back to 1947, particularly regarding regulation, but for this research a more precise selection of relevant developments in the socio-historical and legal spheres are outlined in this chapter.[4]

### 3.2.1 Younger Committee Report on Privacy

The Younger Committee formed to debate whether an enshrined right to privacy was necessary for English law, and wrestled with a definition of privacy as much as the academics of the previous chapter, with the final report published in 1972. On 6 June 1973, the House of Lords debate the outcomes of the report in depth, bearing great resemblance to the issues considered by the subsequent Calcutt and Leveson Reports. Lord Byers described the inability to reach a definitive categorisation of privacy and explained the report instead "looked at areas where privacy was threatened; we examined existing remedies, and we pointed to areas where action was required". The report revealed there were not enough examples of individual privacy intrusions from the mass media or the press to justify replacing the Press Council, then the regulator of Fleet Street. However, Dworkin (1973) pointed out that there was no comprehensive survey of public opinion conducted, as the Committee relied on solely on submissions from organisations. Nonetheless, no privacy tort was to emerge, with the report recommending the creation of new torts of unlawful surveillance and disclosure, as well as extending breach of confidence to cover such claims (Wacks, 2010). The Committee also recommended the Press Council codify its adjudications on privacy and build up a body of case law understood by the industry. During the debate, Baroness Gaitskell noted the illegality of known press practices including secret bugging and photography but pointed to the "grey area" of paying for stories and other intrusions:

> In cheque-book journalism, the main dangers are blackmail and the temptation to publish and repent that are facilitated by the Press. Yet, when we consider the age of mass communication and the encouragement of mass exposure, physical and moral, in which we live, there is a kind of conspiracy between the Press and the public. Most people, among them politicians, actors and sportsmen, love publicity and hate to be

[4] In his report, Leveson LJ states: "It should not be thought that the culture and practices that have given rise to the establishment of this Inquiry are in any way new, even if much of the technology which underpins new developments is. Concerns as to the behaviour and practices of the press have been articulated by both private individuals and Governments throughout the twentieth century, and (in one form or another) very much earlier. Indeed, some of the practices and concerns that gave rise to the 1947 Royal Commission into the Press, and in particular those in relation to the breach of privacy of individuals, have been effectively repeated before this Inquiry" (Vol I: 196).

> forgotten. The Press would not buy confessions if the public were not curious about them and did not relish them. So people are paid all to tell all, in order to satisfy the public's curiosity" (HL Deb, 6 June 1973: 133).

During the same debate, Lord Bethell recognised the pressure on proprietors, editors and journalists to keep up circulation by satisfying public curiosity but referred to the press as restrained, with the exception of some reporters at the *News of the World,* with Lord Wigg stating: "This is capitalistic enterprise seeking profits" (153).

The committee also dealt with "the dangerous uncertainty in law" if courts were required to adjudicated on rights to privacy and claims of public interest from those who had intruded on those rights without a clarification in legal guidance on exactly what those rights should be (163).

While the Younger Report has been dismissed as a failure of action in the proceeding years, existing in a time before celebrities and public figures started pursuing a remedy for privacy invasions as seriously as defamation in the 1990s and 2000s, it sets out many of the discussions still under debate in the English courts and press today.

### 3.2.2 The Calcutt Report

Many parallels can be drawn between factors leading up to the Calcutt Report and the Leveson Report, not least the formation of pressure groups. In 1979, the Campaign for Press Freedom formed calling to reform the Press Council. As with Hacked Off, the group was sceptical of any voluntary reform of the regulator. Though they rejoined after a series of reforms, the National Union of Journalists had left the council in 1980 (O'Malley and Soley, 2000).

The 1990 Calcutt Report[5] called for the formation of the Press Complaints Commission to replace the Press Council, a recommendation which was realised the same year. A committee had been formed to consider privacy invasions by the press. Sir David Calcutt QC's review on the self-regulation of the press was more pessimistic than its predecessor although neither the report or the lawyer's 1993 review, called for a privacy tort. The report highlighted the case of actor Gordon Kaye, who was interviewed and photographed by a journalist from the

[5] Formally titled the *Report of the Committee on Privacy and Related Matters*, Cm 1102.

Sunday Sport while in a hospital recovering from brain surgery. The incident resulted in Kaye v Robertson, which demonstrated the absence of the right to privacy in English law.[6] In his judgment on Kaye, Glidewell LJ told the court: "The facts of the present case are a graphic illustration of the desirability of Parliament considering whether and in what circumstances statutory provision can be made to protect the privacy of individuals".[7] The report recommended three new criminal offences: of trespass on private property to obtain personal information for publication; of planting a surveillance device on private property to secure information for publication; and of taking a photograph, or recording the voice, of someone on private property for publication and with the intention that he should be identifiable.[8] When Calcutt issued his review into the success of the PCC, he was even more pessimistic: recommending that the regulator should be replaced by a statutory tribunal, a stronger Editor's Code and the ability to initiate investigations into malpractice without relying on complaints from those who had been subject to violations of the code by the press and went so far as to recommend a tort of privacy infringement[9]. He mentioned a number of incidents pertinent to the modern examples investigated in this research, including the publication of topless pictures of the Duchess of York[10] and the interception of Royal telephone calls[11] (Brown, 1993).

### 3.2.3 Death of Princess Diana

The death of Diana in Paris on 31 August 1997 was a key moment in the narrative of British press intrusion. Although the exact specifics of the accident that resulted in the death of Diana, her partner Dodi Al Fayed and driver Henri Paul are disputed to this day[12], it remains

[6] Rozenberg (2010) notes that although Kaye spoke to journalists willingly, he was not in a fit medical state and had no recollection of the same men being ejected from his room by security minutes before granting the interview.
[7] [1990] EWCA Civ 21.
[8] All three offences would be subject to defences of the public right to know, for example when done to expose crime or other wrongdoing, and of lawful authority.
[9] *Review of Press Regulation*, Cm 2135.
[10] In August 1992 the *Daily Mirror* published pictures of John Bryan kissing the feet of Sarah Ferguson while she lay topless on a sunbed in France.
[11] In 1992, the *Sun* newspaper revealed the existence of the 'Squidygate' tapes, a series of recorded telephone conversations between Princess Diana and James Gilbey. It was around this time that taped phone conversations between Princes Charles and Camilla Parker-Bowles also surfaced. The entire story as to how the tapes came to be recorded is still unknown.
[12] In a misguided defence of the Express's coverage of the McCann family, proprietor Richard Desmond said: "And the speculation has gone on and gone on and gone on and there has been all sorts of speculation about Diana, and you know what? I don't know the answer. And if you go into a bar or coffee shop or whatever the thing is, and you start talking about Diana, you will get a view on Diana and you will get a view, and once again I do apologise to the McCanns, you know, et cetera, et cetera, et cetera, but there are views on - there are views on the McCanns of what happened. And there are still views on the McCanns of what happened". Leveson Inquiry, afternoon hearing, 12 January 2012, p.85 (lines 23-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-12-January-2012.pdf.

the case that her car was pursued through the Pont de l'Alma road tunnel by paparazzi photographers immediately before the fatal crash. In the French courts, nine paparazzi photographers were charged with manslaughter, but the charges were thrown out in 2002, though three photographers were convicted of invasion of privacy for taking pictures of the crash scene and each fined €1 in 2006 (Balakrishnan, 2008). The death of the princess resulted in unprecedented scenes of national mourning. In *The Insider,* Piers Morgan, editor of the *Mirror* in 1997, wrote of the time: "The atmosphere is febrile: people want someone to blame and someone to hate for killing their Princess, and the prime targets at the moment are the press, Fayed and the royal family. In that order" (2005: 172). Many have pointed to the death of Diana as a moment in the regulation of the press toughened, including former PCC chair Lord Wakeham who told the Leveson Inquiry: "I think [changes to the Editor's Code] were right at the time, and we got them through and I think it was a significant improvement and some of them were, of course, changes that I had in mind before Diana died, but you have to pick the moment when the press was in the mood to accept a tougher code".[13]

The effect of Diana's death extended beyond the Royal Family, as exemplified by Sheryl Gascoigne who told the Leveson Inquiry her personal experience of press intrusion improved in 1997, explaining: "they weren't allowed to follow you as much or sit outside or come that close to your vehicle if they were following you, or something like that, so definitely it helped".[14] She told the inquiry she had previously called the police to move photographers away from the front of her house. The Anti-Paparazzi Act 1998 was passed in California but did little to protect celebrities out in public, as it only applied to photographers trespassing on private property. In English law, the Protection from Harassment Act 1997 was introduced but was not to be applied to the paparazzi for another ten years.

### 3.2.4 Notable cases (2000 – 2011)

Mark Frith, former editor of *Heat* magazine, called his tenure in the entertainment press "The Celebrity Decade" (2008: 2). Due to the increasing level of competition for celebrity stories in the British press, demonstrated in part by the illegal practices uncovered by Operation Motorman[15] and later under the hacking investigations, many celebrity individuals were

[13] Leveson Inquiry, morning hearing, 15 May 2012, p.41 (lines 1-5). Available at: http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2012/05/Transcript-of-Morning-Hearing-15-May-2012.pdf

[14] Leveson Inquiry, morning hearing, November 23 2011, p.72 (lines 18-21). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-23-November-20111.pdf.

[15] See (3.4.1).

subject to press intrusion on an unprecedented scale - and so made use of the regulators and the courts to protect their privacy from the press.

i) Douglas v Hello

Actors Michael Douglas and Catherine Zeta-Jones married in November 2000 and signed an exclusive contract with *OK!* Magazine, who paid the couple £1 million to cover the wedding. Thorpe, a photographer posing as a waiter sold pictures of the ceremony to rival publication *Hello!* for £125,000.[16] Though an injunction was initially granted against *OK!* it was later overturned by the Court of Appeal, leaving *OK!* free to publish the pictures.[17] The couple sued the publication for breach of confidence. This action resulted in a series of legal cases leading from the original injunction through to 2007 and become a hotly contested site of debate over celebrity privacy, financial gain and intellectual property rights in media publication.[18] When overturning the original injunction, Brooke LJ followed the *Prince Albert v Strange* case law and accepted an obligation of confidence could be applied to the photographs in this case, although Thorpe and *Hello!* had no contractual duty to the Douglases, Sedley LJ was firm that the couple had a legal right to privacy and Keene LJ acknowledged that the tort of breach of confidence was changing; ultimately the three did not recognise a new privacy law under the HRA (Rozenberg, 2010). At trial in 2003 Lindsay J found the couple were entitled to an injunction preventing further publication of the unauthorised pictures and awarded a series of damages as a result of the privacy invasion and costs, while *OK!* was awarded over £1 million for breach of confidence (Caddick, 2007).[19] The judge declined to create a privacy law, in this case, claiming that "no relevant hole exists in English law" and that it was up to Parliament to decide whether such a law should be introduced (Rozenberg, 2010: 71). The case was taken to the Court of Appeal where it was acknowledged: "As a means of invading privacy, a photograph is particularly intrusive" (para. 84).[20] As Caddick points out, the case impacted on whether celebrities could reap financial rewards from revealing their own private information and protect contractual obligations under

[16] The effect of the ruining of the wedding exclusive was far-reaching, and not just for journalists in a professional capacity. Boyd Hilton of *Heat* magazine, was banned from wedding of friends Dan Baldwin and Holly Willoughby by *OK!* magazine as the publication had exclusive rights to cover the event (Frith, 2008: 290).
[17] *Douglas v Hello! Ltd [2001] QB 967, [2001] 2 All ER 289.*
[18] Rozenberg argues that without the litigation, "some of our most imaginative judges would not have had the chance to test the waters of a new privacy law" (2010: 39).
[19] Michael Douglas told the court: "Control gives you privacy" (Rozenberg, 2010). The couple claimed that selling the rights to *OK!* rather than invading their own privacy, would allow them control over media interest.
[20] *[2005] EWCA Civ 595.*

areas of law designed to protect such revelations: essentially, they could have their wedding cake and eat it.[21]

As Rosie Nixon, the editor of *Hello!*, pointed out at the Leveson Inquiry, the ruling had helped editors across the country to protect their own exclusives and had been beneficial to the press. But she added: "We're in a very different time now. As I said, that was a mistake and a very costly mistake, and we simply are not in that position any more. We just wouldn't publish those photos".[22]

ii) Theakston v MGN

Television presenter Jamie Theakston sought an injunction against the *Sunday People* in 2002 to prevent the publication of story about him visiting a London brothel, specifically described as a 'bondage dungeon', in December 2001. Theakston was a well-known public figure and at the time was presenting *Top of the Pops*. *Heat* editor Frith recalled interviewing Theakston in 2000 and said at the time the presenter was being "followed by paparazzi day and night" and had been treated unkindly by the tabloids (2008: 43).[23] Theakston claimed the activities were private and confidential and that his rights under Article 8 had been breached, having not realised the establishment he was in was a brothel. The *Sunday People* claimed the story was in the public interest given Theakston was a children's TV presenter; particularly pertinent as Richard Bacon had been fired from *Blue Peter* four years earlier after the *News of the World* reported he was a user of illegal drugs. There was also an element of alleged blackmail, as Theakston claimed those who had taken pictures in the establishment contacted him and threatened to send the photographs to the press if he did not pay for the sexual services that had been rendered. Ouseley J agreed to an injunction of the photographs but not the article, claiming that under the PCC code definition of a private place did not apply to a brothel, and furthermore there was no breach of confidence in fleeting intimate affair that would cause introduction of privacy law but that the photographs could constitute an intrusion into Theakston's

[21] The particulars of the case are dealt with in detail in Rozenberg (2010).
[22] Leveson Inquiry, morning hearing, 18 January 2012, p.78 (lines 9-13). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-18-January-2012.pdf.
[23] Theakston later said of the paparazzi: "They won't understand you're a person, so you'll be getting in the car to pick the kids up and they'll say, 'Don't get in your car. Come and have your photo taken.' You're saying, 'Honestly, I'm in a rush, the kids will be waiting' and they'll say, 'Bloody hell. I might have guessed you'd be like that'" (Hardy, 2011).

"private and personal life and would do so in a peculiarly humiliating and damaging way" (Rozenberg, 2010: 13). The case would be particularly important for the following legal actions on the right to privacy of celebrities in relation to sex, as will be explored further in this chapter.

iii) Campbell v MGN

On 30 January 2001, the *Mirror* published a story about Naomi Campbell, the famous supermodel, emerging from a Narcotics Anonymous meeting complete with a photograph that showed her face but not those of the other attendees. It was headlined 'Naomi: I am a drug addict'. As Piers Morgan, who was editor of the paper at the time, recounted to the Leveson Inquiry: "We considered there was a public interest justification for publishing the story about Naomi Campbell, Ms Campbell having previously denied having a drug problem, there was no such justification for the other attendees and we acted to maintain their privacy".[24] In *The Insider,* the editor claimed he was contacted by Matthew Freud on behalf of Campbell asking if she could provide a response but decided to take legal action against the newspaper a day later (Morgan, 2005). Following the commencement of legal proceedings, the newspaper published two articles, one with a photo caption 'Naomi Campbell whinges about privacy' (Lougland et al., 2010). The resulting case *Campbell v NGN* was to have as much effect on the progression of privacy law in relation to the press as the Douglas action. In the initial trial, Campbell was awarded compensatory and aggravated damages[25] however, the Court of Appeal ruled in favour of the newspaper group[26]. The more significant ruling, in this case, was its elevation to the House of Lords[27], which restored the original judgement. In it, Lord Hoffmann observed in the protection of privacy was essential to "the protection of human autonomy and dignity – the right to control the dissemination of information about one's private life and the right to the esteem and respect of other people" and Lord Nicholls agreed that a "proper degree of privacy is essential for the wellbeing and development of an individual".[28] Morgan reacted badly to the decision, issuing a statement that said: "This is a good day for lying, drug-abusing prima donnas who want to have their cake

[24] Leveson Inquiry, Witness Statement of Piers Morgan, para 33. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/12/Witness-Statement-of-Piers-Morgan.pdf.
[25] *[2002] EWHC 499 (QB).*
[26] *[2003] 1 All ER 224.*
[27] *[2004] 2 All ER 995.*
[28] Notably, Hoffmann and Nicholls were the dissenting judges, against the majority of Lord Hope, Baroness Hale and Lord Carswell (Laughlan et al., 2010).

with the media and the right to then shamelessly guzzle it with their Cristal champagne" (2005: 8).[29] Campbell also won a separate claim under the Data Protection Act 1998 as Morland J decided that the information published on the model's physical and mental health could be considered "sensitive personal data, with the *Mirror* having no public interest defence under the Act for the revelation of this data (Rozenberg, 2010: 66). In a strange turn of events, Naomi Campbell interviewed Piers Morgan for *GQ* magazine in 2007 and asked him about phone hacking stating she believed it to be an invasion of privacy. He replied: "It is, yes, but loads of newspaper journalists were doing it. Clive Goodman, the News of the World reporter, has been made the scapegoat for a very widespread practice".[30] Morgan maintained he was aware of the practice of voicemail hacking because of the Fleet Street rumour mill rather than direct involvement.

iv) Mosley v NGN

Max Mosley was the subject of a *News of the World* expose in 2008, in a front page story headlined 'F1 Boss Has Sick Nazi Orgy With 5 Hookers' orchestrated by reporter Neville Thurlbeck. Thurlbeck claimed the story came from the partner of one of the sex workers who regularly organised themed orgies for Mosley, whom he met and set up with surveillance equipment to document the event. In his memoir, Thurlbeck said everyone who saw the video, then editor Colin Myler, Tom Crone, Neil Wallis, Ian Edmondson, James Weatherup and Paul Aston "unanimously and instantly agreed it appeared to be nothing less than a Nazi-themed orgy" (2014: 292). Mosley is the son of Oswald Mosley, founder and leader of the British Union of Fascists, and the newspaper claimed the public interest in exposing details and pictures of his sex life lay in the allegations the incident in questioned had overt Nazi themes. These assertions were dismantled in court by Mosley's legal team, and he won a landmark figure of £60,000 in damages. What made the Mosley case so interesting was the following trajectory in his pursuit of prior notification, summed up in his witness statement to the Leveson Inquiry: "The remedy is to require newspapers to notify an individual before publishing intimate or sexual details of his private life. Then the victim can, if he so wishes, ask a judge to prohibit publication

[29] The case was escalated to *MGN v United Kingdom* in 2011.
[30] Leveson Inquiry, afternoon hearing, 20 December 2011, p.65 (lines 12-15). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/12/Transcript-of-Afternoon-Hearing-20-December-2011.pdf.

until a trial can determine whether or not publication is law".[31] He lodged action with the ECtHR in *Max Mosley v UK*, but the judges ruled a legally binding prior notification requirement could have a chilling effect on the operation of the press.[32]

In Jon Ronson's *So You've Been Publicly Shamed*, the author claimed Mosley had survived his shaming because he was a man in consensual sex shaming and reports emailing him to say: "Nobody cared! Of all the public scandals, being a man in a consensual sex scandal is probably the one to hope for" (2016: 177).

v) A v B, LNS v Persons Unknown and CTB v NGN

The following cases did include men caught in consensual sex scandals exposed by the press, but the press certainly did care about exposing them to the public. Mosley had no time to initially injunct the material published by the *News of the World* because it was published without prior notification. Theakston was partially successful in injuncting parts of his *Sunday People* expose. However, it was a series of footballers and their use of injunctions to prevent private indiscretions from entering the public domain that became of fascination to the press. In *A v B*[33], footballer Gary Flitcroft attempted to prevent the *Sunday People* from running a story about extra-marital affairs with two women. He was granted an injunction in 2001, which was upheld despite protestations from the paper until 2002 when Lord Woolf, Laws LJ and Dyson LJ agreed it had been "an unjustified interference with the freedom of the press". The appeal to this decision resulted a particular point of interest in terms of this research: that there was a public interest in revealing Flitcroft's affairs as "footballers are role models for young people and undesirable behaviour on their part can set an unfortunate example" (Rozenberg, 2010: 53).[34] At the Leveson Inquiry, Flitcroft claimed one of the women involved had tried to blackmail him, though it was never proven in court. He told the inquiry about the impact the lifting of the injunction had on his life: "[My wife and I] split up, which is from mine and Karen's point of view a massive disappointment when you have three kids. But the fact that Karen's always been a private person…you Google her on the

[31] Leveson Inquiry, Witness Statement of Max Mosley, (para 78). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Witness-Statement-of-Max-Mosley.pdf.
[32] *Mosley v UK [2012] EMLR 1.*
[33] *A v B plc [2003] QB 195.*
[34] The case also resulted in the creation of 15 guidelines to aid judges in granting interim injunctions.

Internet and it comes up with my case now".[35] In 2004, the *News of the World* ran an expose on David Beckham's affair with Rebecca Loos, which the footballer denounced as "ludicrous" though never officially denied or sought legal action over the story.[36] Burden (2008) describes the resulting tabloid feeding frenzy and notes it as an example of cheque-book journalism as Loos was paid six figures for revealing the affair to the *News of the World*. Though Beckham did not go to the PCC or the courts over the revelation, the interest in the story and arguments over the footballer's status as a role model were to set the scene for the following years. Wayne Rooney, who had been caught sleeping with sex workers by the *Sunday Mirror* on two separate occasions in July and August 2004, tried to prevent the paper publishing an expose on his activities with sex workers Jennifer Thompson and Helen Wood in 2010 but was unsuccessful (Wright, 2010). Wood was involved in another injunction taken out by a married British actor that is still in place at the time of writing, the existence of which has been widely reported in the national and international press. It was in 2010 that the injunction *LNS v Persons Unknown* emerged. 'LNS' was revealed to be John Terry, who had tried to prevent the *News of the World* from publishing a story about his private life, when Tugendhat J ruled the footballer was more concerned about his commercial interests than the effect on his private life and ruled that freedom of expression was more important. However, perhaps the most important, or at least most discussed, of the footballer injunctions was *CTB v NGN*. 'CTB' was later revealed to be Ryan Giggs, who had taken out the injunction to prevent the *Sun* publishing an article about his affair with model Imogen Thomas. The injunction extended to Thomas, as it was argued in court by Giggs's legal team that she had been involved in a blackmail plot against him, though that was later proved to be untrue. Giggs also took an action against Twitter and its users[37] to prevent his name being shared on social media and rendering the injunction against the press useless, though he was eventually exposed by John Hemming MP, who used parliamentary privilege to name the footballer without threat of legal recourse[38]. In the wake of the Giggs injunction then Justice Secretary Kenneth Clarke said: "Every time I watch a

[35] Leveson Inquiry, morning hearing, 22 November 2011, p.61 (lines 7-12). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-22-November-20111.pdf.

[36] As one might expect, the Loos story is covered in detail in Thurlbeck (2015). In *The Celeb Diaries*, Frith recalls a PR statement from the Beckham camp on 22 September as being speedily issued, suggesting they had been anticipating the story (2008).

[37] *CTB v Twitter Inc., Persons Unknown.*

[38] "Parliamentary privilege grants certain legal immunities for Members of both Houses to allow them to perform their duties without interference from outside of the House. Parliamentary privilege includes freedom of speech and the right of both Houses to regulate their own affairs" (Parliament UK).

> football team I don't think I necessarily need to know about the sex lives of each of the players. It is probably right to say that Parliament passing a privacy act might well be the best way of resolving it" (Winnett and Hope, 2011).[39] British editors were becoming increasingly nervous about the chilling effect of injunctions on the freedom of the press but as the furore over the Giggs gag was dying down, the *Guardian* broke the Milly Dowler phone hacking story, and the playing field shifted again.

### 3.3 Phone hacking and the closure of the *News of the World*

On 26 January 2006, Clive Goodman and Glenn Mulcaire were found guilty of conspiracy to intercept communications without lawful authority under the Criminal Law Act 1977, in relation to hacking the voicemails of Royal Family aides, namely to Prince William and Prince Harry. Mulcaire was also found in breach of the Regulation of Investigatory Powers Act 2000 (RIPA), which prevents surveillance via intervention in communication and has no public interest defence for journalism, unlike other surveillance laws.

At the time, Goodman was famously referred to as 'one rogue reporter'. As reported by James Hanning in his book in collaboration with Mulcaire, the phone hacking scandal became "both a blame game and a study in deniability" (2014: 6). As described at length in Burden (2008), Hanning (2014) and Jukes (2014), Prince William became suspicious in November 2005 about an item from Goodman's *News of the World* column, which detailed a knee injury he had sustained playing football. It was the latest in a series of stories leaked from the Royal household, however, some royal aides had noticed issues with their voicemail messages. Vital members of the Royal communications network had been hacked: Helen Asprey, the aide to William and Kate, Paddy Haverson, the Royal Family's Communications Secretary, Jamie Lowther-Pinkerton, the Private Secretary to the Princes, Mark Dyer, the Royal Equerry to the Princes and their father, and Sir Charles Peat, who had been Private Secretary to Prince Charles from 2002-2012 (Jukes, 2014). Though it was known at the time though not made public until the 2012-2013 trials, the voicemails of Prince William, Prince Harry and Kate Middleton had also been hacked. The Metropolitan Police began an investigation, resulting in the arresting, charging and sentencing of Goodman and Mulcaire. At the trial further victims were listed as Elle Macpherson, publicist Max Clifford, Simon Hughes MP, football agent Skylet Andrew and Gordon Taylor of the Professional Footballers' Association's Gordon Taylor. The CPS had advised the case against Mulcaire should be limited to "less sensitive

[39] In respect of this, the Joint Committee on Privacy and Injunction is discussed in greater detail in section 3.5.2.

witnesses" though it was understood at the time over 418 potential victims had been identified from his notes (Hanning, 2014: 138).

In 2009, it was revealed that *News International* had paid Gordon Taylor £720,000 in an out-of-court settlement on the agreement he signed a clause preventing him from speaking about the case (Davies, 2009). Max Clifford was paid over £1 million in 2010 in a settlement with the publisher (Davies and Evans, 2010). The *Guardian* published a series of allegations about the widespread culture of phone hacking, resulting in a review carried out by John Yates, then Assistant Commissioner of the Metropolitan Police, who found the 2006 police investigation to be satisfactory[40].

In 2010 events continued to escalate as the *New York Times* published an investigation into phone hacking[41] and Sienna Miller filed legal action against the *News of the World*, which resulted in the police having to disclose the extent of hacking by the paper, and name more of the victims. Following a flurry of reporting about the potential victims, Miller's stepmother Kelly Hoppen, a well-known interior designer announced she was suing the newspaper and reporter Dan Evans for phone hacking (Davies, 2011).

On 4 July 2011, the *Guardian* finally revealed the voicemail of Milly Dowler had been hacked on behalf of the *News of the World* during the police investigation into her disappearance in 2002 (Davies and Hill, 2011). Andy Coulson, editor of the paper from 2003 until 2007 when he stepped down over the Goodman and Mulcaire affair, then resigned as David Cameron's head of communications. The *News of the World* shut down on 10 July 2011, though it was replaced by the *Sun on Sunday* shortly after, and the Leveson Inquiry was announced.

## 3.4 Investigations into illegal press activity

### 3.4.1 Operation Motorman (2003-6)

In 2005, Steve Whittamore and Jonathan Boyall, who ran a private investigating business frequently used by many British newspapers, pleaded guilty to breaching the Data Protection Act 1998 following an investigation by the Information Commissioner's Office: known as Operation Motorman. Former police officer Alan King and clerk Paul Marshall also pleaded

[40] Yates later resigned over criticism of this decision.
[41] 'Tabloid Hack Attack on Royals, and Beyond' (1 September 2010).

guilty to separate charges of conspiracy to commit misconduct in public office, as it emerged through Motorman that Whittamore and Boyall used King and Marshall to access the police database to gather private information on tabloid targets. Following the convictions, Richard Thomas, then Information Commissioner, commissioned the reports *What Price Privacy?* and *What Price Privacy Now?* in 2006 revealing which national newspapers had used Whittamore's services and to what extent. Though concern about mass data banks, partly due to the development of computer systems, was noted in the Younger Committee[42], the potential threat was no taken as seriously as it should have been until the Motorman revelations. In the first report, Thomas recommended the PCC should "take a much stronger line to tackle press involvement with this illegal trade" and in the second noted that Goodman and Mulcaire had been charged under RIPA in relation to intercepting the voicemails of the Royal household. Motorman and the resulting reports were just one piece of a much larger jigsaw but allowed a level of necessary context for the proceeding police operations and the Leveson Inquiry.

### 3.4.2 Police investigations and trials (2012 – 2014)

In the wake of burgeoning *News of the Word* scandal, and the failure of Yates's review, the Metropolitan Police launched three new investigations into alleged illegal press activity, all of which were overseen by Deputy Assistant Commissioner Sue Akers: Operation Weeting, Operation Elveden and Operation Tuleta. This was followed by the creation of Operation Sacha in 2012 and Operation Golding in 2013.

#### 3.4.2a Operation Weeting and Operation Golding (2011-15)

Operation Weeting was announced in January 2011 and sought to uncover the full extent of phone hacking at the *News of the World* after information was passed from *News International* to the police on the recommendation of the Director of Public Prosecutions. Following a series of arrests in 2011 and 2012, on 23 July 2012, the CPS announced it had charged Rebekah Brooks, Andy Coulson, Stuart Kuttner, Greg Miskiw, Ian Edmondson, Neville Thurlbeck and James Weatherup with conspiracy to intercept communications in relation to over 600 victims between 2000 and 2006. Mulcaire faced four specific charges in relation to four victims including Milly Dowler. On 3 September 2013, former *News of the World* and *Mirror* journalist Dan Evans was charged with two counts of conspiring to intercept communications, conspiracy to commit misconduct in public office (under Operation

[42] See Sharma (1994).

Elveden) and perverting the course of justice (Operation Sascha). Under the case *R v Coulson, Brooks and* others, Miskiw, Thurlbeck, Weatherup and Mulcaire pled guilty. On 4 July 2014, Brooks and Kuttner found not guilty. However, Coulson was convicted and sentenced to eighteen months in prison. Evans pled guilty to all charges but was given a suspended sentence on 24 July 2014 because of his cooperation with the police and CPS. Edmondson, who had been too ill to participate in the court proceedings, had originally pleaded not guilty but changed his plea and once declared fit to stand trial, was sentenced in November 2014.

Operation Golding was established in 2013 to investigate allegations of phone hacking at the *Daily Mirror* and *Sunday Mirror*. On 14 March 2013, James Scott, editor of the *People,* Nick Buckley deputy editor of the *People*, Tina Weaver, former editor of the *Sunday Mirror* and Mark Thomas, former deputy editor of the *Sunday* Mirror were arrested. Former *Daily Mirror* editors David Wallace and Piers Morgan were interviewed under caution in March and December 2013 respectively.

In December 2015 was announced by the CPS that no further activity was to take place under Weeting or Golding, at which time the *Guardian* reported there had been 41 arrests, 19 interviews under caution and nine convictions under the operations.[43]

3.4.2b Operation Tuleta (2011-12)

Operation Tuleta was launched in June 2011 to investigate allegations of computer hacking. According to the BBC, 18 individuals were arrested in the investigation. The existence of Operation Kalmyk was acknowledged by Akers at the Leveson Inquiry but all charges were dropped against four people who were alleged to have hacked the computer of Ian Hurst.

3.4.2c Operation Elveden (2011-16)

Operation Elveden was launched in July 2011 to investigate the alleged payment of police and public officials by journalists, resulting in the criminal charge of conspiracy to commit misconduct in public office. At the 2014 sentencing, Brooks, charged on two counts, was found not guilty on one, while the judge ruled the other out. Goodman and Coulson were charged on two counts, pertaining to the alleged payment of a royal protection squad officer

[43] https://www.theguardian.com/media/2015/dec/11/hacking-investigations-cost-met-police-413m [Accessed: 12/12/15].

for copies of two royal phone books in 2002-2003 and an alleged payment for another royal phone book in 2005. The jury did not reach a verdict on either charge. However, 34 people were convicted including nine police officers and two journalists before the investigation concluded in February 2016.[44]

3.4.2d Operation Sacha (2012-14)

Operation Sacha was launched in 2012 to investigate the potential perversion of the course of justice in relation to Weeting. Brooks, her husband Charlie Brooks, Mark Hanna, head of security at *News International*, former *NI* security guards David Johnson, Daryl Jorsling, Lee Sandell, driver Paul Edwards and Brook's assistant Cheryl Carter were all charged with conspiracy to pervert the course of justice pertaining to two counts. Brooks and Carter were found not guilty of allegations they had removed archived material from the company archives. Brooks, Charlie Brooks and Mark Hanna were found not guilty of conspiring with Johnson, Jorsling, Sandell and Edwards to conceal information from the police in respect of Operations Weeting and Elveden.

3.4.3 Alleged phone hacking at the other newspapers

Since the publication of the Leveson Report, several criminal cases have been put before the courts in respect of phone hacking and other alleged illegal practices by the press and look set to continue into 2017. The fact that phone hacking took place at *MGN* titles was confirmed in September 2014 when the publisher settled claims with Sven-Goran Eriksson, Christopher Eccleston, Abbie Gibson, Garry Flitcroft, Phil Dale and Christie Roche. A further group of claimants, Alan Yentob, Sadie Frost, Paul Gascoigne, Lucy Taggart, Robert Ashworth, Lauren Alcorn, Shane Richie and Shobna Gulati, were all awarded damages, and an appeal over the financial excess of these damages was lost by the publisher in December 2015. In June 2016, *MGN* settled further cases with Davina McCall, Nigel Havers, Rhys Ifans, Kym Marsh, Caroline Stanbury, Alison Griffin, Clair Dobbs, Jim Threapleton, Lisa Maxwell, Suzanne Shaw, Caroline Chikezie, Tina Hobley, Holly Davidson, Kate Ford, Samia Ghadie, Lucy-Jo Hudson, Ben Freeman, Alan Halsall, Christopher Parker and George Calil. It is believed further claims could be heard in the High Court in 2017.[45]

[44] http://www.bbc.co.uk/news/uk-35666520 [Accessed: 26/2/16].
[45] http://www.bbc.co.uk/news/uk-36502083 [Accessed: 10/6/16].

In April 2016, it was decided by Mr Justice Mann that there was enough evidence to bring justify a trial in respect of alleged phone hacking at the *Sun* with regard to individuals including but not limited to television personality Les Dennis, Simon Clegg, former head of the British Olympic Association, Ian Cotton, the former director of communications for Liverpool FC and James Mullard, the former manager of Pete Doherty's band Babyshambles (Jackson, 2016).

## 3.5 Parliamentary Committees (2009 – 2012)

While the twentieth century saw the Younger and Calcutt Committees produce reports, the need to further address questions of privacy, the press and regulation resulted in three Parliamentary committees hearing evidence from a variety of witnesses.

### 3.5.1 Culture, Media and Sports Committee: Press standards, privacy and libel (2009 - 10)

The CMSC began the inquiry into press standards, privacy and libel to address the balance between individual protection of privacy and reputation and the freedom of the press. Editors were concerned that freedom of the press was being curbed in the courts while others argued self-regulation was failing to protect individuals from privacy and defamation concerns. The committee was unconvinced of the need for prior notification due to public interest defences but stated: “We found the News of the World editor's attempts to justify the Max Mosley story on ‘public interest’ grounds wholly unpersuasive, although we have no doubt the public was interested in it” (24 February 2010, HC 362: 57). The committee held that self-regulation should continue but that the powers of the PCC should be enhanced, chastising chairman Sir Christopher Meyer over his attitude to the Mosley case and concluded the findings made in the judgment should be of concern to the regulator regarding its efficiency. The final report was notable for the range of other contemporary issues it covered, including interim injunctions, pre-notification, reporting parliamentary proceedings, CFAs and a criticism of the press and the PCC over the McCann case, moderating websites and user generated content, and phone hacking, with the committee describing the press industry as suffering from “a collective breakdown” (para 374).

### 3.5.2 Joint Committee on Privacy and Injunctions (2010 - 12)

The Joint Committee on Privacy and Injunctions report was published while the Leveson Inquiry continued to take evidence in 2012 (27 March 2012, HL 273/HC 1443). By this time the PCC had been retired, and the report indicated that a regulatory successor should be independent, though statutory oversight would be considered if a satisfactory body could not be formed. The report also refused to create a statutory definition of privacy or the public interest. The former "would risk becoming outdated quickly, would not allow for flexibility on a case-by-case basis and would lead to even more litigation over its interpretation" (para. 37). The committee found the public interest would be best decided by judges in the particulars of privacy cases but found a regulator should include clear guidelines on the matter. On celebrities and public figures, the committee noted the enhanced media interest in public figures did not mean the forfeiting of privacy rights, though again fell back on the courts to decide the facts in a particular case (para. 80), only pushing further on the rights of children to privacy regardless of the complicity of their exposure to the media by famous parents (para. 81).

Kenneth Clarke told the Committee on 16 January 2012: "There are some cases where the right of the newspaper to publish outweighs privacy; there are others where the need to publish is so slight that privacy is more important. It comes up in case after case, and I do not know how you would alter it" (QQ 1021–1069: 669). This remained the fact in the wake of the Committee's report.

### 3.5.3 Culture, Media and Sports Committee: News International and Phone-hacking (2010 -12)

The CMSC published the long-awaited report into phone hacking at the *News of the World* on 1 May 2012 (HC 903-I). It concluded that several representatives of *News International* had misled previous select committees including Les Hinton in regard to authorising payments to Goodman and his knowledge of the extent of phone hacking, Tom Crone in relation to the Gordon Taylor settlement and the commissioning of surveillance, Crone and Colin Myler in relation to knowledge of phone hacking and that as a corporation, *News International* had failed to disclose exposing documents and had sought to cover up wrongdoing. It claimed this invalidated some of the evidence heard by the CMSC 2010 report and took credit for revealing information under Parliamentary privilege that the Leveson Inquiry and civil

litigation would be unable to do (paras. 274-278). The report also concluded that "the behaviour of News International and certain witnesses in this affair demonstrated contempt for that system in the most blatant fashion" (para. 279).

### 3.6 The Leveson Inquiry

As outlined in Chapter One, David Cameron announced the Leveson Inquiry and its terms of reference in 2011 as a response to the Milly Dowler phone hacking revelations, but despite this reactive activation the terms of reference were remarkably wide. The inquiry was split into two parts, the first designed to examine the culture, practices and ethics of the press in respect of four modules, and the second to investigate the extent of criminal activity at *News International* and other media organisations and police complicity in any wrongdoing. Part 1 of the inquiry ran from September 2011 to July 2012. It was split into four modules: 1) The relationship between the press and the public and looks at phone-hacking and other potentially illegal behaviour; 2) The relationships between the press and police and the extent to which that has operated in the public interest; 3) The relationship between press and politicians; and 4) Recommendations for a more effective policy and regulation that supports the integrity and freedom of the press while encouraging the highest ethical standards.[46] The significance of the inquiry has been covered in some detail in Chapter One, and its contents will be examined in the following research, so no further detail on Part 1 of the Inquiry will be given here.

The Leveson Report was published on 29 November 2012 and resulted in a battle over how to best regulate the press following the collapse of the PCC.

In respect of this research, it was notable for the way in which Leveson LJ categorised victims of press intrusion as people with a public profile, victims of crime, innocent bystanders and those with links to the above (Vol II: 446). Though he noted this would serve the report well and prevent presenting a sprawling narrative of the evidence, it also allowed him to focus on the methods and impacts of privacy intrusion.

Leveson Part 2 was unable to take place until the police investigations and criminal trials (as outlined in 3.3.2) were concluded. This is now the case, though legal action is still being taken against some newspapers in respect of alleged illegal privacy intrusion. However, though

[46] Further information on the modules can be found on the archived Leveson Inquiry website as well as in the final report at http://www.levesoninquiry.org.uk/about/.

some argue the Leveson Inquiry will not be complete until Part 2 is realised, there are several substantial barriers. Firstly, the Prime Minister who commissioned the inquiry has now been replaced and the political climate is considerably different to that of 2011-2012. Secondly, Lord Justice Leveson has become Sir Brian Leveson, President of the Queen's Bench, and may be reluctant or simply unable to return to the task appointed to him by David Cameron. Thirdly, the cost of Part 1 and of the police investigations into criminal activity by the press were huge and had drawn negative attention for this reason. Fourthly, and perhaps more importantly, the public appetite to see justice done in respect of Milly Dowler had dissipated. One could argue this suited those in the media and political spheres, and the police, who would wish to leave the questions emerging from Part 1 of the Leveson Inquiry unanswered. As Operation Weeting concluded in December 2015, the *Times* reported that senior government and judicial sources had confirmed the second part of the inquiry "would never see the light of day amid limited political appetite for another lengthy and expensive judicial inquiry into Fleet Street and the Met" (Rigby and Gibb, 2015).

## 3.8 Press regulation following the PCC

### 3.8.1 Dissolution of the Press Complaints Commission (2014)

The Press Complaints Commission was ultimately the greatest failure in self-regulation of the press, though at one stage it was to be the saviour of the reputation of British newspapers. Formed in 1991 as a response to the Calcutt Report, it was a voluntary body funded by levies via the Press Board of Finance (PressBof, which previously arranged funding for the Press Council), and was joined by all national titles. Four former chairs of the PCC, Lord Wakeham, Sir Christopher Meyer, Baroness Buscombe and Lord Hunt, gave evidence to the Leveson Inquiry. It was formally abolished in 2014.

### 3.8.2 Leveson recommendations and Royal Charter

The Leveson Report recommended a future independent self regulatory body should be governed by an independent board and in respect of the public, continue to provide advice and a service to warn the press "when an individual has made it clear that they do not welcome press intrusion" (ES: para. 40). There was much controversy over the possibility of a statutory element to press regulation, and Cameron remained opposed to introducing such a measure through Parliament. As a result a Royal Charter was agreed by David Cameron and leaders of

the Labour and Liberal Democrat parties and was approved by the Queen at a Privy Council meeting in 2013.[47] It resulted in the setting up of the Press Recognition Panel, designed to oversee the suitability of proposed regulators.

Also reporting in 2013, the Select Committee on Communications considered the state of media convergence. This focused on a content standards framework which set down the divergence of media industries from their forms of delivery.[48] The report set out that while regulators were distinct from each other, their codes presided over single platforms, with technology further blurring the boundaries between separate industries: "consequently, not only are the technologically defined crosshairs in regulators' sights proving increasingly off-target over time, but the sharp boundaries between separate media industries are starting to fade, perhaps along with the public's sense that each one should be expected to obey a distinct code of standards" (2013: 13). The increased role of the internet in allowing people to access different kinds of content was considered by the DCMS in their 2013 report on content consumption, which considered a broad set of media standards underpinned by factors including a right to privacy (2013: 33). The pressure on publishing speed heightened by the introduction of internet media has been noted in other other jurisdictions, including Denmark, where "the competition to be first with the news has meant that the media have become less adept at submitting their stories to the relevant parties and obtaining their comments" (Scharling quoted in Fielden, 2012: 70).

### 3.8.3 IPSO and IMPRESS

In a rejection of the Royal Charter, several newspapers set up a voluntary replacement to the PCC, the Independent Press Standards Organisation, in 2014. It is chaired by Sir Alan Moses and financed by member publications through the Regulatory Funding Company (RFC). The majority of national titles are signed up to the regulator, though it does not regulate the *Evening Standard,* the *Independent* titles*,* the titles *Guardian* or the *Financial Times*.

In addition, the body The Independent Monitor for the Press (IMPRESS) has been backed by the National Union of Journalists as more compliant with Leveson's recommendations

[47] The full Royal Charter is accessible here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254116/Final_Royal_Charter_25_October_2013_clean__Final_.pdf.

[48] "To a great extent, for example, newspaper businesses were newspaper businesses because their content reached audiences on large sheets of thin paper, rather than over electromagnetic spectrum or through the flickering light of a projector at the cinema" (para. 16).

(Greenslade, 2016). The body applied for recognition under the Press Recognition Panel and was found to be successful in October 2016. As described by founder Jonathan Heawood: "This is simply in the idea of having an effective regulator, a regulator that has some of the characteristics of a court in the way that it overseen by independent ally appointed, accountable people" (JHI).

In an ongoing cycle of debate and inaction has resulted in a series of missed opportunities to solve the long-demonstrated issues with self regulation in the British press. As posited by Fielden, a useful starting point for reform stems from "the recognition that press entitlements are contingent on public entitlements, and that press freedoms are not an end in themselves but serve a democratic function in the public interest" (Fielden, 2012: 94).

The Leveson Inquiry is the centre of the empirical interrogation of the research question posed in Chapter One. In the following chapter, the methodological framework will be set down.

# CHAPTER FOUR – METHODOLOGY

The primary purpose of this chapter is to establish the appropriate methodological approach to the research question: identifying to what extent the element of celebrity impacts on press intrusion into the private lives of individuals.

This research will set out the types of press intrusion experienced by individuals and the impact of the Leveson Inquiry and subsequent public debates on how the concepts of privacy and celebrity interact with one another in the twenty-first century. To answer all research questions set out in Chapter One, Part Three of this thesis will perform a comparative examination of privacy in relation to celebrities, and privacy in connection with non-celebrities who are caught up in situations press intrusion, either through the press seeking of private information of an associate or the individual as a subject of interest to the public.

## 4.1 Introduction

As outlined in the previous chapters, this study falls across three disciplines, that of privacy as a sociological and legal concept, that of celebrity and star theory, and the operation of the press limited to the legal jurisdiction of England and Wales). It also highlights the sociological importance of studying privacy in the context of the period before, during and following the Leveson Inquiry.

There are a wealth of approaches available to any researcher working in the social sciences, and so the methodology for this research must be carefully chosen and narrowly focused, especially since this research falls over three well-explored areas of academic study. It would be tempting to follow numerous paths through the litany of privacy literature, as it is easy to lose focus in defining the elements of privacy particular to press intrusion.

There are particulars to interviewing and studying the cases of those whose private lives have been intruded upon, which will be addressed later on in this chapter. It should also be noted that I had prior knowledge of the industries academically interrogated in this study. Firstly, I trained in investigative journalism at City, University of London and have worked as both a

freelance journalist and film reviewer, and as a researcher to some individuals and companies working in the media and legal spheres. Secondly, I was employed by Hacked Off, the group established in 2011 to campaign for a free and accountable press, as an online reporter for the duration of the Leveson Inquiry public hearings from 2011 to 2012. I was mindful that assumptions and prejudices resulting from these two influences could impact on objectivity, and took this into account when carrying out and presenting the research.

As noted in the chapters of Chapter One[1] of this thesis, journalism and sociology approaches are often see at odds.[2] However, there are many who tread a line between the two disciplines (Goulet and Ponet, 2009). I believe, on the whole, occupying this position provided me with an advantage as I began this research with an in-depth understanding of the subject area and the practicalities of the study I was to undertake. However, there were negative implications on the research outlined later in this chapter.

The research focus of this thesis was victims of press intrusion (as described in Chapter One, 1.3), and so the groups of individuals under examination in respect of this focus fall into four categories: celebrities, non-celebrities, and to a lesser extent, legal professionals and media professionals. As a result, a variety of methodological options were considered for this study. The clear option emerging over the course of this consideration was to use case studies, chosen as a result of purposeful sampling through field observation, the study of written documentation and additional semi-structured open interviews.

## 4.2 Methods available

A number of different approaches to data collection were investigated, given the multiple areas of academic literature informing this research. Data collection methods for social sciences research are split between quantitative, concerned with numerical measurements, qualitative, concerned with exploratory understanding and triangulation methods combining elements of these forms.

[1]See Chapter One (1.4).

[2] This tension was demonstrated at the Leveson Inquiry when seven academics from British universities gave evidence. Angela Phillips of Goldsmiths University said: "I draw your attention to the fact that the press is absent today, and that is one of the issues that we all have to deal with, that actually the press talks to itself, and we're very glad that you've asked to talk to media academics because as media academics we do an awful lot of thinking about it and we value being able to contribute to this, because in the pages of our newspapers there have been very few voices from media academics". (Leveson Inquiry, morning hearing, 8 December 2011, p119, lines 4-13. Available at:
http://www.levesoninquiry.org.uk/wp-content/uploads/2011/12/Transcript-of-Morning-Hearing-8-December-2011 1.pdf).

### 4.2.1 Qualitative methods

A qualitative approach emerges from three categories of data collection: (1) in-depth, open-ended interviews; (2) direct observation; and (3) written documents (Patton, 2002). From the conception of the research question, qualitative methods seemed an appropriate choice. There were legitimate reasons for using methods falling into each of these three categories.

(1) *Interviews:* In-depth, open-ended interviews allow the researcher to step into the shoes of the interviewee and capture data around intentions, thoughts and feelings. The importance of capturing emotional responses and explanations of nuanced situations would be particularly critical in relaying the impact of privacy invasions by the press.

The flexible nature of this method allows the researcher to respond to the interview subject in an informal and personal manner. Qualitative interviews and ordinary conversations share much in common (Rubin and Rubin, 1995) and are modelled on a conversation between equals as opposed to a formal question and answer exchange. The interviewer, not an interview schedule or protocol, is the research tool (Taylor and Bogdan, 1984). As in normal conversations, questions and answers follow each other in a logical fashion with participants taking turns to talk, and researchers listen to each answer and determine the next question based on what was said. This allows for flexibility around sensitive issues. It is up to the interviewer to navigate these areas appropriately to avoid causing further distress or leading the individual to feel uncomfortable, which could negatively affect the depth of the answers. A conversational approach with room for deviation allows the interviewee to express personal feelings and concerns that will be more subject than stock responses: rich, detailed answers. An interview is a way of "writing the world", a microcosmic and coherent world in its own right, which functions as a narrative device that allows people to tell stories about themselves (Denzin, 2001; Dillard, 1982), and is therefore appropriate for relaying emotional impacts and nuances of situations particular to an individual, or small group of individuals.

*(2) Direct observation:* Patton summarises Lofland's four people-orientated mandates for collecting qualitative data.

> First, the qualitative methodologist must get close enough to the people and situation being studied to understand in depth the details of what goes on. Second, the qualitative methodologist must aim at capturing what actually takes place and what people actually say: the perceived facts. Third, qualitative data must include a great deal of pure description of people, activities, interactions and settings. Fourth, qualitative data must include direct quotations from people, both what they speak and what they write down (2015: 33).

At first, direct observation appeared an inappropriate method for this research. It is not likely a researcher will be able to observe a privacy invasion directly in the fieldwork period due to knowledge and access. Firstly, a victim of intrusion is either (a) unlikely to know at the time of invasion that such activity is occurring and (b) if they are aware be reluctant or hostile to being observed, particularly if the victim is a celebrity. Secondly, while journalists and media elites may allow a researcher into a newsroom or out in the field with them, they are unlikely to divulge practices of privacy invasion, even if they fall well within the boundaries of journalistic ethics and the law. However, the Leveson Inquiry public hearings did provide this opportunity in 2012, allowing access to the invaders and invaded.

*(3) Written documents:* Document analysis can be used effectively in conjunction with other methods. Documentation has the advantages of being stable, can repeatedly be reviewed, is exact, containing exact names, dates, references, and details, and broad, spanning time, numerous events, and settings (Yin, 2009). They can include letters, emails, notes, court records, press releases, reports, formal studies and news clippings. Bowen notes documents can be a rich source of data but warns researchers should be critical in their examination of these sources.

> Documents should not be treated as necessarily precise, accurate, or complete recordings of events that have occurred. Researchers should not simply 'lift' words and passages from available documents to be thrown into their research report. Rather, they should establish the meaning of the document and its contribution to the issues being explored (2009: 33).

News sources, news, comment and feature articles, pictures and broadcasts, are integral to this research, in particular those which are the site of privacy invasions, a discussion of a privacy invasion, or a commentary on the state of privacy and celebrity. Many public figures, whether

celebrities or non-celebrities, have given interviews to the media about their experiences. However, it is the Leveson Inquiry archive, in the form of video streams from the courtroom, the transcriptions of each hearing, the written witness statements and exhibits, which provides the most valuable source of documentation in respect of this research. However, as Bowen explains, it is important that this material be viewed through a critical lens and included for its contribution to the research questions and aims, set in context against other materials relating to the same occurrences.

### 4.2.2 Quantitative methods

A quantitative approach has the advantage of measuring the reactions of a vast number of subjects to a limited set of questions (Patton, 2002). There have been several media studies that have made good use of this type of investigation, including Billig (1992), Scott (1994) and Stack (2005). As outlined in Chapter Two, questions around the meaning and conception of privacy are so vast, and the examples of intrusion in regards to the press so varied, that a purely quantitative approach to this research was quickly ruled out.

Though formally structured interviews are generally seen as reliable, having the benefit of being easy to standardise and regulate, the interview data required for this study needed an informal and relaxed approach, creating a conversational tone between the interviewee and the interviewer that will allow for anecdotal discussion and the flexibility of discussion. 'Yes' or 'No' answers would not cover this effectively.

### 4.2.3 Triangulation methods

A triangulation approach can be appropriate when examining social and cultural assumptions, as it requires a combination of multiple research methods for gathering data about the same empirical case.[3] Billig (1992) used a hybrid of focus groups and in-depth interviews to assess emotional responses in working class family members to the Royal family. Kieran, Morrison and Svennevig (2000) and later Morrison and Svennevig (2007) have carried out thorough qualitative and quantitative research to construct an analytical framework on audience responses to privacy and journalism. As this research requires a focus on the producers of the privacy debate, that is to say, public figures or figures who become public, both celebrities and non-celebrities, and the agents of the law and media, various data sources are required. In

[3] For more on triangulation see Denzin (1970, 1978).

this vein, Schofield (1990) argues that academics maximise the fit between the research site and "what is" more broadly in society. Noblit and Hare (1988) make a case for a "metaethnography" by systematically comparing different cases to draw cross-case conclusions. This element of generalisation theory is taken further by Gomm, Hammersley and Foster (2000) in an argument for case studies investigating a microcosm of larger systems and societies as symptomatic of general themes. An investigation of this nature allows the researcher to build up a complete story of a phenomenon through production and refinement of an image of the question under study to be backed up by research and data collection (Becker, 1992).

> The intimate knowledge acquired by the researcher in identifying, researching and presenting case studies as qualitative analysis, if well conducted, will provide insights into formerly opaque and complex areas of study. Case study research has been defined as: "an empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used" (Yin, 1984).

### 4.3 Chosen method

Given the remit of this research question and following the study of various methodological styles, I concluded a qualitative approach to data collection was the most appropriate for this thesis. This conclusion was further cemented as the national privacy debate came to a head when David Cameron set down the terms of reference for the Leveson Inquiry established under the Inquiries Act 2005, meaning the inquiry had the power to summon witnesses to give evidence under oath and in public.[4] This would result in a litany of information coming into the public domain for the first time. Along with this evidence from the inquiry, I would be using separate sources, including additional interviews, and secondary source written accounts.

It became apparent that narrowing methodological pluralism into clearly defined case studies would be the proper way to present the research. Yin (2009) advocates the use of multiple sources of evidence in case studies allowing an investigator to address a broader range of historical and behavioural issues, and Cohen, Manion and Morrison define triangulation as the

[4] The Inquiries Act 2005 can be read in full here: http://www.legislation.gov.uk/ukpga/2005/12/section/1.

"attempt to map out map out, or explain more fully, the richness and complexity of human behavior by studying it from more than one standpoint" (2000: 252)

I decided on an approach to the data collection comprising of the three elements set down by Patton: interviews, observation and written documents, with the intended result of producing demonstrative case studies. This would involve conducting interviews to gather primary information and enhance the understanding of the privacy debate through secondary sources. As previously outlined, observation of the producers of the privacy debate in day-to-day life would not be appropriate. However, the Leveson Inquiry hearings opened up the opportunity to observe these individuals in person, discussing the very topics under investigation in this research. The wealth of academic, legal and journalistic documents available would be added to by the requirement of individuals and organisations to provide witness statements and exhibits to the inquiry, to be taken as read or used as supplementary evidence during public hearings.

I planned to set out each case study, with its relevant cases and narratives, to provide a narrative context of particular privacy issues and provide a tool for exploring them (Flyvbjerg, 2004). The case studies would be presented as a series of chronological recountings to place them within a historical and cultural context using archive material.

#### 4.3.1a Open interviews with victims of press intrusion

To assess how individuals had experienced press intrusion into their private lives I wanted to conduct interviews with a series of individuals to whom this criterion applied. To present a set of comparative case of celebrities and non-celebrities, I would approach a similar number of people in each of these categories. The interviews would be conducted in an open format to enable a conversational approach with room for deviation, allowing the interviewee to express personal feelings and concerns through rich and detailed answers that will be more useful than stock responses. This way the interviews would present a series of microcosmic examples and function as a narrative device allowing people to tell stories about themselves (Denzin, 2001; Dillard 1982).

It would be important to tailor the interview preparation to each interviewee, especially since there are a set different considerations depending on the status of the individual. The analysis of qualitative interview material involves many processes: listening, reading the text of

interviews, looking for stories and narratives and extracting meanings from stories and events. As the sole interviewer, I would be guiding the direction of the interview. My questions would be formulated around prior knowledge of the individual's experience with room for manoeuvre, and set out in an order that can be changed if needed.

I am familiar with interview technique having worked and trained as a journalist. However, I appreciate that there is a fundamental difference between the media describing what they experience in a particular moment and sociologists putting particular moments into a larger context, though similar approaches and techniques are adopted by both disciplines (Borer, 2006).

#### 4.3.1b Open interviews with other individuals

To provide context to the above, I would approach a number of lawyers, journalists and campaigners who have dealt with, been involved in or had some experience of press intrusion, working from a pre-set interview schedule to ensure some relation between the interviews as a body of research. The technique would be as above, minus the requirement to consider the emotional state of the subject, as these individuals would be interviewed as professionals rather than people who had been personally affected by an intrusion.

### 4.3.2 Field observation

The observation element of the research entered later in setting down the methodological framework but was solidified before any primary research or data collection began. When the Leveson Inquiry was announced, an opportunity to attend the public hearings in person was presented. The hearings were available in live video form online via the inquiry website. These videos were then preserved on the site and remain in the archive. Despite this level of remote access, the opportunity to attend the hearings in person to observe the witnesses, legal teams and journalists covering the inquiry at work was valuable. I planned to attend every day the inquiry sat, a period that spanned from Monday 21 November 2011 to Tuesday 24 July 2012. This approach would not be strictly ethnographic but would add to the understanding of the cultural systems at play in this environment as observation of the examination of the relationships between the press, the public, the police and politicians. Patton notes the value of these open-ended, naturalistic observations to "see what there is to see without the blinders of hypotheses and other preconceptions" (2002: 278). Due to the length of the observation

period and the volume of oral and written evidence presented, I would create and maintain a log of each day at the inquiry. It would contain basic information such as witnesses, their evidence, other speakers including the legal teams of the inquiry's core participants, important debates about privacy intrusion and any information about the case studies for this research.

### 4.4.3 Written documentation

A qualitative inquiry will necessarily require a study of documentation. Patton describes paper trails and artefacts as a "spoor that can be mined as part of fieldwork" (2002: 293). As stated, in addition to attending the Leveson hearings I would have access to an enormous amount of material entering the public domain for the first time in the form of witness statements, exhibits, newspaper articles and reports. The case study framework would require an examination of the media outputs that emerged as a result of privacy invasions, as well as media reports on these privacy invasions. To give a simple example, many news articles were published by the *News of the World* containing information obtained by phone hacking. Following the revelation that the newspaper had employed private investigators, including Mulcaire, to hack phones and otherwise invade the privacy of individuals under scrutiny for a variety of reasons, a huge amount of news articles and broadcasts were produced on the topic. While I had no plans to conduct quantitative research or carry out linguistic analysis, these identifying and collecting relevant media reports would be a fundamental part of the data collection process.

### 4.4.4 Anticipated logistical issues

I anticipated serious logistical issues in regards to approaching celebrities, and other high-profile victims of press intrusion. Firstly, there may be a structure of individuals set up around the person I am attempting to interview. Therefore I would potentially encounter gatekeepers such as public relations teams, assistants, managers and agents and I expected that, if granted, my interview technique may have to bend to accommodate certain requirements. I may only be able to contact people of this standing by telephone or email, if at all.

Borer (2006) references the Journal of Contemporary Ethnography, which dedicated a special issue to doing fieldwork in elite settings in 1993. Contributed articles discussed methodological problems including how to get past "organizational gatekeepers" to gain

access to interviewees and how "elites" can tend to question a researcher's status, ability and qualifications. Borer also recognises that public figures often develop interview repertoires due to past experiences with the media, and so a researcher must attempt "getting beyond the sound bite". In order to deal with this, the researcher must try to obtain sincere answers from by making their purpose explicitly different from that of a journalist requiring a sound bite and must also interpret information from the interviewee that is inconsistent with their portrayal in the media to give a more accurate picture of the motivations of both media and subject.

We now live in an interview society of personal confession (Atkinson and Silverman, 1997; Denzin, 2001). According to Atkinson and Silverman, the interview society is characterised by: a confessional mode of discourse in the form of entertainment, the private as a public commodity, the fact that people are assumed to have a private and public self with the private self as the 'real self', skilled interviewers have access to this self, certain experiences are more authentic than others and leave scars on the person, people have access to their own experiences, and first person narratives are very valuable (1997: 309). I would take into account these reservations about interviewing individuals who are all too familiar with the interview process. As Denzin (2001) notes, there is no inner or deep self that is accessed by the interview or narrative method. There are only different interpretive versions of who the person is. In order to move past this methodological problem, I would follow the advice of Borer, who says that first the researcher-as-interviewer must ask and re-ask the question and not be satisfied with generic, commonplace, or clichéd answers and must compare their answers to those from other sources. This knowledge about a celebrity helps us to avoid making false conclusions about their celebrity interviewee and the broader subject of inquiry.

If for example, I was to interview an individual who feels their privacy has been invaded by the press, they may be cautious in talking about the emotional impact this has had, or how the perceived invasion has affected intimate areas of their life. They may also refuse to be interviewed at all. It will be up to the interviewer to navigate these areas appropriately to avoid causing further distress or leading the individual to feel uncomfortable, which could also negatively affect the depth of the answers.

While I intended to be present for every Leveson hearing, there would be days when I would be unable to attend in person. Although I anticipated these as being relatively few, if at all, I

would need to make sure the inquiry log was kept up-to-date so as not to miss any vital information.

### 4.3.5 Ethical considerations

An ethical stance should be set down before any research is conducted. The ethical requirements for social science research can be complex but are relatively straightforward when conducting open interviews and collecting data from the public domain in respect of data collection methods (2) and (3). However, this is of vital importance when interviewing victims of press intrusion, both in setting down and retaining academic rigour in the collection and presentation of research, but also in reassuring individuals who had already suffered as a consequence of having personal details and information exposed.

To combat the potential negative downfalls in this area, the ethical standards set out for academic research would be made clear to each interviewee before an interview took place. They would be required to give consent to be recorded on a dictaphone or video camera and via handwritten notes. I anticipated at times it might be appropriate for me to cease recording and take down non-attributable information by hand, or to stop any recording entirely. To ensure this did not intimidate any potential interviewees I made it clear that transcripts could be reviewed following the interview to ensure clarity and to reassure the interviewee that the information revealed was able to enter the public domain.

I decided not to offer interviewees anonymity.[5] Firstly, the level of detail needed to take the interview remits past the point of generality would render it impossible to anonymise transcripts without losing meaning. Secondly, it would be impossible to employ a case study approach without identifying interview subjects, even implicitly. Thirdly, the case studies I would be considering would need to have garnered significant attention from both the media and legal worlds, and a large amount of public domain information would be available, rendering anonymising transcripts irrelevant.

In respect of this particular area of academic study a familiarity with media and legal regulatory codes is required, including the codes of practice for the PCC and IPSO[6], the BBC's editorial guidelines, Ofcom guidelines and the guidelines issued by the Bar Council

[5] With the exception of HJK which I will address later in this chapter.
[6] The PCC officially closed Monday 8 September 2014 and was replaced ISPO, as discussed in Chapter Three.

and the Solicitors Regulation Authority. I also obtained ethical approval from City, University of London in accordance with the university's research guidelines and requirements.

## 4.4 Collection of research materials

As stated in section 4.3.2, this thesis is a largely an observation study of the Leveson Inquiry, which provided a unique opportunity to observe a public inquiry through its full term, supplemented with interview material in order to present the findings in case study format.

### 4.4.1 Intensity sampling

I began the data collection period by considering how best to identify case studies. Patton identifies an intensity sample as one method of case study selection, consists of "information-rich cases that manifest the phenomenon of interest intensely" (2002: 169). Through initial research of previous legal cases and media coverage, I decided on four broad areas for consideration. The first area was press intrusion, including harassment, and the paparazzi. This had emerged through injunctions issued by celebrities, physically preventing photographers from access. The second area following on from this was a study of press intrusions into the British Royal Family, particularly regarding Princess Diana and Kate Middleton. The third area concerned non-celebrity individuals caught up in high profile crime cases as suspects, including Christopher Jefferies and Gerry and Kate McCann. The fourth area were individuals who had had their privacy invaded by the press as a result of being linked to or involved with a celebrity either in a personal or professional capacity.[7] Once these broader areas were identified, I used the logic of intensity sampling, as Patton describes, in seeking out excellent or rich examples of the phenomenon of interest, making sure to avoid unusual cases that had no bearing on the themes at large. As the Leveson Inquiry commenced, and the subjects of the case studies were chosen in line with these four areas.

### 4.4.2 Attending the Leveson Inquiry

I began attending the Leveson Inquiry public hearings in November 2011. As the courtroom was small and had limited seating for members of the public and press, the inquiry

[7]Other areas, including intrusion into grief of both celebrity and non-celebrity individuals, were considered. I chose to led with these four as both (1) and (3) put forward royalty and criminality as alternative, or twin, forms of celebrity; while (2) and (4) allow for an exploration of how the tactics of press intrusion differ, or do not differ, in regard to celebrity and non-celebrity individuals.

proceedings were streamed into an annex set up in the courtyard of the Royal Courts of Justice.[8] This included a series of live video streams from the courtroom, a live transcription screen and a screen presenting exhibits shown in the courtroom. I kept my log as expected, making sure to note any particular points of interest in regards to the research. I live-tweeted as the hearings went on to keep a daily record of proceedings but also to inform others who may be interested in following the hearings but unable to do so in real time. It was as unique an opportunity to gather data as I had hoped and was invaluable to my research. The annex was divided in two, with one side for members of the public and the other for members of the press. Unlike the courtroom, it was easy to enter and leave without disturbing the court proceeding and made taking down information from the transcription and exhibits more manageable. It also allowed journalists from various national publications including the *Guardian*, the *Daily Mail*, the *Telegraph*, the *Sun*, and the *BBC* to report live from the inquiry and interact with each other as the proceedings were in progress.

### 4.4.3 Involvement in Hacked Off

In December 2011, I was approached by the campaigning group Hacked Off, who were covering the inquiry through live-tweets and reports alongside members of the press. Brian Cathcart, then director of Hacked Off, was looking for a person with experience in journalism and knowledge of the inquiry to take over this role so the campaign coordinator, at that time the only dedicated member of staff employed by the campaign, could focus on lobbying efforts, event planning and strategy.

I took this under serious consideration as I anticipated it would be a time strain and could give the appearance of, or in real terms, bias my findings. However, as the role would require me to attend and live-tweet the hearings as I had already been, I decided that it would not impede my research progress and could, in fact, offer up opportunities to interview victims of press intrusion I would not otherwise have had access to. While this turned out to be the case it did, in fact, have some negative ramifications in accessing other interview subjects.

I saw my role at Hacked Off as an objective one, as I was required to factually report each day the inquiry heard evidence and was put under no editorial pressure by staff members or individuals associated with the campaign to skew the coverage. In fact, I consider the archive of my reporting from the inquiry to be impartial to the point of boringly neutral. However, the

[8] For more information on this arrangement see: http://www.levesoninquiry.org.uk/attending-the-hearings/.

campaign group came under a significant amount of negative scrutiny from media elites and journalists covering the inquiry. Paul Dacre accused Hacked Off and Hugh Grant of attempting to hijack the inquiry in his oral evidence to Leveson LJ.

This resulted in a problem for me in conducting interviews with those in the media. I approached a small number of working journalists who were willing to talk to me off-the-record for context but not for inclusion in this research.

The experiences of Peter Jukes[9], who covered the phone hacking trials of 2013-2014, mirror my own in many ways. He describes gravitating to the "blogger's corner" of the Court 19 annex[10] with James Doleman of the *Drum* and Martin Hickman, who had replaced me at Hacked Off as the reporter of trials (2014: 23). I found myself doing the same, sitting separately from the rest of the journalists and only occasionally interacting with others from Hacked Off, Marta Cooper who was sporadically covering the proceedings for Index on Censorship and Lisa O'Carroll from the *Guardian.*

On one particular occasion, a journalist from a national tabloid newspaper began making disparaging remarks about Hacked Off, unaware that I was there on behalf of the group. Regular attendees from the press pack, gesturing to me, shushed them. I always sat in the front row of the annex to get a better view of the live transcription but could see the goings-on in the reflection of the screen. This example is indicative of the hostile attitude of the press towards Hacked Off, for understandable reasons.

In another parallel with Jukes, the author of the TabloidTroll Twitter account came after me having gone through public domain information about my career and directed abusive remarks towards me on the social media platform. After an interjection from a lawyer friend on Twitter, the account's author apologised and was never troubled my feed again.[11] I ended my employment with Hacked Off in September 2012, having covered the inquiry and assisted with the research of *Everybody's Hacked Off* (2012).

### 4.4.4 Actual logistical issues

[9] For the sake of declaring interest, I am the 'Natalie' listed as one of Jukes's financial supporters for the reporting of the hacking trials in *Beyond Contempt* (2014).
[10] Due to the press demand for access to the court, tickets were allocated for Court 12 and a press annex in Court 19.
[11] Jukes's experience with TabloidTroll can be found in *Beyond Contempt* (2012).

Aside from the complications resulting from my Hacked Off association, many of the key players on the legal side were unavailable for interview as a consequence of involvement in the Leveson Inquiry or areas of litigation in regards to privacy invasions and the media. I informally approached ten lawyers who had been involved in privacy litigation involving the press, and while some were happy to talk to me for context and suggest cases, none would go on the record either due to concerns over breaking legal professional privilege or because they were in the process of acting for claimants in phone hacking cases at the time of request. Those lawyers involved in the Leveson Inquiry were unable to contribute due to the demands of the inquiry.

I was more successful in interviewing victims of privacy invasion. Again, due to time constraints and the fact many were tied up in litigation, around half of interviews I conducted were shorter than I had anticipated. However, I did conduct some in-depth and revealing interviews, helping to inform cases studies about which relevantly little information was in the public domain. One of these was with HJK, the only witness to give evidence to the Leveson Inquiry anonymously, and the other with Rebecca Leighton, a former nurse who had been wrongly accused of murdering patients at Stepping Hill hospital. On these occasions, I had a long time with each subject to explore their cases in in-depth interviews. Some victims of press intrusion would not be interviewed, either because it was too painful to recount the details of their cases and they did not wish to be opened up to further public scrutiny, or because I could not gain access to them. The majority of these individuals did give evidence to the Leveson Inquiry, and so I was able to benefit from research data collected as a result of the hearings in place of an in-person interview. As a result, this had a limited impact on the formation of my case studies and my overall research.

### 4.4.5 Post interview procedure

Following each interview, the audio recording was transcribed as soon as possible using additional contemporaneous written notes. In some cases, I provided the transcripts to the subjects as outlined in section 4.3, but no changes were asked for other than in the cases of HJK where certain aspects were removed for reasons of the legal action in place to restrict his identification. I removed some information from interview transcripts that were speculative and could be defamatory against particular individuals if published.

## 4.5 Conclusion

The methodological approach chosen to consider my research question was the compilation of case studies, formed of conducting interviews, observing the Leveson Inquiry and studying documentation preceding, following and arising from the Leveson Inquiry hearings. As lawyer and journalist David Allen Green wrote following the conclusion of the Leveson Inquiry: "Whatever proposals the Leveson Inquiry come up with, the process of the Inquiry was itself a boon for freedom of expression. A great deal of witness and documentary evidence about the practices of the press, politicians, and the police, is now squarely in the public domain which would not have been in the public domain but for the statutory powers of the Inquiry" (*The Lawyer*, 2015). This idea is explored in more detail in Chapter Ten in line with the research conclusions.

The occurrence of the Leveson Inquiry, and my involvement with Hacked Off proved to be both a blessing and a curse in terms of the ramifications on the research. My association with the campaign allowed some access to victims of press intrusion, particularly in the case of HJK. However, it made potential interviewees wary and prevented me from interviewing journalists on the basis of them distrusting the aims of the campaign and my reasons for contacting them. Aside from that issue, many of the individuals I had hoped to interview were unavailable as a result of the inquiry's proceedings, phone hacking litigation and other professional responsibilities during this fieldwork period.

While I do believe the research could only have benefitted from additional interviews with victims of press intrusion, lawyers and journalists, as a result of my attendance at the Leveson Inquiry's public hearings, the interviews I conducted, and the contextual information I was directed to by those unable to be interviewed, I was able fully research and interrogate my case studies to present my original research results and conclusions.[12]

[12] Mason (2010) notes research theories around saturation are often based on arbitrary measurements, and researchers may be better able to understand the limitations and scope of their work with smaller sample sizes.

# CHAPTER FIVE - THE PRINCESSES AND THE PRESS: CAROLINE, DIANA AND CATHERINE

The *News of the World* phone hacking scandal began to unravel after the 'Alexander' project was exposed, the plan enacted by Goodman and Mulcaire to "ring-fence" royal gossip acquired through voicemail interception away from the paper's news desk (Hanning, 2014: 129). Goodman was privy to information that none of his competitors could know as a result of the hacking and scored a series of exclusives in the process (Burden, 2008).[1] Unfortunately for him, it was the detail of these exclusives that eventually roused the suspicion of the Royal household. The post-Leveson phone hacking trials publicly revealed for the first time that the voicemails of Prince William, his then girlfriend Kate Middleton and Prince Harry were accessed on multiple occasions from 2005, as well as those of the royal aides noted as victims in the original hacking trial. Though this was known to the Royal family at the time, the invasion of their personal privacy on this level was dealt with quietly to avoid the embarrassment and further exposure of the Princes (Jukes, 2014; Hanning, 2014).

The aim of this chapter is identify to what extent royalty operates as a form of celebrity, and the impact this has on press intrusion by establishing the historical and legal context for privacy intrusions in regards to the British Royal Family, using the case of *Von Hannover v Germany* as a comparative example, examining how the concept of royalty-as-celebrity differs from that of 'traditional' celebrity through the experiences of Princess Diana and the Duchess of Cambridge.

## 5.1 Introduction

Monarchs from pharaohs to emperors to queens have an enduring legacy in global history that originates centuries before the printing press. In more contemporary terms, *Prince Albert v Strange* had demonstrated through the courts that public interest in the private lives of the British Royal family has been powerful for decades. Modern royalty may not be celebrities in the traditional sense, but they are very much locators of public discourse.[2] Their current level

[1] Some examples of which are outlined in this chapter and have been discussed in Chapter Three.
[2] As explored in detail in Chapter Two by Billig, Rojek, Marshall, et al.

of exposure to the public is as much a result of the development of technology and mass communication as it is in regards to the movie stars of Hollywood (Simmonds, 1984). However, being a member of the Royal family is a unique type of fame that one is born into.[3] The element of celebrity foisted upon those in this position may be welcomed, exploited or shunned, but it is inevitable, though there are others who accept this celebrity by way of marrying into royalty.

Prince Charles is an example of someone who "appears to find his fame inevitable...but irritable" as the press report on his every move and throwaway comment (Gritten, 2002: 99).[4] Journalist Johann Hari offers an opposition to Gritten's apparent sympathy for the plight of Prince Charles. He states the myth of British Royal family is that they are somehow more worthy than the general public when in fact "they consist merely of whoever randomly emerges from the royal womb, and whoever that package of DNA and unearned privilege then chooses to marry. Windsors are thrown up by chance, and must have imaginary merits thrust upon them" (Hari, 2011).

So what of individuals who choose to marry into royalty? In *Talking of the Royal family*, Billig locates British Royalty as a mass of public interest where the dichotomy between the public and the private is revealed. The public participates in Royal family events, marriages, births and deaths, and therefore the "phenomenon of royalty" cuts across the distinction between public and private worlds in operating as a part of the public life in its presentation of the private (1992: 173). Other research into collective memory in respect of the British Royal family has found that royal events provide frameworks for the recollection of personal experience (Rojek, 2001)[5]. The presentation of royalty as a family on the throne reduces the pride of sovereignty and their elite status to the level of petty life that can be understood and consumed by the masses. The role of reporters and photographers is to provide "ceremonial

[3] Though this can increasingly be said of the children of certain celebrities. The children of Michael Jackson, Angelina Jolie and Brad Pitt, Tom Cruise and Katie Holmes and David and Victoria Beckham, to name a few examples, have been subject to media interest and scrutiny since birth.

[4] In *HRH Prince Wales v Associated Newspapers* Prince Charles sued the *Mail on Sunday* for publishing extracts from diaries he had kept on overseas trips. They contained descriptions of his experiences and impressions. The court held that he had a reasonable expectation of privacy as they were sent out only to a select group marked private and confidential. However, Prince Charles has been criticised by the press for trying to conceal his involvement in political issues in writing to various government ministers on a number of policy areas. The 'black spider' letters as they came to be known were eventually made public in 2015 after a campaign started by the *Guardian*.

[5] "Identity formation in this case is not necessarily founded in the introjection of the values and style of the public face. People may be openly cynical about the Royal family, and mock their gravitas and apparent innate sense of superiority…The popular notion of the adoring audience has limitations, and fans are capable of withdrawing attachment as well as affirming it" (Rojek, 2000: 48).

restrictions" of the modern monarchy (Billig, 1992: 144)[6]. This is not to say it is not participatory on the part of the Royal family as they have a vested interest in "social harmony, continuity and consensus" for their own survival, which involves interacting with the press (Neil, 1996: 254). In this context and an intensifying media market, it is unsurprising that Princes William and Harry fell victim to Mulcaire's hacking efforts.

The desire for exclusive stories on the Princes was indicative of the obsession for intimate information about the Royal family that had simmered on the backbenches since the death of Princess Diana in 1997. The interest in their private lives is intensified by the controlled protocol the Royal family has in relation to the media, which prevents them from directly responding to press criticism.[7] This can be seen as both as a welcome protection and an unhelpful restraint, as for other public figures, a lack of response is often seen as an admission of the criticism levelled at them. However, Princess Diana found ways to work around this, as this chapter will explain. Prince William and his wife seem happy to expose private photographs of their children, and along with Prince Harry are certainly more informal and candid with the press than previous generations of their family, though this does not necessarily indicate a lack of stringent controls on their privacy; in fact quite the opposite, as discussed at the end of this chapter.

It is not just the British Royal family who have had an acrimonious relationship the press in respect of privacy intrusion. The case of *Von Hannover v Germany,* brought by Princess Caroline of Monaco, was noteworthy for the strong protection it afforded to private life and its breakdown of the public private divide (Hughes, 2009), and is a useful counterpart for the British examples of Princess Diana and Princess Kate.

## 5.2 Princess Caroline

In *Outrageous Invasions*, Barnes compares Princess Caroline Von Hannover's life as "a mere sequel to one of 'Hollywood's Greatest Love Stories'", that being the marriage of actor Grace Kelly to Prince Rainier III of Monaco (2010: 1). As a member of a royal family and the daughter of one of the most famous celebrities of the twentieth century, Von Hannover was

[6] This is in reference to Sigmund Freud's essay 'Totem and Taboo' which examines the dual position that subjects occupy in relation to their monarch, for as they "pay courtly homage to the king, so they imprison him" (1992: 144).

[7] Current guidance from the Royal family's media centre states: "Interviews with members of the Royal family for press or broadcast media are relatively rare. However, due consideration is given to all requests by bona fide organisations for interviews with members of the Royal family to talk about their work and related issues".

used to being under the media microscope on an international scale. She has even been described as a figure with which "the Continental press has been obsessed" (Rozenberg, 2010: 231). The subject of Von Hannover's legal complaint, which was to become a landmark case in European law, were multiple publications in German magazines describing the ins and outs of her private daily life, including pictures of her shopping. Under German law, Von Hannover is categorised as a figure 'par excellence', relating to individuals who are exposed to increased public interest over a long period of time by birth, profession or personal achievements. On this basis, the Federal Constitutional Court failed to recognise her right to privacy while out in public.

The ECtHR ruled in Von Hannover's favour as it was argued that the previous ruling from the German court on her status a public figure, that she had to endure pictures of her being taken when in public performing private functions, was inadequate in considering her rights under Article 8. It was agreed that the publications invaded her privacy, as the materials put into the public domain did not amount to public interest information holding a public figure to account, as Von Hannover was not performing public functions. This decision was in part decided on the fact she was born into the role rather than choosing it and did not benefit financially from publicity, which is not the case for all members of a royal family (Loughlan et al, 2010: 137). In *Von Hannover v Germany*[8], the court resolved: "the concept of the private life extends to aspects relating to personal identity, such as a person's name, or a person's picture" (para. 50). It also notably stated that: "photos appearing in the tabloid press are often taken in a climate of continual harassment which induces in the person concerned a very strong sense of intrusion into their private life or even of persecution […] the context in which these photos were taken – without the applicant's knowledge or consent – and the harassment endured by many public figures in their daily lives cannot be fully disregarded" (para. 69).[9] As Leveson LJ noted in his final report, the action contributed significantly to the continuing debate over the balancing of Article 8 and Article 10 in the English courts.

In the more recent *Von Hannover (No. 2)*[10] the Princess complained about a series of photographs of her family on holiday published in German newspaper *Frau im Spiegel,* one accompanied by an article describing the ill health of Prince Rainier III. The German courts upheld that the health of the reigning sovereign was of public interest and as the photographs formed a part of this legitimate narrative the "press were entitled to report on how the Prince's

[8] *Von Hannover v Germany [2004] EMLR 379; (2005) 40 EHRR 1.*
[9] The importance of this interpretation of press harassment will be further explored in Chapter Six.
[10] *Von Hannover v Germany (No. 2) [2012] 55 EHRR 15.*

children reconciled their family obligations with legitimate needs of their private life, including holidaying".[11] The court ruled there was no violation of Article 8 in this instance. In contradiction with the previous ruling, that Von Hannover was a private individual known to the public, here she was "undeniably well-known" and therefore should expect a melding of her private life with public interest. In *Von Hannover (No.3)*[12] the Princess failed again to have pictures taken by the press while she was on holiday considered as a breach of Article 8.

Writing in 2004 before the initial *Von Hannover* judgement was handed down, Rozenberg noted his concern over the effect a ruling in the Princess's favour could have on English law[13]. However, the succeeding judgments demonstrated that the tussling over the right to privacy of a public figure, particularly a royal public figure born into public life, remain unique to the facts of individual cases. Indeed, instead of stifling the freedom of the press through legal or regulatory action, the British Royal family has in some instances preferred discretion over action, as in the case of the original Goodman and Mulcaire trial. What is clear is that the relationship between the press and the Royal family in Britain is as complex, and perhaps more complex, than that with other public figures, including the celebrities and non-celebrities examined in Chapters Six through Nine.

## 5.3 Princess Diana

The marriage between Prince Charles and Diana Spencer in 1981 was treated as a hugely significant national event as even during a supposedly private event like a wedding[14] the theme of the nation is never far away (Billig, 1992). The princess as a virgin bride and mother of future kings are key figures in the mythology of the monarchy, and it is little surprise that Princess Diana was "fallen upon with such rapacious desperation by the press" (Simmonds, 1984: 66). In a reversal of the Grace Kelly trajectory, Diana's glamorous iconography and celebrity connections later elevated her status from royalty to stardom (McGuigan, 1991). Similarly, Gritten describes Diana as a "gift to the media which accrued untold fortunes based on the display of her image" (2002: 149). Simmonds describes the press obsession with Diana as inevitable from the beginning of her relationship with Prince Charles:

[11] *Applications 40660/08 and 60641/08, (2012) 55 EHRR 15.*
[12] *Von Hannover v Germany* (No. 3) [2013] ECHR 835.
[13] In the 2010 reprint of *Privacy and the Press,* Rozenberg ponders: "if people really want to see pictures of a 47-year-old princess riding a horse or doing the shopping, is that really such a bad thing?" (xv).
[14] While the fact of marriage is a matter of public record, the details of a wedding might be considered private, as exemplified by *Douglas v Hello.*

> The wolf pack that was set to track Lady Diana Spencer was ravening in more ways than one. From September 1980, when her face first appeared on a tabloid front page, to the following February when the engagement was formally announced, she was pursued as no one had ever been pursued before. One of the well-documented hazards of stardom, the phenomenon that landed – not inevitably, but in this case definitely – with a dazzling thud on Diana's unprepared head, is that privacy becomes a luxury afforded only to lesser beings (like newspaper editors and proprietors) and Diana was no exception. However, unlike with the usual, run-of-the-mill, unique, stellar being, the pressure of curiosity was absolutely unrelenting (1984: 69).

Gritten acknowledges this pressure and notes that by interacting with the press Diana "failed to realize the one thing almost all famous people fail to realize: if you court celebrity, you cannot do it purely on your own terms" (2002: 151).

In Billig's study of public responses to the Royal family, he discusses this interest in terms of gender: "The princely marriage might rivet mankind, but it is a womankind which is especially riveted" (1992: 176). Billig noted the struggle in understanding the female interest in Diana's wedding dress, and what other public women were wearing to the ceremony, without downgrading it. He eventually describes it as a "brief moment of holiday", "the aesthetic of playfulness triumphs over the severity of performance – the possibilities of the private predominance over the public" (1992: 200).

Diana became the 'Queen of Hearts' and the 'People's Princess' but she could be more accurately described as the 'Press's Princess'. Her relationship with media defined her life and death: with the unwanted attention and paparazzi scrums came a series of relationships with journalists and politicians that allowed her to tell her story as the outsider at the centre of one of the world's most famous families, breaching protocol and tradition. The relationship was complicated and at times interdependent but was needed to tell her side of a story about the private state of her marriage. The public reaction to the supposed joyous union between Diana and Charles was based on the "model of a fairy tale" which was sold around the world for years to and by the media one that was eventually revealed to be far from the truth (Davies, 2008: 138).

Andrew Morton was criticised for his 1992 biography of Diana, which purported to contain intimate details about her life and her experiences within the Royal family, and accused of

inventing the contents (Ross, 1997). It was eventually revealed that Diana was a primary source for the book through an arrangement whereby Diana received questions from Morton and couriered tape-recorded replies back to him. She had also encouraged the named sources to talk candidly to Morton. The book was reissued in 1997 following the death of Diana, containing direct transcripts from the tapes smuggled to her biographer. In the transcripts, she described feeling like "a lamb to the slaughter" before her wedding to Prince Charles, explaining the public perception of her impending nuptials: "Everybody was happy because they thought we were happy" (1997: 42). Diana also described her relationship with the press, recalling a time when she had to lower herself from a bedroom window using a winch made from bed sheets, just to evade the paparazzi waiting outside her lodgings at Coleherne Court. She said the papers would often ring her in the middle of the night asking for confirmation of the latest story being written about her. She told Morton that the words of a policeman assigned to protect her before her engagement announcement – "I just want you to know that this is your last night of freedom ever in the rest of life, so make the most of it" – were like a "sword to her heart" (1997: 36). Piers Morgan reported that during a lunch in 1996 "she professed to hate [the paparazzi]" and told him: "I know most of the paparazzi and their number plates. They think I am stupid but I know where they are. I've had ten years practice. I would support an anti-stalking bill tomorrow" (2005: 120).[15]

The initial reaction to Morton's biography, that it was full of lies and assumed facts, is interesting, not least because the fairy-tale version of the royal marriage turned out to be false while his originally unattributed quotes turned out to be verifiable to the primary source. Billig attributes this to the public's view of the press, including writers like Morton, as akin to "modern demons" to be denounced and revered simultaneously (1992: 148). His research, published in the same year as Diana's biography, opens up the dichotomy at the heart of public reaction to press intrusion. In the public consciousness, the press both intrude in and lie about the Royals and are therefore simultaneously a source of lies and a source of knowledge. If the public claims to 'know' Royalty, it does so through the media that it claims to distrust (1992: 126). This study on British Royalty is indicative of the symbiotic relationship between celebrities, the public interest in knowing intimate details about celebrities and the press interest in revealing this knowledge. The status of the individual about whom private knowledge is sought and the methods of intrusion used by the press to obtain this knowledge then become of interest.

[15] Diana could not have known that Protection of Harassment Act, bought in the year of her death, would be used to curb paparazzi intrusion as discussed in Chapter Six.

The Morton book was hardly an intrusion when it had been authorised by Diana though it was reported more recently that she "deeply regretted" the interview with Martin Bashir for Panorama, which aired in 1995 (Hastings, 2016)[16]. On the other side, the Royal family at large had been quite happy for the press to intrude when it had been peddling a "fairy-tale about the Charles-Diana marriage" (Neil, 1996: 270). Regardless of her true feelings towards the press, it is undeniable that Diana became the most revered Royal celebrity of all time and remains a catalyst for privacy debates following her death.

### 5.3.1 Playing the press

Neil describes the public relations offensive that commenced in the tabloid press between Diana and her husband before the years of the Morton book and the Bashir interview as "so-called 'friends' of Charles and Diana were involved in competitive briefings so that each side got their point across" (1996: 259). He refers to this time as a degradation of the reputation of the Royal family. Diana emerged as the victor in many ways, receiving public sympathy for the breakdown of her marriage and the affair between her husband and Camilla Parker-Bowles. In a pre-phone hacking age, phone scanners had been used to intercept phone conversations between Charles and Parker-Bowles and Diana and James Gilbey, which according to an unnamed former *News of the World* reporter were a "vital tool in knowing about the movements of the royals" allowing the photographers to track the conversations of royal protection officers and find out where Diana would be (Hanning, 2014: 26). At this time the press became truly obsessed with Diana and her ostracisation from the Royal family, the fall-out of her separation from Prince Charles.

In 1993, Diana took legal action against Mirror Group Newspapers after photographs of her exercising at a gym were published in the *Sunday Mirror* and the *Mirror*. Bryce Taylor, the owner of the gym, had taken the pictures. She won an injunction against MGN and Taylor banning further publication of the pictures but sought a permanent injunction to prevent the distribution of the images elsewhere. The expose ended up being bad news for the *Mirror*, as the paper was heavily criticised for the invasion of privacy. Chris Horrie writes of the time:

> Predictably the paper sold out the minute it appeared in the shops. Predictably, the public complained about this latest intrusion of privacy. The letters columns and radio phone-ins were heavy with denunciations of this latest tabloid intrusion and

[16] Morgan claims Diana told him in 1996: "I have no regrets [about doing the interview], I wanted to do it, to out my side over….But I won't do it again. Once is enough" (2005: 120).

> politicians made routine calls for tougher laws and regulation to protect privacy (2003: 205).

As a result, *Mirror* editor David Montgomery pulled out of the PCC only to re-join days later, and MGN apologised to Diana. The action against the gym was settled in June 1994, and the action against the *Mirror* was settled in February 1995 for an undisclosed sum believed to be £1million in legal costs and £200,000 to charity on behalf of Diana. Taylor publicly apologised and gave up the profits he made from selling the pictures, though it was suggested he was financially encouraged to do so by Diana and/or the Royal family to prevent the case being heard in court (BBC, 2005)[17]. Diana had been assured by the gym manager that her visits would be confidential and was able to rely on this fact, and while the *Mirror* tried to argue the story was in public interest as it demonstrated a lack of security at the gym, the resulting public outcry and actions of the PCC encouraged a settlement.

There were times when Diana used the press interest to her advantage. In 2012 article about the 'revenge-papping' efforts of Elle Macpherson following her separation from Arpad Busson[18], Australian journalist Ros Reines writes:

> The art of revenge-papping is nothing new and the late Princess Diana was a master at it. In fact, one of the most compelling images of her was when she was snapped in a sophisticated off the shoulder black cocktail dress, which she wore to an event at the Serpentine Gallery in June 1994. It was the same night Prince Charles confirmed his affair with Camilla Parker Bowles to the world during an interview on television. Diana was supposed to have worn a Valentino gown that night but thought that the black dress made a better statement. This despite the fact that it broke Royal protocol by being black (usually reserved for mourning) and provocatively cut. She clearly wanted to show Charles what he was missing out on.

The private affairs of Prince Charles and Princess Diana, and speculation about those involved with them continued to fill the British press in the following years, reaching a crescendo when it was revealed Diana was in a relationship with Dodi Al Fayed, the son of Egyptian business magnate Mohamed Al Fayed. Paul McMullan told the Leveson Inquiry that huge amounts of money were offered for information about Diana's whereabouts during the

[17] Geoffrey Robertson, who acted for the gym, and Andrew Nichol claim the action was discontinued by Diana and Taylor was paid off to pretend he had lost the case (Laughlan et al, 2010: 122).
[18] Macpherson's relationship with the press in examined in greater detail in Chapter Seven.

Al Fayed period, claiming the *News of the World* had been contacted by one of Diana's bodyguards to tip them off as to her arrival at Helsinki airport and received £30,000: "dangling a carrot of a lot of money was a very good way of getting the best stories, which the British public lapped up".[19] Horrie describes the *Sunday Mirror* authorising an equivalent amount of £30,000 to a paparazzo for a now famous photograph of Diana kissing Al Fayed on a yacht and equates the financial incentive as provoking photographers into overdrive to get more pictures of Diana's every move "with greater intensity" (2003: 212).

### 5.3.2 The death of Diana

It is impossible to discuss the media relationship to the British Royal family without examining the public response to the death of Diana on 31 August 1997 in Paris. Orbach described Diana's death as a moment so significant it resulted in a reshaping of the public sphere (Habermas, 1989: McGuigan 2000). The domain of critical and rational debate was flooded with subjectivity in the form of national mourning, creating a tension between the cognitive and the emotional. McGuigan calls the response to the death a "manifestation of the cultural public sphere […] a symbolic space for affective communication and an emotional sense of democratic participation" (2000: 1). It was a moment of national and international mourning on an unprecedented scale, one that would have far-reaching implications of the attempt to curb press intrusion.

Piers Morgan reports a conversation with Peter Mandelson on 4 September 1997, in which the cabinet minister said he had told Tony Blair: "the press has a responsibility to make sound editorial judgments about how to handle celebrities and public figures. The problem is that if the press say they will sort it out through the PCC, then the public won't wear it" (2004: 173). That same day, Morgan says he received a call from Diana's brother Earl Spencer and was asked not to attend the funeral. Editors Stuart Higgins of the *Sun* and Paul Dacre of the *Mail* had received similar calls. Spencer had made a speech on television the day after his sister's death saying editors and owners of newspapers had "blood on their hands" (Horrie, 2003: 212). As outlined in Chapter Three, there was a feeling of general public anger towards the press for hounding Diana to her death and demands for greater constraints on paparazzi and the press[20].

[19] Leveson Inquiry, afternoon hearing, 29 November 2011, p. 73 (lines 20-22). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Afternoon-Hearing-29-November-2011.pdf.

[20] Marr notes that despite the public outrage at the press, the reporting of Diana's death and the funeral was a boon for the television media who benefitted from an interest in rolling news coverage of the events (2004: 293).

The death triggered a debate in the Parliamentary Assembly of the Council of Europe, leading to a resolution on the right to privacy to ensure all participatory countries had enshrined Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950, the former incarnation of the ECHR (Laughlan et al., 2010). The actions of the paparazzi were much debated in the context of Diana's death, but as seen from Chapter Three, individuals were never fully held to account past minor fines. Shortly after her death, the website Rotten.com posted photographs, debating whether there were indeed actual images of Diana's body at the crash site.[21] The documentary *Unlawful Killing*, financed by Mohamed Al Fayed and directed by Keith Allen, showed genuine black and white images of the crash site including Diana's body in the aftermath of the accident[22]. Deathbed or post-mortem photographs relate to Solove's theory of exposure as they can present human vulnerability in its most extreme form.[23]

## 5.4 Princess Kate

Gritten describes a particular sequence of television footage of Diana trying to walk down a London street with paparazzi dogging her every step: "She is visibly distressed, her large solemn eyes are brimming with tears. Oblivious to her discomfort, or more likely galvanised by it, the photographers keep snapping away at her" (2002: 140). Simmonds compares this to "the golden days of the Hollywood pin-up" where the fan cannot get enough of the adored one, and the photograph is of paramount importance; "image is all" (1984: 4). After the death of Diana, the 'Celebrity Decade' was missing a 'People's Princess'.

The British and international press cast Kate Middleton[24] as the new star of the British Royal family in Diana's place[25]. If the Royal family presents a public image of private life then Middleton was to become the national 'good wife' concerned with domestic duties, a role that Diana was unable to fulfil. However, Rojek argued that William and Kate would be unable to

[21] Available at: http://www.rotten.com/diana/di-acc.html [Accessed 14/11/2011].
[22] The documentary was financed by Al Fayed and was never shown in the UK due to legal issues with its content.
[23] Solove lists three cases: (1) a rejected Freedom of Information request for autopsy photographs of Vincent Foster Jr., a deputy counsel to Bill Clinton during his presidency who shot himself in 2004; (2) the passing of legislation in Florida restricting the disclosure of autopsy photographs, after the media sought pictures of racing driver Dale Earnhardt who died in a crash; and (3) *l'affaire Rachel*, a 1858 case from France where a photographer hired to take pictures of a well-known actress on her deathbed showed them to an artist, who made sketch copies and sold them (2008: 147).
[24] Though now formally titled Catherine, Duchess of Cambridge, this chapter refers to the princess as Kate Middleton in the most part, due to consistency and the common use of her former name in the press since her wedding to Prince William in 2011.
[25] Just one example of media coverage in this respect is: 'Is this the new People's Princess? How confident Kate Middleton compares to 'Shy Di'' (*Daily Mail*, 17 November 2010).

present themselves as Diana did, as the ubiquitous nature of celebrity culture was more widespread than at the time of the 1981 Royal wedding, and there would be less desire for information about the couple. He told a journalist: "It was more rarefied for people to meet celebrities or dream about being them. Now it's almost as if it's within the grasp of anyone" (Holden, 2011). Despite this assertion, the experiences of Kate were eerily similar to that of her deceased mother-in-law, and she and her family were to make proper use of the press regulators and the courts in the face of press intrusion.

### 5.4.1 The paparazzi and the PCC

Kate Middleton began a romantic relationship with Prince William during their time at St Andrews University. The pair had enjoyed a level of privacy due to an agreement with members of the press[26]. Even before the engagement, Kate was of enormous interest to the press with her experiences of paparazzi intrusion on her twenty-fifth birthday in January 2007 resulted in a Select Committee investigation (Scott, 2009: 3). It was reported that approximately 20-30 photographers had besieged her outside her flat and a final warning letter was sent to newspapers, resulting in the *Sun*, the *News of the World* and *Hello!* magazine banning the use of paparazzi photographs of Middleton (Davies, 2007). A statement issued by Clarence House said: "Prince William wants more than anything for the paparazzi to stop harassing her". Two year previously, Middleton's legal team had written to newspaper and magazine editors asking them to respect her privacy following the publication of photographs of her on a bus in anticipation that paparazzi harassment would increase (Silver, 2007). Duncan Larcombe, the *Sun's* royal editor, confirmed at the Leveson Inquiry that Les Hinton had made a company-wide *News International* policy following the 2005 complaint.[27] *News International*, however, actually took the decision on 9 January 2007 to announce that its titles would not buy photographs of Kate Middleton taken by paparazzi as relayed to the CSMC by Hinton in 2007.

Though Middleton had made appeals to the media through the PCC before, she eventually lodged a formal complaint against the *Mirror* in 2007 about the taking of photographs in public that her lawyers argued amounted to harassment. It was considered resolved by the

[26] Through the PCC Members of the press were given permission to film Prince William as he arrived at St Andrews and while he carried out royal engagements in Scotland in 2001 in exchange for being left alone for the duration of his studies.
[27] Leveson Inquiry, morning hearing, 9 January 2012. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-9-January-2012.pdf.

regulator following an apology and published statement from *Mirror* editor Richard Wallace: "On Thursday we published an innocuous picture of Ms Middleton walking down the street with a cup of coffee. It was taken by a freelance photographer in circumstances where we were later told she felt harassed. We got it wrong and we sincerely regret that" (PCC, 2007). During an oral evidence session before the Select Committee on Privacy, libel and press standards, Marcus Partington, Chairman of the Media Lawyers Association said:

> I think Kate Middleton is an interesting example of somebody who, on one level on certain occasions, does not seem to want publicity, but for somebody who does not want publicity to go to the most high profile nightclubs in London where there are lots of photographers outside seems strange behaviour for somebody who then wants to complain about press […} If you go somewhere which is high profile and there are photographers there you are likely to be photographed, so it is difficult for you to object to being photographed because it is not against the law to photograph somebody in a public place (HC 362-II: p19).

Middleton was criticised for her approach to the press in 2010 after the *Sunday Express* called into question her relationship with photographer Niraj Tanna. The paper alleged Niraj had consulted with Stig Abell, then director of the PCC, after the photographer took pictures of Middleton at Restormel Manor tennis courts in Cornwall from a public footpath, and was told he had acted within the regulator's Editor's Code. The images of Middleton were published in Germany but not in Britain. Middleton took legal action against picture agency Rex Features, which distributed the pictures, receiving an apology and damages. The newspaper alleged Middleton had built up a rapport with Tanna, had posed for photographs taken by him and that her parents had approached him for copies of pictures, claiming the legal action came from Prince William and Harry's dislike of the photographer, the latter angry that Tanna had taken shots of him with women (Tominey, 2010). It is easy to understand how this view could be taken as self-serving on the part of the newspaper.

In April 2011, just before the wedding between Prince William and Middleton, the PCC was made aware that photographers had followed Carol and Pippa Middleton, Kate's mother and sister, on mopeds. This resulted in the regulator issuing advisory notices to the press advising editors to be mindful of the Editor's Code (BBC, 2011). In September 2011 the Middletons again complained to the PCC about the re-publication of historical photographs of the family on holiday and the *Daily Mail, Mail on Sunday* and *Daily Mirror* agreed to remove the images

in question from online stories (BBC, 2011; PCC; 2011). At the Leveson Inquiry, Larcombe said the *Sun* had systems in place to ensure photographers were not unduly harassing the Middleton family:

> If we're sent in a picture – it might be a picture of, say, take Kate smiling and looking lovely and happy, but really we've no way of knowing, just by looking at the picture, whether or not, after the picture was taken, she was chased by 10 photographers. So what we did with Clarence House was agree that every picture that we were potentially going to publish involving the royals, we would phone them, check with them. I assume what they do is they then speak into the protection officer that would have been there when the picture was taken, and – you know, I wouldn't say I've heard horror stories but they've come back to me at times and said, "Actually, the photographer jumped in front of the vehicle", or: "They were chased after that had been taken", or they'd got the picture because they'd chased. So you do hear horror stories and in those situations, we don't publish the pictures. I'd probably say it's more than 50 per cent we don't publish, actually, in terms of paparazzi pictures […] the palace are reasonable people. They're not like some celebrity agents that will do anything and say anything to keep pictures and stories out of the paper".[28]

Larcombe confirmed to Leveson that following his appointment as royal editor he met with freelance photographers and emphasised the paper "would not publish pictures where there had been pursuit, harassment or invasion of privacy of members of the Royal family".[29]

It was Pippa Middleton who came under the scrutiny of the press almost as much as her sister. Paul Silva, the picture editor of the *Daily Mail*, said the paper had a policy about Pippa Middleton since the Royal wedding amounting to not using photographs of her going about her daily life: "there's no reason to photograph her when she's out and about doing her own thing […] there are nine or ten agencies outside her door every day. She goes to get a coffee or she goes back into her house, you get about 3 to 400 pictures on that day".[30] In response to this issue, Leveson LJ noted: "The recent publication of images of Prince Harry and the Duchess of Cambridge (the latter, insofar as the print media is concerned, solely in foreign

[28] Ibid, p.85 (lines 6-24).
[29] Leveson Inquiry, Witness Statement of Duncan Larcombe, para. 23. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Witness-Statement-of-Duncan-Larcombe.pdf.
[30] Leveson Inquiry, morning hearing, 11 January 2012, p.37 (lines 22-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-11-January-2012.pdf.

jurisdictions) illustrates the continuing intrusion into the private lives of young royals" (Vol II: 647). Despite the instance from picture editors and photo agencies giving evidence to the inquiry that they had held back in relation to the Royal family, to their financial disadvantage, they were still suffering intrusion from the international press.

Rosie Nixon, editor of *Hello!*, said they had noticed photos of Kate Middleton being published by foreign magazines, adding: "We've actually taken a decision not to publish any photos of her going about her daily life when she's not at an event or there's – she's not expecting to be at a public event, and sometimes we see those photos appear in the foreign press".[31] Similarly, Martin Clarke, editor of *Mail Online*, said: "If I can give you a specific example, Pippa Middleton, for instance, British newspapers have a voluntary embargo on pictures of her taken going about her daily business on the basis that she's a private individual, so we don't use pictures of her going to the shops or going to work. We only use pictures of her when she's at a public event. But I think your Inquiry has already heard that there are hundreds of pictures that drop in on the wires of her every day. The question is why are those pictures dropping if nobody's using them? The answer is they're being used every day in America by sites with which I'm in competition".[32]

Another financial argument was made by Camilla Wright, the proprietor of *Popbitch,* who told the inquiry: "I think just the fact of people in the public eye and therefore the public being interested in you means that you are – you can't put yourself – you can't choose when you're public and choose when you're private. Kate Middleton, she's never really uttered anything about what she buys, where she shops, and yet millions and millions of pounds of the economy are apparently dependent on people wanting to resemble Kate Middleton".[33]

However, the arguments around expectation of privacy and competition put forward in respect of the Middletons, as with Diana, were largely about their physical existence in public places (whether appearing "in public" by being out in the world as with Princess Caroline, or at a public event where the presences of reporters and photographers would be reasonably expected, a rather than a legitimate expectation of members of the Royal Family to act in a

[31] Leveson Inquiry, morning hearing, 18 January 2012, p.58 (lines 19-23). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-18-January-2012.pdf.
[32] Leveson Inquiry, afternoon hearing, 9 May 2012, p.16 (lines 18-23). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/05/Transcript-of-Afternoon-Hearing-9-May-2012.pdf.
[33] Leveson Inquiry, afternoon hearing, 26 January 2012, p.59 (lines 21-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-26-January-2012.pdf.

proper way as their status demands, by not taking undue steps to influence politics or work in an underhand way to advance business or financial gains.[34]

By 2012, Middleton and her family had won some respite through the PCC and the press representatives at the Leveson Inquiry admitted they were abiding by agreements to leave them alone.

### 5.4.2 Brits abroad

The British press were behaving, but international paparazzi were not. In September 2012, French magazine *Closer* published revealing pictures of Kate Middleton sunbathing topless by a swimming pool while William and Kate were on holiday in Provence, France. Clarence House issued a statement saying: "The incident is reminiscent of the worst excesses of the press and paparazzi during the life of Diana, Princess of Wales, and all the more upsetting to the Duke and Duchess for being so".

As a result, the chief executive of the magazine's publisher was charged with invasion of privacy under French law, as was a photographer who took photos of Kate in swimwear for a separate publication *La Provence* (Cockerton, 2013). Legal action by the Royals in the French courts prevented further pictures being published by *Closer,* but the photographs were reproduced in publications in Italy and Ireland (Evans, 2013). The *Mirror's* royal expert said this was indicative of the status of the British Royal family as a favourite target of the foreign press. She compared German newspaper *Bild* publishing a nude photograph of Prince Charles in 1994 to the publication of the Kate pictures in 2012: adding: "as far as the European press are concerned our royal family are their fair game. They like nothing better than being the only ones to dare to publish embarrassing photographs and get away with it. They are not bound by the restraints of good taste or respect and they do not have to abide by our press complaints code" (Seward, 2014). As the pictures were not used by British publications, the *Independent's* Will Gore used the episode as an example of the effectiveness of the PCC, claiming with as other examples: "The relevant elements of the Code of Practice were emphasised, useful precedents were highlighted and, in the end, the newspapers decided that to proceed was likely to break the Commission's rules" (2012).

[34]For example, the *News of the World* undercover sting on Sarah Ferguson over access-for-cash while dependent on covert filming and other surveillance activities, and legally challenged by Ferguson following the jailing of Mazher Mahmood, has a different set of considerations around public interest than paparazzi photographs of others walking down the street.

It was a very different story from 2007, when the Culture, Media and Sport Select Committee's report had found the PCC to be lacking in the case of Middleton, concluding that editors had breached the Editor's Code in failing to assess whether they were using pictures of Kate Middleton obtained through harassment and persistent pursuit.

### 5.4.3 A royal wife

On 5 May 2011, six days after her wedding watched by an estimated two billion people around the world, Kate, now the Duchess of Cambridge, was photographed shopping in the Anglesey branch of the supermarket Waitrose. The same set of paparazzi shots appeared in British newspapers, all with headlines highlighting the normality and domesticity of the new royal's actions. Some examples include: 'Waitrose-y Katie goes down the aisle again - at the supermarket: Duchess proves she has the common touch as she pushes her own trolley' (*Daily Mail*), 'Kate Middleton heads down the aisle again as she goes supermarket shopping' (*Mirror*), 'Kate heads down the aisle again' (*Sun),* 'One week on, William is rescuing hikers and "Mrs Wales" is in the aisle at Waitrose' (*Times)* and 'Kate Middleton, and the fine art of moulding a new husband' (*Telegraph*). Larcombe told the Leveson Inquiry:

> I think for me it was just such an incredible picture, because it showed this girl who's just entered the Royal family in front of 2 billion people, and what does she do? She just pushes a trolley and goes shopping on her own. She's not followed by 25 flunkies and butlers or whatever, and it told the story of what Kate really is like. She's a very down-to-earth, normal person...that would be my argument to use that in the public interest. Since then, there was a picture taken of her shopping in Tesco, I think in about October or whenever, and we were offered that picture but we didn't use it because: so what?[35]

The Duke and Duchess of Cambridge did not complain about the presence of photographers at the supermarket. Max Clifford acknowledged that the couple had people around them "who understand the needs of the media and the public" and would provide access to the couple (Sapsted, 2011). The *Guardian* had been openly disdainful of the exhaustive press coverage of

[35] Leveson Inquiry, morning hearing, 9 January 2012, p.90 (lines 2-7). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-9-January-2012.pdf.

the wedding and did not follow the British press in revelling in the fact the newly-married Duchess of Cambridge did her own shopping. They did note: "As the newlyweds settle into married life on Anglesey – he back to the day job and taking part in two mountain rescues last week, she dodging unwelcome paparazzi cameras while out shopping at the local supermarket – behind the scenes, 'Team William' will surely be congratulating themselves on a flawless operation, perfectly executed with the help of Buckingham Palace and Clarence House" (Davies, 2011). According to the article, 'Team William' comprised of Jamie Lowther-Pinkerton, Miguel Head and Paddy Haverson, with an unnamed royal correspondent quoted as saying "you get the impression William, Jamie and Miguel are very close". This contained members of the communications the close-knit team invaded by the *News of the World* phone hacking.

The Duke and Duchess of Cambridge have remained in tight control of information about their children, Prince George and Princess Charlotte of Cambridge. In a diversion from normal protocol, the couple released candid shots of the children after their respective births. Middleton's father took the photos of a young George with his parents, and Middleton herself took pictures of Charlotte released to the public. Both sets of images were noted for their amateur and candid nature and were much less formal than Royal photographs had been previously. Subsequent 'informal' photo-shoots with professionals have taken place, such as the pictures taken by Matt Porteous at the couple's home in Norfolk to commemorate Prince George's third birthday. Middleton has learned to be a private mother in public, but clearly exposure to the young Royals, despite the private pictures shared with the world is carefully managed. In September 2016, Middleton had a privacy breach complaint upheld by regulator IPSO after the *Express* and *OK!* magazine websites published similar articles with a photograph in May, showing George sitting on a police motorbike at Kensington Palace (PA, 2016). The wording of ISPO's decision bares resemblance to the original *Von Hannover* judgment: "The committee acknowledged that, as members of the royal family, the complainants are public figures; however, they were photographed standing within the grounds of their private home, in a position that was not easily visible to the photographer. They were not carrying out any official duties and they were unaware that they were being photographed".

William and Kate are prepared to be a public family in private and will release information about their children to keep the public satisfied, but will clearly continue to shield their family from the glare of the press as Diana was unable to do with her sons, or indeed herself. Though

Elizabeth II is still in power, it is up to the younger Royals to negotiate their relationship with the British press, for the "spatial and social magnitude that separated the monarch from the public in 1952 has shrunk" and the most public private family is more accessible to the masses than ever (Rojek, 2015).

After the births of William and Kate's children, the issue came to a head. Last summer Kensington Palace was forced to make a public plea begging for privacy. They claimed the race to get pictures was causing a danger to the young family with the incidents "becoming more frequent and the tactics more alarming" (Knauf, 2015).

## 5.5 Further analysis

In his study, many of Billig's interviewees claimed to read between the lines when consuming stories about the Royal family and "proclaim the virtue of distrust, and claim how they, by using critical distrust, have been able to evade error" (1992: 152).[36] The interplay between desire and denial is also present in the public-press relationship over press invasion. Billig talks about his interview subjects claiming a moral high ground for themselves when discussing their interest in what the papers have to say; even those who claimed an interest in reading about the royal family qualified it, and described the main audience, gullible and compliant, as separate. He says: "If speakers were interested in knowing about the royals, then they needed to make contrastive distinctions between their innocent interests and the immoral desires of others, to which the papers pandered" (1992: 162).

In the television episode 'The Last Gasp' from the first series of *Inside No. 9*[37], a famous pop star appears to die after blowing up a balloon while visiting the house of a fan. The celebrity's assistant (Adam Deacon) asks the other witnesses not to call the authorities, as the place will be "crawling with pigs". When asked if he means the police, he replies: "No, I'm talking about press, aren't I? If they find out Mr Parsons died in that way, they'll be like vultures". Graham (Steve Pemberton) replies: "Must be awful doing that job. You know, you're either a pig or a vulture, aren't you? You're never a horse or a creature with dignity". After lambasting the press for their treatment of Diana and Kate, the group attempts to sell the balloon containing the dying breath of the pop star. The episode garnered praise from critics for its "nice but not very subtle critique of the value of celebrity culture" (Dessau, 2014) and "direct

[36] Billig describes stories people tell about the way they consume media as "modern methodologies" (1992: 152).
[37] From which the opening quote to this chapter is taken. The episode was first broadcast on 26 February 2014 on BBC Two.

focus on a modern phenomenon, the celebrity scandal" (Upton, 2014). In light of this playful take on the complex relationship between the public's desire to know private details about the Royal family and press intrusion, one can understand how newspaper editors felt frustrated being held responsible for the death of Diana in 1997. This thirst for information has increased in the period following Diana's death in a global market created by the pervasiveness of the internet. As Larcombe told the Leveson Inquiry: "The problem is nowadays every member of the public is a potential paparazzi photographer because they have cameras on their phones. So it's not just even actual photographs; it can be a member of the public that sees Prince Harry in a club or a pub and then the guy has to deal with the fact that that could be all over the Internet. So he's going to be, you know, completely –have no privacy at all unless he's hiding inside one of his castles".[38]

While this may be true, the actions of the paparazzi and the press at large would come under criticism at the Leveson Inquiry in respect of other individuals who had caught the public's attention.

## 5.6 Conclusion

The research of Billig in 1992 was critical in identifying the familiarity that the public has with British Royal family, one that is provided second-hand through the media. In 'Desire, Denial and the Press' he notes his subjects were aware that this to access intimate knowledge about the Royal Family came at price to those under scrutiny: "the press provided a major common-sense reason for not wanting to be royal and for being grateful for the ordinariness of 'our' ordinary life" (1992: 148). As established, acting as a private family in public is a requirement of the Royal Family to a greater extent than celebrities. Celebrities may choose to bring their children into their public lives and take action if the press violates their child's right to privacy. Though the Royal Family can engage in the latter, their children are automatically entered into public life from birth.

The case of *Von Hannover* proves that despite being born into royalty, unlike her British counterparts in this chapter, Princess Caroline was to some extent legally fight the assumption that because of her role in public life, all areas of her life in public could be shared in the pages of the European press. Though there is legitimate public interest in royalty as heads of

[38] Leveson Inquiry, morning hearing, 9 January 2012, p.88 (lines 3-11).

state, be it the health of a reigning monarch, as demonstrated in *Von Hannover (No 2)* and the eventual publication of Prince Charles' letters to government ministers, the very fact of a royal being out in public does not constitute public interest. The Royal Family will always be of great interest to the press, given their role in public life, and share a status as public figures more akin to politicians and those with influence over policy than celebrities. However, in the cases of Diana and Kate, the press focus has certainly been the result of an interest in the private individual as a 'star'. This is exemplified in the historical and contemporary reporting on Diana and Kate's wardrobes rather than involvement in charity work[39]. The gendering of Diana and Kate as 'royal wives' goes some way to explaining this particular fascination with the individual, and was a contributing factor in the press fever in the wake of the breakdown of the Charles and Diana fairytale.

Though Kate Middleton has suffered many of the same intrusions as Diana, being hounded by paparazzi photographers, subject to private holiday photographs being published and aiming to restrict access to her children to a degree appropriate to public approval, the legacy of Diana's death has allowed the Duke and Duchess of Cambridge to argue for privacy more effectively than may have been the case without this context.

As shown in this chapter, Diana is of key significance to how royalty operates as a form of celebrity, and the impact this had on press intrusion. Discussions on her life and death through the lens of the British press has dominated, and continues to dominate, discussions about press intrusions and invasions of privacy to this day. The limits of privacy were truly tested in the case of Diana, not least because she stepped into the public eye as the ubiquity of paparazzi photography, and competition across national and international titles for stories about royal families increased. The redefinining of the relationship between the British Royal Family and the British press has been the result of hard work in public and behind the scenes on the part of the teams of both Prince William and Prince Harry, who have openly talked about the difficult relationship between their mother and the media.

Though portrayed by then-tabloid editor Piers Morgan as a savvy media operator playing her part in a symbiotic relationship with the press, in a recent documentary Prince William recalled: "I sadly remember most of the time that she ever cried about anything was to do with press intrusion" (HBO, 2017). Regardless of perceived or actual collaboration between members of the British Royal Family and the press, limits are required to protect the privacy

[39] Though Diana's profile as a charity ambassador formed a large part of her 'post-Royal Family' life.

of individual royals that were not available to Diana, as demonstrated by the paparazzi treatment of Kate Middleton in the early years of her relationship with Prince William. Though these limits seem to exist more clearly in the present day, an interventionist approach is still required by the Palace in relation to personal relationships involving the younger royals.

Royalty functions as a unique form of celebrity. Returning to Loughlan et al's categorisation, members of the British Royal Family are certainly heightened by a degree of ordinariness, as discussed at the beginning of this chapter. But this public desire, whether one believes this to be a natural byproduct of being a family-in-pubic or created and whipped up by the press, does not justify the levels of intrusion to the point of constant surveillance endured by the women featured in this chapter. The effects of press intrusion as surveillance, and the lack of justification for this behaviour on the part of the press, in continued in Chapter 6.

# CHAPTER SIX – LEERING LENSES: SIENNA MILLER AND TINGLAN HONG

The princesses of the previous chapter certainly experienced the critical glare of paparazzi cameras. However, they are not the only individuals, particularly women, in the public eye to have taken their offence at the intrusion of photographers to regulators and the courts. Press intrusion is not just an issue for the royalty and aristocracy. There are other forms of celebrity. This chapter examines the examples of those, other than royals and aristocrats, whom the paparazzi element of the press focus their attention on.

Photography has "furnished culture with powerful new ways of staging and extending celebrity" by introducing a new and expanding medium of representation that has displaced printed text (Rojek, 2001: 128). In the media, stories are built around pictures: paparazzi photographs are no longer illustrations but the primary means of representing celebrities. In *Fame*, Gritten observes a "certain reticence" among the British public when encountering celebrities on the streets though he claims they are as fascinated to read and gossip about famous people as any nationality on earth (2002: 93). The paparazzo acts as the public gaze, lingering and intruding where an individual walking down the street may not.

This chapter aims to identify how methods used by the paparazzi contribute to press intrusion, by establishing the historical and legal context for privacy intrusion via the paparazzi, including the impact of the Protection from Harassment Act 1997. It will comparatively examine how the element of celebrity impacted on press intrusion into the lives of a celebrity individual and a non-celebrity individual, in line with the main research question by establishing the facts of each case study in the context of the Leveson Inquiry, in order to locate the actions of the paparazzi as one part of a surveillance culture established by the press in the intrusion into private lives of celebrities but continues to fail to be regulated.

## 6.1 Introduction

From 2000 onwards, Roy Greenslade wrote about a new spate of press harassment cases being brought against various publications. He criticised the Press Complaints Commission

for offering very narrow and overly legalistic interpretations of the Editors' Code[1], asking: "What complainants are so concerned about is journalistic ethics. It's a denial of press freedom to ban the picturing of celebrities on public beaches. But does that mean that a well-known person can never be free from a prying camera?" (March 2001).

In June 2003, *Mirror Group Newspapers* paid damages of £50,000 plus legal costs to radio and television personality Sara Cox and her husband Jon Carter, after a series of intimate photographs of the couple on their honeymoon were published in the *Sunday People* (*Cox v MGN Ltd*). After the settlement was agreed in the High Court, Cox said she was delighted by the result but added: "They have ruined all memories of my honeymoon for the rest of my life". The newlyweds were staying on a private island in the Seychelles in 2001 and had been covertly photographed by a paparazzo sent by photographer and agent Jason Fraser. Cox was naked, and the pictures published in the People only blocked out the lower half of her body. According to Greenslade (October 2001), who took an interest in the case following previous investigations into Fraser[2], Cox was so upset when her agent informed her about the splash in the newspaper that she burst into tears. Fraser was criticised for earlier statements where he had described himself as a professional photo-journalist, claiming it was possible to take candid photographs of celebrities in public and remain within the "bounds of good taste, humour and decency" (Greenslade, 2000).[3] BBC correspondent Nick Higham noted the Cox victory as the clearest indication that the courts of English law were prepared to acknowledge privacy as a legal tort in its own right (BBC, 2003).

At the time Joshua Rozenberg (2004), then legal editor of the *Telegraph*, said that the case was "not as significant as people are making out" because a settlement was reached, rather than a decision of the court.[4] He argued the contemporary case *Campbell v MGN* was more prominent because it set the legal precedent. As such, the Cox case has been widely overlooked in more recent legal academia. However, it has a special significance: Cox was the first person to have won an apology through the PCC and then sued through the courts (Greenslade, 2003). The PCC published an article titled 'Sara Cox and the PCC - Myths and

[1] The regulator made much of the fact it did not have powers of investigation, endangering its reputation.
[2] Namely in the article 'Snap judgments' (*Guardian*, 10 April 2000) which criticised the press for continuing to use paparazzi pictures following the death of Diana. Fraser was responsible for the candid shots of Diana and Al Fayed kissing on a yacht in 1997.
[3] Fraser told a journalist unseemly photographer scrums are a sign of a healthy democracy: "It's because we have a huge, diverse press, that's all it is. They're elbowing each other to get the picture but they're down the pub together later having a drink. The idea that they are behaving like animals is tosh" (Burrell, 2004).
[4] Rozenberg documented the case in *Privacy and the Press* but makes a point of dismissing the legal ramifications: "The settlement was described as one prominent media lawyer as a 'watershed'. But of course it was nothing of the kind: legally speaking, it was no more than another straw in the wind" (2010: 37).

Facts' on its website to defend the organisation against allegations of ineffectiveness (PCC, 2003). Guy Black, then director of the regulator, was quick to dismiss the payoff as a "one-off" and told *Press Gazette* that he would not be "losing any sleep over Sarah Cox", insisting that people would continue to need and want the service provided by the PCC (Ponsford, 2003). Keith Schilling, who acted on behalf of Cox, said he hoped that people would realise they had a greater chance of seeking damages if their privacy is invaded and that papers should also be aware that they could no longer rely on the defence that the photograph was taken in a public place (Bamber & Brown, 2003). Frith, then *Heat* editor who claims he was offered the pictures and turned them down, wrote in October 2001: "It's a stupid reckless move that is so obviously going to get [the *Sunday People*] into trouble" (2008: 71).

Cox has rarely spoken about her success, but did mention it in an interview in which journalist Zoe Williams described the case as Cox's "revenge against the tabloids". Cox replied: "One of the things that counted for us is that we don't reveal ourselves very much in the press, me and Jon. We've never done a *Hello!* shoot or invited a magazine to our wedding. I might go on about what I think of this and that, but you can say quite a lot without giving away very much that's personal" (Williams, 2005). Despite giving in to a settlement, former *Sunday People* editor Neil Wallis later claimed that Cox had courted the press and was therefore fair game for his paper. Another tabloid editor allegedly said of the case: "Sara Cox isn't JK Rowling or Anna Ford. She's a rock chick, a creature of our papers" (Greenslade, October 2001).[5]

## 6.2 Harassment and the paparazzi

The cases of Campbell and Cox reigned in the early 2000s, but it was actor Sienna Miller, another 'creature of our papers', who took over the fight against press intrusion later in the decade. Miller was granted a landmark injunction under the Protection from Harassment Act 1997. Although this area of law had been applied to the press in *Thomas v NGN* it had never been used to prevent reporters and photographers from following individuals from their homes to public places.

Under the Act, victims of harassment can pursue an action for civil remedy through a county or high court, which may involve the issuing of an injunction, or the award of damages for anxiety and/or financial loss. Section 4 of the Act also provides protection under the criminal

[5] However, JK Rowling was not afforded immunity to paparazzi intrusion by way of this virtue ascribed to her by Wallis, as evident from her evidence to the Leveson Inquiry.

law for cases where a repeated threat of violence has taken place (Paine, 2000: 8). Although originally intended to deter "violent spouses, jilted lovers and animal rights protestors", the act has taken its place alongside the tort of misuse of private information in the developing legal arsenal available to public figures keen to preserve their privacy (Scott, 2009: 2). Certainly, as repeated surveillance and pursuit by press photographers can legitimately constitute harassment, these claims became a viable option for celebrities looking to curb privacy intrusions.

In the wake of Miller's legal campaign, Lily Allen and Amy Winehouse were both awarded injunctions against the paparazzi in 2009. Allen's referred to the Big Pictures and Matrix photo agencies and an individual photographer, with a further injunction also secured "restraining further harassment" by other paparazzi photographers. Winehouse was granted an injunction preventing Big Pictures and 'Persons Unknown' – individuals seeking to photograph the musician outside her home and in other public places if they have pursued her – from harassing her.

Cheryl Cole had legal notices fixed to lampposts outside her former home in June 2011, having had an interim injunction granted which prevented the singer being pursued, placed under surveillance, or photographed at her own home or those of friends and family.[6] Although it was criticised at the time for putting fans snapping their celebrity idol at legal risk (Peck, 2011), her barrister David Sherborne said at a later hearing for the extension of the injunction that its purpose was to prevent extreme paparazzi tactics that amount to harassment, as opposed to fans taking pictures at a public event. One Direction member Harry Styles won a similar injunction[7] in December 2013 against four paparazzi photographers which was made permanent the following year. With the above context, this next section of chapter aims to examine the realities and impact of physical press intrusion, the presence of reports and paparazzi photographers, on two victims of such behaviour: celebrity, Sienna Miller, and a private individual associated with a celebrity, Tinglan Hong.

### 6.3 Sienna Miller

On 24 November 2011 actor Sienna Miller gave evidence to the Leveson Inquiry. In the opening to her evidence, Miller had the following exchange with David Sherborne.

[6] *Cole v XYZ and Others Unknown.*
[7] *Styles v Photographer AAA and Others.*

*Sherborne*: We've heard from a large number of witnesses who have already given evidence to this Inquiry about the experiences they've had with press photographers and paparazzi, people such as the McCanns, the Dowlers, Hugh Grant, Steve Coogan and a number of others, and people who gave examples of such things as photographers camped outside their homes, being stalked wherever they go, jumping out at them without warning and driving dangerously and so on. Are these examples which are familiar to you in terms of your experiences?

*Miller*: Yes, they are.

*Sherborne*: Can you give the Inquiry just a little bit of an idea of what you have personally experienced in that regard?

*Miller*: Yes. At the time I actually now have an order against paparazzi, so my life has changed dramatically, but for a number of years I was relentlessly pursued by about 10 to 15 men almost daily, pretty much daily and, you know, anything from being spat at or verbally abused.[8]

To understand the significance of this, and the other evidence Miller was to give at the inquiry regarding press intrusion, one must go back seven years.

### 6.3.1 Context

Miller was the partner of fellow actor Jude Law when she rose to public prominence in 2004. She had been working as an actress and model for several years but caught the attention of the media when her relationship with *Alfie* co-star Law became public knowledge. This interest grew after the actor appeared topless in *Alfie* and in lingerie for a role in *Layer Cake*, which was prominently featured in promotional material. Off-screen, Miller was constantly followed around the streets of London by paparazzi. Her 'boho-chic' dress sense caught the attention of the fashion press, and she featured on her first front page in *i-D* magazine the same year.

[8] Leveson Inquiry, morning hearing, 24 November 2011, p.22 (lines 6-24). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-24-November-2011.pdf.

When promoting the film *Factory Girl* in 2007, Miller said at a screening: "I did my first proper film where I met Jude and we got together, and then the whole celebrity thing happened before I had any films out. And before now I've only had three films out - and they haven't been very successful - so there's nothing to overshadow the celebrity side of things" (Daily Mail, 2007). This sentiment, that she had become a celebrity before becoming known for her acting work, was often echoed in later interviews.[9]

Despite an increasing frustration towards the press intrusion into her life, which has exceeded her relationship with Law, Miller has candidly spoken about her disdain for the paparazzi and the nature of her fame. When asked if she had ever hit a photographer, Miller replied: "I half-punched a paparazzo once. I've hit a few people" (Hattenstone, 2007). She also admitted to telling the paparazzi to "fuck off" (Hill, 2007) but has also said she understands that a certain amount of press scrutiny comes with being in the public eye (Elmhurst, 2010). She has described herself as "torn to pieces for the pleasure of others. People wouldn't understand, and I wouldn't expect them to, what this amount of press attention is like" (Maher, 2008). In the following extract from a Guardian interview, Miller even admitted to game playing with photographers:

> She says she didn't realise what was happening the first time she was papped; it was frightening, intrusive. There must have been a time when it was exciting. "Well, no, I think it's adrenaline. You feel you're in a video sometimes. I play these games to make it more amusing, like I'm Lara Croft or something. So I find myself ducking behind cars and I've got my girlfriends and we once filled a supersquirter with pee and squirted it at them." At whom? "Some very aggressive, very rude men." All the same, she devours all that appears about her. Did she enjoy reading about herself? "No, I looked at it like a car crash. You've just got to look." (Hattenstone, 2007).

### 6.3.2 Paparazzi harassment and injunctions

In 2008 Miller eventually won a case against a paparazzi photographer who had taken pictures of her acting a nude scene in the film *Hippie Hippie Shake.*[10] Despite a significant security presence on set, Warren Richardson had taken pictures surreptitiously from a distance

[9] "[Out] of insecurity I think that all people care about is my private life. They don't want to read about my opinions of film or f***ing politics…being on the cover of a magazine appeals to studios. But it plays against your work. A lot of people still feel I'm not a proper actress" (Maher, 2008).
[10] *Sienna Miller v NGN Limited, Xposure Photo Agency and Warren Richardson (2008).*

with a long lens camera. The photographs were then sold to photo agency Xposure and published in the *Sun* and the *News of the World*. Miller settled with NGN and Xposure out of court for £53,000 for the *Sun* pictures, but sued both again for the *News of the World* publication and was awarded £37,500 in damages plus costs. The action included Richardson personally, significant as paparazzi photographers were rarely joined in privacy actions as defendants. The judge granted a permanent injunction against Richardson, who agreed not to use the still images.

Sherborne, acting on behalf of Miller, told Eady J the actor had been "extremely distressed" by the incident (BBC, 2008). Later that year Miller reached another settlement, this time with photo agency Big Pictures (Sweney, 2008). Miller pursued a joint action for harassment and invasion of privacy. The settlement included an agreement whereby the agency could not pursue or doorstep Miller at her home or the home of her family. Sherborne described "a campaign of harassment" that had caused Miller "substantial alarm, fear and enormous distress" (Hirsch, 2008). Miller was also awarded damages by the *Daily Star* in 2008 in another out-of-court settlement. Thomson and McCann noted that "claims in harassment go a long way to filling the remaining gaps in the patch-work system of remedies for the redress of infringements of privacy" with the "almost daily doorstepping and street pursuit" mentioned in Miller's case against Big Pictures forming the perfect example of how and why (2009: 158).

Darryn Lyons, the owner of Big Pictures, later told the Leveson Inquiry celebrities courted publicity but "want to switch it off very, very soon after", adding: "I don't agree that people should be hounded up and down the street all day in any shape or form, but I do agree that people, as part of…history, should be photographed in public places, absolutely, and I'm avid about it"[11]. He also claimed his agency was often misrepresented, as rogue photographers would pretend to represent Big Pictures. However, Miller gave what Leveson LJ called the "most striking" description of paparazzi harassment in his report (Vol II: 645), when she described the terror she felt being constantly pursued by photographers:

> I would often find myself – I was 21 – at midnight running down a dark street on my own with ten big men chasing me and the fact they had cameras in their hands meant that that was legal, but if you take away the cameras, what have you got? You've got

[11] Leveson Inquiry, morning hearing, 9 February 2012, p.18 (lines 7-23). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Morning-Hearing-9-February-2012.pdf.

> a pack of men chasing a woman and obviously that's a very intimidating situation to be in.[12]

Miller said it made it difficult to leave the house and explained the effect it had on her family and friends, or those driving her as she was being chased by other cars. While Lyons may hold a point that celebrities in public places may have a limited expectation of privacy, the effect of being chased and followed from homes, into cars and down streets by gangs of photographers makes clear reasons for the employing of harassment law as a way of controlling invasions. Lily Allen has similarly described vehicle chases. The singer told the *Independent* this had driven her to breaking point and resulted in seeking her own injunction:

> Seven cars had been chasing me since I left home. I turned into a T-junction and they all ran a red light, then tried to overtake on the inside. A woman had to slam the brakes on her car as they cut in. She had two children in the car, a baby in the back seat, a six-year-old in the front. I braked too, of course, and this guy ran into the back of me. I got out of the car. I was shaken up. There was a lot of force. I was really angry. I went up to him and said, you know, 'What the fuck are you doing? You can't do this'. Instead of talking to me like a decent human being would at a decent human level, he got his camera out and started taking pictures, and I just thought, 'I've had it with the press'... It was mental. And I got back into the car and called my lawyer (Akbar, 2009).

Miller said the 2008 court order changed her life. She told Leveson: "It went from having 20 people outside my house every day to zero, so I can now lead a relatively private and normal life, which was – which is fantastic, but it was a long and arduous and exhausting struggle to get there".[13]

Others have disputed her desire to shy away from the public gaze. Paul Silva, the *Daily Mail's* picture editor, told the inquiry: "We're not as fascinated with Sienna Miller as other papers".[14] Paul McMullan, one of Leveson's more colourful witnesses and a former *News of the World* reporter, told the inquiry:

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[12] Leveson Inquiry, morning hearing, 24 November 2011, p.24 (lines 18-24). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-24-November-2011.pdf.
[13] Ibid p. 24 (lines 1-3).
[14] Leveson Inquiry, morning hearing, 11 January 2012, p.27 (lines 18-19). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-11-January-2012.pdf.

> Sienna Miller, what does she do? She's got a crummy film out and, "Ooh, here I am with Rhys Ifans -- oh, you're interfering with my privacy." She's got another one out: "Ooh, here's me with Puff Diddy" – oh no, you've caught me. I did a series of articles for the *Enquirer* on Robert Pattinson and, you know, I couldn't believe it there was Sienna Miller. It's like, "What are you doing here? Go away. I'm actually not going to do you this time. So there's no – the joke actually I made to Hugh Grant when he walked in is, "blah di blah, I'm writing a book, the title is, 'I'd never heard of Sienna Miller until she started going on about her privacy'", and it's actually the same with Hugh Grant. I mean, the guy hasn't made a film for two years.[15]

In *The Celeb Diaries*, former *Heat* editor Mark Frith says the publication was offered pictures of Miller, Law, and Law's mother getting ready for the Oscars in March 2004, pictures that had been taken with the knowledge of the subjects for a charity website. Frith claims this was all above board but was contacted by Law's legal team and asked to remove the photographs from the magazine spread before it went to print. *Heat* did not, and instead of paying to fight legal action against the actor. They lost and agreed to print an apology to Law, Ben Jackson, his assistant, and Simon Halls, his publicist, stating none of the three had agreed to the publication of the pictures in *Heat* or any other magazine. Frith maintains that the pictures were published in good faith to support the charity and that legal action was taken by Law due to "snobbishness about magazines and celebrity magazines in particular" (2008: 155).

Regardless of criticism as to whether Miller, or her former partner, were indeed playing a cat and mouse publicity game with the press, fought, and seemed to have won, a successful war against the paparazzi. During an appearance on Top Gear in 2009, Miller told presenter Jeremy Clarkson that she had flashed photographers, knowing that they could not legally take pictures of her: "I was the first person to ever sue, and win, on harassment so now they can't do anything" (Churchward, 2009).[16] In 2011 she told an interviewer the legal action she had taken against the press had a positive effect on her life and she had even enjoyed secretly filming the paparazzi to gather evidence for her court cases.

[15] Leveson Inquiry, afternoon hearing, 29 November 2011, p. 89 (lines 1-16). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Afternoon-Hearing-29-November-2011.pdf.

[16] As an aside, Jukes describes Clarkson blowing kisses to friend Charlie Brooks during his trial in relation to phone hacking at the *News of the World* (2014).

> All the legal action I've taken against newspapers has had a massively positive effect on my life and achieved exactly what I wanted, which is privacy and non-harassment. I don't think I'm going to be in too many Murdoch papers from now on. I've bought my freedom, in a way. And I got the law changed with the paparazzi. They can't take photographs of me anywhere I expect privacy. They can't sit outside the house, follow in cars – unless I'm coming out of The Ivy, which I'm not going to be (Dickson, 2011).

Miller said she had bought her freedom from press intrusion, but the fight was not over. As stated in Chapter Three, she was one of the first victims of phone hacking by the *News of the World* to sue *NGN*. This and her experience as the target of paparazzi intrusion made her in many ways the ideal witness for the Leveson Inquiry to demonstrate the myriad ways in which private information of celebrities is mined by the press. For Miller, the intrusion certainly presented itself in multiple ways.

### 6.3.3 Miller and the *News of the World* phone hacking

Miller became one of the first people to take legal action against the *News of the World* for hacking her mobile phone. In a 2011 interview, Miller said: "Legally, I'm not allowed to say a word because it's all still pending, but it was ultimately just about standing up for yourself, what you believe is right and wrong" (Dickson, 2011). She settled with the publication in May 2011 for £100,000 plus costs.[17] Hanning (2014) credits Miller and her lawyer Mark Thomson for eventually forcing the police to hand over evidence after five months of trying to get hold of Mulcaire's notes, leading to a comprehensive review of all the phone hacking material held by the Metropolitan Police by the Crown Prosecution Service.

It's important to note from Miller's evidence to Leveson that phone hacking by the *News of the World* formed part of what she referred to as a "web of surveillance".[18] From evidence eventually produced by the police it became clear that several of Miller's friends, family members and colleagues had been put under surveillance, with Mulcaire creating a project dedicated to the actor in his notes, a disturbing but unsurprising revelation given the level of press interest in Miller at the time of surveillance. Kelly Hoppen, Miller's stepmother, had

[17] *Sienna Miller v NGN and Glenn Mulcaire.*
[18] Leveson Inquiry, morning hearing, 24 November 2011, p.35 (lines 16-17). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-24-November-2011.pdf.

also settled a claim against NGN and Mulcaire for £60,000. Miller told the Leveson Inquiry Mulcaire was in possession of "all of my telephone numbers, the three that I changed in three months, my access numbers, PIN numbers, my passwords for my email that was used to later hack my email in 2008…and a number of my friends, I think about 10 phone numbers in total".[19] She described a "breeding of mistrust" as she had accused friends and family of leaking information to the press:

> The relationships were damaged, just this kind of breeding of mistrust amongst all of us. It wasn't just me accusing people, it was my mother accusing people, nobody could understand how this information was coming up, so everybody was very upset and confused and felt very violated by this constant barrage of information that was being published. It was impossible to lead any kind of normal life at that time, and that was really difficult for a young girl.[20]

Hanning likens the experience of celebrities like Miller as being "tormented by 360-degree intrusions" and his subject Mulcaire agreed that such fishing expeditions were inexcusable when involving family and friends. However, he found it hard to feel entirely remorseful: "I know it's not Sienna Miller's fault how badly this has been handled, but how many times can you apologise for something?" (2014: 302).

Miller was clearly reticent about appearing at the Leveson Inquiry (when asked by Sherborne why she had chosen to give evidence she replied: "Because you told me to?") but she has been happy to talk publicly about her various legal actions against press intrusion, and has appeared to relish in taking on those responsible for her loss of privacy. When asked by Timothy Langdale QC, acting for Andy Coulson in the 2014 *News of the World* phone hacking trials, if she talked about her private life publicly, she replied: "I would be willing to talk about myself as I seem fit" (Jukes, 2014).

Miller was required to re-live the public exposure of her private life for the second time in retelling during these hacking trials. Her appearance before Saunders J, and that of Jude Law, were scheduled to coincide with the evidence of Dan Evans in order to establish the facts around the exposure of Miller's affair with actor Daniel Craig, a voicemail pertaining to which Evans had reportedly played to senior members of staff at the *News of the World*. The paper had published two articles in 2005 on the subject, 'Sienna Cheats on Jude' and 'Layer

[19] Ibid (lines 11-20).
[20] Ibid p.38 (lines 17-25).

Fake' (Jukes, 2014). Ironically, as with the Leveson Inquiry, the appearance of the celebrities at the trials caused further intrusion into their private lives in the reporting of the proceedings [21]. As Jukes puts it, "a trial about gross privacy intrusions was bound to compound the original harm" (2014: 114).

Miller appeared before the court on 31 January 2014 via video link to give extensive evidence on the voracity that certain stories about her private live had been obtained by phone hacking and Saunders J apologised to the actor, saying: "I am very sorry that what has been said in court and reported in the press has caused you upset but it has been necessary (Jukes, 2014: 126).

However, it was Miller's determination to get to the truth of the extent of the hacking, and the resulting harassment that took place that led to the exposure of further private information through the courts. Back in 2011 when she settled the original claim with the newspaper, her barrister Hugh Tomlinson QC told the court the actor had agreed to the settlement "precisely because all her claims have been admitted [comprising] misuse of private information, breach of confidence, publication of articles derived from voicemail hacking and a course of conduct of harassment over a period of 12 months as resulting from all that" (Hill and Robinson, 2011). There are numerous examples of the forms in which this intrusion presented itself. Derek Webb, a private investigator used by the *News of the World* confirmed he had carried out surveillance on Miller and Law on one occasion between 2003 and 2005.[22]

The night before Tomlinson's statement in court on behalf of Miller, Hugh Grant had been on *Newsnight* discussing the right to privacy of celebrity and phone hacking at the *News of the World*, describing phone hacking as "stealing successful people's privacy and selling it". He became something of a figurehead for taking on the press in this respect and was instrumental in setting up the campaigning group Hacked Off. Following an appearance on *Question Time* in July 2011 discussing the same topics, Tinglan Hong, then pregnant with his first child, allegedly received a series of phone calls to her landline and mobile phone from an unknown number. She says when she finally picked up, a man's voice said: "Tell Hugh Grant to shut the

[21] Following this hearing, the *Star* published a story about Craig and the model Kate Moss, while the *Times* reported that a member of Law's family had sold information to the *News of the World*, a fact of which he was unaware until presented during evidence (Jukes, 2014). Likewise, *Press Gazette* ran a story on the confrontation between Law and Craig over the affair (Press Association, 2014) and the *Guardian* covered the speculation that Law's PR team had been liaising with the *News of the World* over the story (O'Carroll, 2014).

[22] Leveson Inquiry, afternoon hearing, 15 December 2011. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/12/Transcript-of-Afternoon-Hearing-15-December-20111.pdf.

fuck up".[23] Hong had been subject to her own series of press intrusions, of which this was just one.

## 6.4 Tinglan Hong

Tinglan Hong is a private individual who, to date, has never spoken publicly about herself, her relationships or her experience of press intrusion. Originally from China, Hong moved to England in 2003 and spent some time working as a waitress in a Chinese restaurant in Wimbledon.

### 6.4.1 Context

According to Hong's ex-partner David Hodge, Hong met actor Hugh Grant in 2008. He told the *Mail on Sunday*: "The next day she showed me this photograph on her phone with Hugh Grant. We laughed about it and she'd bring it out to show people but I didn't think any more about it" (2011). In January 2011, Hong was photographed with Grant in the press for the first time and became pregnant by the actor around the same time. She gave birth the pair's first child Tabitha in September. They have since had another child, Felix, and Grant has two children by friend Anna Eberstein. In the judgment[24] Tugendhat J pointed out: "While Hugh Grant is very well known, the First Claimant [Hong] has never sought any publicity or been known to the public for any reason." (*Hong*: para. 4).

Indeed, Grant is very well known and has been of great interest to the international media since his role in the 1994 film *Four Weddings and a Funeral.* In his witness statement to the Leveson Inquiry, Grant jokingly described his ascent to fame and subsequent relationship with the press as a "subject of interest" and lists a variety of press intrusions he suffered in the proceeding years over nine pages. These include his arrest for the notorious Divine Brown encounter in 1995, libels, privacy invasions, harassment by reporters and the paparazzi and phone hacking. In his supplemental witness statement to the inquiry, he explains buying a house for Hong in his cousin's name and did not attend the birth of his daughter so as not to draw the attention of the press via public records.

[23] Leveson Inquiry, Supplemental Witness Statement of Hugh Grant (para. 5). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Supplemental-Witness-Statement-of-Hugh-Grant.pdf.

[24] *Tinglan Hong and Child KLM v XYZ & Others [2011]* hereafter referred to as *Hong.*

The judgment of Tugendhat J and Grant's evidence to the Leveson Inquiry served to outline the press intrusion suffered by Hong and her family in great detail. Hong became aware she was under surveillance after the publication of a *News of the World* article titled "Hugh's Secret Girl", which featured pictures she identified as being taken earlier that year was published on 24 April 2011, speculating that she was pregnant (*Hong*, 2011). Grant claims the pair were not contacted in advance of the publication. She continued to be followed and photographed until the publication of articles in the Daily Mail on 2 and 3 November 2011 again speculating about the pregnancy, after which time the intrusions became more extreme, including text messages and voicemails from journalists and the presence of photographers outside her home every day (*Hong,* 2011).

Grant describes Hong being "often frightened" by a particular photographer who followed her repeatedly. Hong described him driving a black Audi and how on one occasion she had been so distracted by the pursuit that she was involved in a minor car crash (*Hong,* para. 8). Shortly after that followed the aforementioned series of phone calls from the unknown man. Hong claimed that journalist Keith Gladdis of the *Daily Mail*, who had previously worked for the *News of the World*, was responsible for texting and phoning her since the birth of their child.[25] The contact was confirmed by Liz Hartley of the *Mail's* legal team in evidence to the inquiry.

### 6.4.2 Paparazzi harassment and injunctions

Members of the press and photographs were served with a copy of the *Hong* injunction[26] on 11 November 2011, prohibiting attendance outside Hong's house within 100 metres or taking photos in circumstances identified in the order. Grant's lawyer Mark Thomas told the Leveson Inquiry he had worked well with the PCC in this instance, passing on his email expressing concern at the media siege to which Hong was subjected to members of the press and added their view it was unacceptable. However, he highlighted the regulator's ineffectiveness saying: "It's a good way to circulate notices, but ultimately, if the media and the paparazzi agencies want to do it they will do it anyway, which is why we had to get a court order" (Thomas, 2011). Tugendhat J noted: "While Mr Thomson understands that some journalists and photographers stopped attending at the property, a number of them persisted" and it is on this basis the injunction was granted (*Hong,* 2011).

[25] Leveson Inquiry, Supplemental Witness Statement of Hugh Grant (para. 19). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Supplemental-Witness-Statement-of-Hugh-Grant.pdf

[26] XYZ and others being "person or persons responsible for taking photographs of the claimants outside their home and in the street during November 2011" as specific photographers were unknown (*Hong*: para. 3).

In his evidence to the Leveson Inquiry, Gary Morgan of the photography agency Splash confirmed his was one of those served with a copy of the injunction prohibiting attendance outside Hong's house and confirmed Hong and her child had been added to the agencies "no shoot" list (para. 21e). Silva confirmed the *Mail* had sent photographers to Hong's house on 2 November, before the injunction, to obtain a "posed-up" picture of Grant or Hong with their child, something he claimed was normal with celebrities or public figures who had recently become parents:

> [Grant's] agent could in that statement have carried on and said, "Look, Hugh Grant and the woman in question will not be giving any interviews, they do not want to pose up, and we would ask people to respect their privacy at this time and not to converge n their respective houses", but there was nothing of that in there, there was no inclination in that statement that there was a privacy matter or there was a problem ahead".[27]

This point was reiterated by Liz Hartley, who told the inquiry Grant's PR team could have issued a statement to the media on Hong's behalf to explain she would not comment then phone calls – as well as the photographers – would have ceased.[28] While Silva and his contemporaries came under some fire in questioning over the practice of obtaining photographs of Grant, Hong and their child, they were given some respite in the acknowledgement that they had rejected agency pictures of Grant attending hospital to visit the child.[29] Though speaking in generalities rather than specifically about Grant and Hong's child, *Hello!* editor Rosie Nixon later told the inquiry: "The sad truth is that there's…a sort of bounty on the head of that child for the first photos. It can make a lot of money".[30]

[27] Leveson Inquiry, morning hearing, 11 January 2012, p.44 (lines 1-5). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-11-January-2012.pdf.
[28] Leveson Inquiry, afternoon hearing, 11 January 2012. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-11-January-2012.pdf.
[29] Leveson Inquiry, Witness Statement of Paul Silva. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Witness-Statement-of-Paul-Silva.pdf.
[30] Leveson Inquiry, morning hearing, 18 January 2012, p.38 (lines 2-5). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-18-January-2012.pdf.

### 6.4.3 Hugh Grant at the Leveson Inquiry

Grant's appearance at the Leveson Inquiry was of great interest to the media, and his animosity towards the actions of the *Daily Mail* and *Mail on Sunday* was made clear both in his witness statements and oral evidence to the inquiry. In particular, he was famously accused of "mendacious smears" by editor Paul Dacre for implying the newspaper group may have hacked his phones, a fact which remains unproven.[31] Although his evidence was extensive and far ranging, much of the discussion and supplemental information provided to the inquiry team by the actor centred around the treatment of Hong by the press and photographers desperate to gather information about the birth of their child.

The Leveson evidence of Dacre focused on Grant in some detail. In his witness statement, he said: "Mr Grant has attacked press intrusion and harassment after the birth of his love child following a 'fleeting affair' with former girlfriend Tinglan Hong, yet he has repeatedly publicly spoken of his desire to be a father, either with Liz Hurley or particularly around the time he was promoting *About a Boy*, a film in which he single-handedly brings up a child".[32]

Though the arguments made by Hartley and Silva in regards to the press interest in Hong and her child focused around whether or not Grant had adequately expressed their desire for privacy, for Dacre it went further, in his focus on Grant's invasion of his own privacy. He told the inquiry:

> Mr Grant has spent his life invading his own privacy, exposing every intimate detail of his life…particularly he's spoken frequently about his desire to have a child, particularly at the time when he was making a film about a child. It seems to me a little bit ripe that when he does have a child, he and his press representatives won't confirm or deny that. I mean, it's not a question of intrusion. In fact, the story broke on an American website and that was the way it came out into the open…That's not an intrusion. When someone has a baby, the press, through the ages - popular

[31] "Mr Grant has made two allegations of phone hacking against Associated Newspapers. Neither of these allegations stands up to scrutiny and should never have been made" (Leveson Inquiry, Supplement Witness Statement of Liz Hartley, para. 28. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Supplemental-Witness-Statement-of-Liz-Hartley.pdf). In his evidence, former *News of the World* journalist Paul McMullan claimed the source of the information on Hong, which he sold to the *Mail on Sunday* had come from a friend of Grant's (Leveson Inquiry, afternoon hearing, 29 November 2011).

[32] Leveson Inquiry, Supplemental Witness Statement of Paul Dacre, (para. 16). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Supplemental-Witness-Statement-of-Paul-Dacre3.pdf.

> newspapers have sent photographers around to ask if they can take a picture. It's as old as time itself.[33]

Dan Wootton, former showbiz editor at the *News of the World*, told Leveson LJ he believed all celebrities have a right to privacy, especially in areas of sexuality, health, pregnancy and family and was disappointed by Grant's evidence:

> "It was very rare for me to ever write about Hugh Grant because my belief was that my readers of my showbiz column weren't interested in him, because he didn't seem to enjoy his job and was pretty miserable".[34]

However, Wootton, who now writes for the *Daily Mail*, said he was frustrated that Grant had not confirmed the birth of his daughter last year, as no journalist wants to publish inaccurate stories. He said there definitely needs to be a "two-way street" between celebrities and journalists offering a right of reply and working with celebrities involved mutual trust and writing about individuals in a fair and honest way.

Whatever the validity of Dacre's argument that Grant has spoken candidly, rather than often, about aspects of his private life, it was Hong and her family who suffered the onslaught of press intrusion as a result of the association to Grant. While members of the press giving evidence to the inquiry left the responsibility of managing this invasion at the door of Grant, the regulatory power of the PCC was entirely ineffective in this instance. As with Cox, who had at first tried to work through the regulator to little success ten years previously, Hong and Grant's legal team followed suit.

## 6.5 Further analysis

Gritten says paparazzi pictures have severe limitations; they are snapshots in time, but the media can employ them to underscore any number of "spurious theses" about celebrity (2002: 140). Certainly, the image of a famous face being chased down the street by a baying pack of photographers is easy to conjure, particularly in light of the evidence presented to the Leveson

[33] Leveson Inquiry, afternoon hearing, 6 February 2012, p.90 (lines 22-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-6-February-2012 1.pdf.
[34] Leveson Inquiry, morning hearing, 6 February 2012, p.44 (lines 20-24). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Morning-Hearing-6-February-2012.p df.

Inquiry by Miller, Grant, the McCanns and others. However, he also notes the ease with which the paparazzi can be blamed, becoming scapegoats in the "uneasy conflict between famous people who wish to retain some degree of privacy and a public represented by the media", a public who seek more gossip, private detail scurrilous facts and sensational pictures:

> We have all seen enough of their methods to feel some distaste towards them: they can be pushy, rude and intrusive. The finger of guilt in the immediate wake of Diana's death was initially pointed at those paparazzi who chased her car down that tunnel in Paris, their own vehicles speeding crazily to like some vengeful posse intent on hunting her down. Yet the paparazzi are merely the shock troops in this war, the element that reinforces to celebrities the unpleasantness of encroachments on their privacy. To use a more specific metaphor, they are frontline mercenaries, doing what they do only to earn a living.[35] And they earn a living – in some cases a lucrative one, only because newspapers and magazine editors will buy their photographs of celebrities caught in private, distressed or compromised circumstances, often turning a blind eye to the means that achieved this end. Let us blame the media then, but they are surrogates of a public will and means of selling newspapers (2002: 141).

Leveson LJ referred to harassment as one of the most frequent complaints made by the CPVs in his report. Though he noted Miller's experience as the most striking, and referenced the evidence presented by Charlotte Church, JK Rowling and Steve Coogan as further examples of intrusion by the press and paparazzi. He also shed light on the evidence demonstrating that "complaints of harassment were not limited to so-called celebrities, but were shared by those with no public persona who, for a variety of reasons, were thrust into the public eye" (Vol II: 645). Clearly, in the case of the McCann and Dowler families, the market was as interested in individuals caught in moments of privacy and distress when the news story warranted feeding the public interest.

The Leveson Inquiry was not just the site of debate on privacy invasions, it was also of press interest itself. In his evidence, Turner made the point that Rowling's decision to leave her evidence hearing via a side entrance had caused issues for photographers instructed to get a

[35] Matthew Prinz, the lawyer who represented Princess Caroline in *Von Hannover v Germany*, said: "The bigger the market for this kind of photograph, the more the photographs can earn and the more there is an incentive to follow our clients" (Carvajal, 2004).

picture of her. Many high-profile witnesses including Miller and Grant had been faced with a barrage of press photographers at the usual entrance to the Royal Courts of Justice.

This was the case at the phone hacking trials as described by Jukes: "Through a blustery, wet autumn morning, the full media pack was braving wind and rain by the entrance of the Central Criminal Court; photographers on steps behind the crowd control barriers, media crews hooked up to terminals and ISDN lines. I took a quick snap of the paparazzi, and one snapped me back with a rapid fire telephoto lens – not because I was important, but to show me that he could outgun me at anything" (2014: 22).

### 6.5.1 Stalkerazzi or scapegoats?

Neil Turner, the vice-chairman of the British Press Photographers Association (BPPA) in 2012, was keen to put distance between responsible and code-abiding photographers and those giving the industry a bad name. He told the Leveson Inquiry it faced a real problem from "amateur celebrity chasing paparazzi" or, as he phrased it, "stalkerazzi", who engage in unethical activities:

> …they do involve chasing people down the road, driving dangerously/illegally. They do involve initiating a reaction and a response from people to get different facial expressions, you know, in a kind of completely over-the-top way. They do involve the trying to photograph women in compromising ways to show you either – what they're wearing under their skirts...working in packs deliberately. Deliberately running in front of people. I mean, you know, hearsay, I'm afraid, but I've heard it second-hand that they've seen one photographer deliberately get into a fight with a celebrity so a second photographer, with whom they were working as a team, could get the picture of the fight and split the money.[36]

His explanation for the behaviour was simple: the demand in the marketplace for these images was enormous. Turner was not alone in giving evidence on the press photography industry. Gary Morgan of Splash News and Picture Agency confirmed a premium was placed on exclusive pictures: "I would say certainly there's an incentive to get exclusive photographs of celebrities, because if you're the only photographer there, the photograph is naturally worth

[36] Leveson Inquiry, afternoon hearing, 7 February 2012, p.15 (lines 18-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-7-February-2012.pdf.

more".[37] Lyons, of the now defunct Big Pictures, aforementioned in this chapter as the subject of legal action from several celebrities, was quizzed on the ethics of his agency. He said he could only "vaguely" recall paying out £58,000 damages to Grant and Liz Hurley and could not remember an incident where one of his photographer's cars struck that of Lily Allen after which she sought an injunction against the company.

### 6.5.2 The leering lens

Heather Mills described experiencing harassment from photographs when with her daughter, friends and family members, and resorted to filming the instances to the Leveson Inquiry. She had over 60 hours of footage, a short edit of which was played to the court. She told Leveson LJ: "I have over 65 hours of abuse, harassment videos of paparazzi from all around the UK going through red lights, just awful things like driving over pavements when mothers are pushing prams, shouting abusive things, making my daughter cry, jumping all over us".[38]

Kristen Stewart, star of the *Twilight* franchise, spoke to *Elle UK* magazine about her experiences with the paparazzi for the July 2010 edition: "The photos are so … I feel like I'm looking at someone being raped. A lot of the time I can't handle it. I never expected that this would be my life" (Hanna, 2010: 136). She later apologised after several rape charities complained and the comments were removed from the online version of the article.[39] While Stewart' comments were misjudged, they certainly go some way in summing up the relationship that often develops between female celebrities and the paparazzi. In an issue of the American version of *Elle*, her former co-star actor Jodie Foster said: "It's a very different time from when I was growing up. We didn't have those lenses that were 150 feet long, or maybe we had them, but there was still a real delineation between the public and the private" (Fortini, 2010). This posits the question of whether, as with phone hacking, technological advancements have intensified press intrusions, or whether cultural norms have indeed altered as suggested by Foster. Arguably these factors do not exist in binary, for as with other methods such as phone hacking, the development of technology and confusion over how to best regulate intrusions in this context across geographical and legislative boundaries, has resulted in a greater breakdown of the separation between the public and the private to the

[37] Ibid p.87 (lines 7-10).
[38] Leveson Inquiry, morning hearing, 9 February 2012, p.87 (lines 20-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Morning-Hearing-9-February-2012.pdf.
[39]The revised article still refers to Stewart's loss of privacy and can be found here: http://www.elle.com/culture/celebrities/a11135/kristen-stewart-443897/.

benefit of the media at large: the dark arts have certainly been empowered by this lack of clarification in British press regulation.

Fellow actors Charlize Theron and Cara Delevingne have made similar comments. Theron was met with similar outrage when she compared press intrusion to rape on the publicity tour for the film *A Million Ways To Die In The West* in 2014. When asked if she Googled herself, she replied:

> I don't do that, so that's my saving grace. When you start living in that world, and doing that, you start I guess feeling raped…Well, you know when it comes to your son and your private life. Maybe that's just me. Some people might relish all that stuff but there are certain things in my life that I think of as very sacred and I am very protective over them (Suchet, 2014).

A month later, Delevingne was interviewed by journalist Alexis Petridis, who made much of her constant appearance in the press and the photographers that followed her around. He writes: "Delevingne says that she fantasises about one day punching one – 'I'd love to, I really would, I'd be so happy, I dream about it at night' – but she seems happy enough posing for them, which involves much pulling of faces on her part" (Petridis, 2014). She continued to document her against the paparazzi on her Twitter account, describing them as "assassins with there [sic] telescope lenses, hiding in bushes or whatever they can find" (2014), exclaiming "Ha! Who needs privacy anyway?" (2015) and announcing: "My new aim is to be in control of my face! Sounds strange I know"; "That's [sic] doesn't mean I will stop making faces but it means I will not let paps get a picture unless I want them to. Which is mostly never" (2016).

This idea of press intrusion as sexual harassment is not a new one. While Allen says that famous actresses cannot complain they draw the attention of others she also asserts that even in public seclusion is "wrongfully disturbed when close physical proximity to another is uninvited and unexcused" (1988: 124). If physical distancing and anonymity achieve privacy in public, then the unwanted paparazzo destroys this state both by his or her invasion of the subject's personal space. Even if pictures are taken covertly from a distance, the printed picture itself is an invasion.[40] Solove points to the concept of exposure, which involves

[40]Allen refers to "privacy-invading sexual harassment" which includes "leering", "insulting", "prying", and "offensive touching", a breach of anonymity and seclusion as forms of privacy (1988: 128). I would argue that tactics sometimes employed by the paparazzi, such as shouting to get emotional responses from celebrities and taking 'upskirt' pictures should be encompassed in this definition.

exposing to others certain physical and emotional attributes about a person, attributes that "people view as deeply primordial" meaning their exposure "often creates embarrassment and humiliation" (2008: 147).[41] Scott has gone so far as to describe the behaviour of a "minority" of the paparazzi as "amoral, debased, animalistic, predatory, ruthless, degrading, abusive, inhumane and perhaps inhuman" (2009: 3).

Paparazzi photographers have even been accused of aiding stalkers or at least drawing unwanted attention to public figures: a consecutive series of photographs showing a celebrity outside of his or her house, or a picture of the building itself, is one example of this. Celebrities want to keep their addresses private to avoid being hounded by obsessive fans (Solove, 2008; 69). In 2008 Daniel Craig complained to the PCC after an article in the *Mail on Sunday* identified his home in an article headlined '£4m home where Bond will find a quantum of solace' (PCC, 2011). Craig asked the newspaper for £25,000 to meet security costs as the article contained a picture of the house and several pieces of information identifying its location. The PCC ruled that as the newspaper had removed the article from the internet, offered an apology to Craig, undertaken not to republish the details and taken internal steps to ensure measures were respected, it need not take further action. Frith reports that when editor of *Heat* he was accosted by Geri Halliwell's publicist for publishing a photograph of the singer's front door with a clearly identifiable house number in the magazine as it was burgled a few months later: "Even if this isn't our fault – and I maintain that we made sure Geri's address was unidentifiable when we ran the picture – some people will still blame us (2008: 59).[42]

### 6.5.3 The future of regulation

The Leveson Inquiry heard from press photography agencies and picture editors, and Leveson LJ was certainly keen to get to the bottom of the regulation issue. In his report, the judge recommended that a new regulatory body should provide a service to warn the press, including photographers, that an individual has made it clear they do not welcome press intrusion and would hold publications responsible for the sourcing of material such as paparazzi photographs.

[41]Solove explains how we have been socialised into concealing "physical, instinctual and necessary" attributes and activities including "grief, suffering, trauma, injury, nudity, sex, urination and defecation", to protect human dignity as defined by modern society (2008: 148).

[42] Frith (2008) claims he was denied an interview on the burglary as a result of the publication of said photograph, was denied an interview on Halliwell's new single a month later but was then approached on the condition it would be a cover feature: "Celebrities. They'll do anything for a front cover" (2008: 60).

Morgan told the inquiry his organisation had a 'no-shoot-list, the one to which Hong had been added following the injunction, adding that "greater cooperation between celebrities and agencies on realising what the boundaries will and won't' be can't do any harm":

> In the UK, we monitor the orders that are put into place when celebrities complain or when they for behaviour patterns to change, usually through lawyers sending out letters to other agencies or newspapers, and one of our responsibilities is to make sure we're not taking photographs that will put our clients at risk. So we monitor those lists and we update them regularly. It's actually updated from the picture desk and emails are sent out whenever there's an update to that list.[43]

Lyons confirmed Big Pictures had a similar list and that he had been campaigning for clearer guidance on privacy in respect of celebrities and complained of an ambiguous situation where "people that are recording history of celebrity don't know what is right any more and what is wrong because common practice up until the last five to ten years has changed dramatically through…a back door privacy law".[44] The idea of a widely available no-shoot register was floated as a suggestion by Leveson LJ, and agreed with in principal by Paul Silva and other picture editors, along with magazine editors such as Lucie Cave of *Heat.*[45]

In his final report, Leveson LJ did not go so far as to recommend a blanket 'no shoot' list, although the idea was explored at the inquiry. He did, however, state that the press must remain responsible for photographic content regardless of if taken by staff photographers or third parties and recommend that any new regulatory body should make it clear that newspapers will be held strictly accountable, under their standards code, for any material that they publish, including photographs. The BPPA, which did not have a published code of conduct at the time of the inquiry, drafted and agreed on a code with members shortly after Turner gave evidence in 2012 (BPPA, 2012).[46] Turner confirmed no list of court orders – or a universal "no-shoot" list exists, and the BPPA does not expect one to be produced until there are changes in press photography legislation. As it stands now, IPSO operates a 24-hour

[43] Leveson Inquiry, afternoon hearing, 7 February 2012, p.92 (lines 2-11). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-7-February-2012.pdf.
[44] Leveson Inquiry, morning hearing, 9 February 2012, p.35 (lines 1-6). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Morning-Hearing-9-February-2012.pdf.
[45] Later, Cave told the *Guardian* she believed such a measure would be impractical (Plunkett, 2013).
[46] The online version was published in 2015 but differs in no way from the original aside from grammatical corrections.

emergency harassment helpline for those who wish to complain about intrusion, including harassment by photographers.

## 6.6 Conclusion

The legal and historical context of press intrusion via the paparazzi is particularly rich in respect of press regulators and the courts. Photography is one of the primary forms through which the public can access information about the public sphere, as demonstrated by Chapter Five as well as the contents of this chapter. The Protection from Harassment Act 1997 has been effectively employed by celebrities in respect of the paparazzi, and not improperly given the comparative actions of stalkers and some paparazzo photographers. Miller's evidence to the inquiry in respect of her personal experience was shocking in its description of harassment. The ability to control the actions of the paparazzi lies in respect of English law continues to rely on individuals willing to take legal action through injunctions, though this is restrictive on a costs basis. The ability to control the actions of the paparazzi through regulation is more complicated, as it now relies on the effectiveness of IPSO to address complaints and the preemptive action of picture desks to fully assess whether pictures presented to them from individual photographers and agencies have been taken in a context amounting to harassment. Though the Leveson Inquiry heard this was being done at an industry level, the experiences of more recent celebrity victims such as Delevingne would suggest this is not as effective as one would hope.

The facts of the two case studies presented in this chapter reveal that the element of celebrity was crucial to the harassment suffered by Miller and Hong in respect of the paparazzi and physical presence of reporters. Miller readily admitted that she became famous the wrong way round and that her celebrity by association to other celebrities heightened the press interest in her to an extreme degree. In the case of Hong, the excitement of the media at both exposing the relationship with Grant, particularly due to its unconventional nature, and a clamour to capture the first picture of their first child was entirely constructed from Grant's celebrity status and, one could cynically argue, a desire to expose a famous individual who spoke out against the intrusive practices of the press.

The issue with regulation, which became apparent over the course of the Leveson Inquiry, was any attempt to control the actions of the paparazzi were complex, as there is no press photography regulator in Britain, though photography is considered in the PCC and IPSO

codes. Though photographers can choose to join the BPPA, which has a revised set of guidelines in the wake of the Leveson Inquiry, the paparazzi can only be controlled by the British press in financial terms, in whether or not their pictures will be bought and published. There is no appetite for a national register of public figures and celebrities who do not want to be photographed while in public and regardless many paparazzi work across geographical, and therefore regulatory and legal jurisdictions. Any such regulation is likely to fall down if a story is either in the public interest as decided by IPSO and/or the courts or just too good not to publish, in which case the harm occurring from both the presence of photographers and the publication of pictures has been done. In terms of Miller, the paranoia and damage to personal relationships as a result of mistrust that stemmed from phone hacking, combined with the intrusive presence of the paparazzi is horrifying to imagine. The implications of surveillance on the individual in respect of phone hacking are explored further in Chapter Seven.

What is clear from both cases, and the evidence presented in respect of other methods of press intrusions including phone hacking and blagging, is that the paparazzi form part of a larger, synergetic invasion of privacy akin to surveillance. The ability to take photographs both surrupticiculously and from great distances is so because of technological advancements made in the development of professional camera lenses, as the consumption of celebrity news has been made even more accessible by online platforms.

As some celebrities self-publish increasing amounts of personal, visual material about themselves on social media, the demand for their image in the traditional media could diminish - while competition for pictures that are unflatteringly off-guard or scandalous would increase. As demonstrated by the examples in this chapter, and identified at the Leveson Inquiry, the paparazzi may have been curbed somewhat by regulators and injunctions, but are not governed by a clear overarching system. It is uncertain what the future holds in this area, as cameras become increasingly ubiquitous outside of the photographic profession. As traditional media and social media rely more and more on photographs and videos, and celebrities are still front and centre of many media narratives, the desire for this content means the potential for more egregious invasions of privacy into the private lives of celebrities, and those close to them. This is explored further in Chapter 7.

# CHAPTER SEVEN – CAUGHT IN THE CROSSFIRE: MARY-ELLEN FIELD AND HJK

The intrusions into private lives revealed by the hacking scandal were not just into the lives of royals and other celebrities. Celebrity may explain those intrusions. But celebrity, at least that of the targets of the intrusion, did not explain other intrusions. Many non-celebrities were targeted too.

From 2006 to the present day, the extent of phone hacking by members of the British press continues to widen. Many individuals have settled claims against News Group Newspapers and Mirror Group Newspapers, and so the exact details of the private information obtained by press invaders remain unknown. As noted in Chapter Five, the practice of tapping into landline phone conversations was a common practice in the 1980s and 1990s. The phone hacking scandal was not out of step with the other 'dark arts' practiced by the press (as exposed by Operation Motorman but commonly known among those in the media sphere and the spheres with which it overlapped) but drew such controversy because of outrage over the Milly Dowler revelation, and the celebrity element which kept it of sporadic interest to the public from 2006 to 2011.

This chapter concerns two individuals: Mary-Ellen Field and the anonymous person known as 'HJK'. Each had a relationship with a celebrity and both suffered harm as a result of phone hacking. It is the role of this chapter to examine the impact of becoming collateral damage in the quest for private information about celebrities, and how it impacted the lives of the two subjects.

The aim of this chapter is to identify the effects of press intrusion on those associated with celebrities by comparatively examine how the association with celebrity individuals impacted on non-celebrity individuals by establishing the facts of each case study in the context of the Leveson Inquiry, and establishing the individual subjects of these case studies as representative of an unknown number of those falling into Leveson's category of 'those with links to the above'.

## 7.1 Introduction

The first known victims of phone hacking were the royal aides listed in the original trial of Goodman and Mulcaire. None of them has ever spoken publicly about their cases, due to the discretion their former and in some cases current positions would require. There are, however, individuals who have suffered as a result of press intrusion into the private lives of celebrities with which they have a relationship. Though the subjects of this chapter, the nature of their respective relationships, and the celebrities, were different in nature there are startling comparisons between their cases, and both were referenced throughout Leveson's assessment on the impact of privacy invasions on those close to celebrities.

Neither of these individuals was a public figure, nor sought publicity in the media, and yet both fell victim to various press intrusions as a result of their proximity to their celebrity acquaintances. Both gave evidence to the Leveson Inquiry in November 2011 during the first week of public hearings, alongside others core participants including Sienna Miller, Hugh Grant and Bob and Sally Dowler, and were represented at the inquiry as CPVs.

Both individuals reported these press intrusions as affecting their physical and mental health, their professional life, and their relationship with the celebrity they were acquainted with and resulting personal relationships. The connection between Field and her client, the model and businessperson Elle Macpherson was one between professionals, although, from the evidence presented to the Leveson Inquiry and various accounts from Field, it could be described as friendly, or even personal in nature. Field and Macpherson were both Australian businesspeople working in the UK in a male-dominated world and according to the former, a bond quickly formed between them. Field told the inquiry: "We're both from Sydney. We got on very well, and she decided to retain me to look after that side of her life".[1]

The other relationship was certainly personal. The private individual concerned, the anonymised HJK, was in a casual, romantic relationship with an anonymised celebrity. This came swiftly to an end as HJK fell under the suspicion of his celebrity paramour when he was approached to confirm their relationship by the press. Field and HJK were both victims of

[1] Leveson Inquiry, morning hearing, 22 November 2011, p.10 (lines 1-3). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-22-November-20111.pdf.

phone hacking, either directly or indirectly in either case. They were directly compared by Leveson LJ when he stated phone hacking "involved those who were connected to someone famous (like HJK, who was permitted to give evidence anonymously, and Mary-Ellen Field who certainly suffered the consequences when it was thought that she had been leaking details relating her principal)" (ES: 10).

The two also fit into the latter of Leveson's categories (aforementioned as 'those with a public profile', 'victims of crime', 'innocent bystanders' and 'those with links to the above') as those with links to individuals with a public profile, along with Tinglan Hong from the previous chapter. The mother of singer Charlotte Church. Field was referenced directly in the Leveson Report as an example of innocent bystanders[2] "who are not even targeted or explicitly written about but become 'collateral damage' because of the suspicions generated by subterfuge" (Vol II: 448-9). This was an inevitable byproduct of the quest for information on celebrities. As noted by Jukes: "Hacking is really a network tracing activity. People don't leave messages on their own voicemail. If you want to know what a celebrity or politician is saying, hack their family and friends" (Jukes, 2014: 49).

## 7.2 Mary-Ellen Field

Mary-Ellen Field is a professional who continues to work in sponsorship and licensing. As such, from April 2003 to April 2005 she worked at Chiltern, an accountancy and tax advisory firm, as Head of Intellectual Property Management. Elle Macpherson, the supermodel and businesswoman, was an existing client of the company. Macpherson and Field met in 2003 and formed a professional relationship, with Field acting as an advisor to Macpherson. This was the first time Field had worked with a celebrity client, having previously worked for corporations, notably the United States Treasury Internal Revenue Service. In her evidence to Leveson, Field described her work with Macpherson as "tremendous fun": "I didn't have any experience with celebrities before that and working with a celebrity when you're used to working with large corporations or large governments like I always have, it's a learning curve for everybody".[3] According to Field, she and Macpherson enjoyed a close, professional relationship with the former advising the latter on many areas of work and life in general.

[2] The term 'innocent bystander' used here should not be confused with Leveson's third category of victims as 'innocent bystanders'.
[3] Leveson Inquiry, morning hearing, 22 November 2011, p.10 (lines 13-17).

### 7.2.1 Context

Field was and remains well connected in her professional circle and the Conservative party but was by no means a public figure. Her client, however, was and remains so. Macpherson is well known across the globe and has been subject to media interest since the early days of her modelling career in the early 1980s. In 1989 *Time Magazine* coined the nickname 'The Body' which has followed her ever since. At least a decade before the phone hacking scandal began to take shape, Macpherson was the victim of a different privacy invasion. There was an increased interest in her following her appearance in the film *Sirens* (also starring Leveson witness Hugh Grant). As a result, the press commenced a search for nude photographs of the model through ex-partners and photographers with whom she had previously worked. Macpherson says she did a photoshoot with Playboy to satisfy this interest on her own terms, buying her mother a house with the proceeds (Leith, 2011). Thus, Macpherson was well used to the publicity game, the financial reward for revealing private information, particularly one's physical body, to sate the appetite of the curious, and the positives and negatives that follow from interacting with the press and becoming a figure of interest to the public. Macpherson trademarked her name in order to own her personality and therefore own the commercial gain resulting from goods marketed under her name (Weathered, 2000).

Macpherson is undeniably a public figure who has made financial and reputational gain from the promotion of her image. An oft-used quote attributed to Macpherson is: "People in the fashion industry have used the press a lot more than…You have nothing to sell except for the image: The image is everything."[4] It is clear that Macpherson's business ventures relied on her celebrity status for promotion and success. Macpherson trademarked her name in the UK on Field's advice. She used her image and reputation to sell her range of beauty products and lingerie.

At the time of Field's working relationship with Macpherson, the latter was firmly established as a celebrity, variously as a model, actress and businessperson. As such, she had been engaging with the media for two decades. She was and continues to be regularly interviewed on matters such as her personal appearance, including her diet, exercise and beauty routines, and her lifestyle. By 2003 she had several successful business ventures including a lingerie line ('Elle Macpherson Intimates') and a cosmetics line ('Body Products') on which Field helped with advice on business matters. Field claims she tried to get Macpherson more

[4] The source for this quote is unverifiable, but its saturation means it is at least possibly attributable to Macpherson.

involved in her brand: "The lingerie business…she didn't even go to the meetings. When I took over I made her get more involved, I had the contracts redone, I got more money, she was very grateful and everything was fine" (MEFI2). It was well known that her partner was Arpad Busson, also known as "Arki", whom she had been in a relationship with since 1996. It was also known that the pair had two young children. Macpherson and Busson separated publicly in 2005. However, according to Field, Macpherson had discussed the possible separation with her from October 2003 and had "sworn [her] to secrecy"[5] as Field was also in contact with Busson as another client of Chiltern. Field says she had tried to talk her client out of the separation during this time (MEFI2). It can be assumed that this information was known only to a select group of people, potentially limited to Field and Macpherson's family lawyer.

The evidence presented to the Leveson Inquiry in Exhibit MEF1[6], referred to during Field's evidence hearing, demonstrated that the pair had a friendly and productive working relationship. Proof of this included several cards from Macpherson to Field. In one from an undetermined point in 2005, Macpherson writes to Field: "I am so thankful you came into my life. You have changed my life in ways you could never know – thank you" and signs off "Elle, Arki, Flynn and Cy". In another, dated 1 October 2005, Macpherson writes: "Thank you for the endless days and infinite dedication to me and my brand". In addition to these cards Field separately referred to Macpherson buying her expensive gifts including a brooch and cashmere jumpers (MEFI2). In an interview with *Accountancy Age Best Practice* magazine, also included in MEF1 and referenced at the Inquiry, Macpherson described Field as "the nuts and bolts of the machine on the commercial side" and "one of my right-hand people". Field told the inquiry the two would speak on the telephone regularly and leave each other voicemails.[7]

### 7.2.2 Suspicion of leaks

Stories about Macpherson's personal life began to emerge in 2005 that roused suspicion.[8] Although one imagines this would be business as usual for a celebrity of her stature, a few concerned an area that worried her. Field had been privy to meetings between Macpherson

[5] Leveson Inquiry, morning hearing, 22 November 2011, p.15 (line 13).
[6] Now sealed in the National Archives until 2113 but made available for the purposes of this thesis by Mary-Ellen Field. The record page can be accessed here: http://discovery.nationalarchives.gov.uk/details/r/54e42d3db3b640d49af0b8775678fb43.
[7] Leveson Inquiry, morning hearing, 22 November 2011.
[8] Other stories described by Field as "mostly silly tittle-tattle" also came forth.

and her family lawyer on the separation from Busson and the custody arrangements for their children. She had in fact set up Macpherson with the lawyer. This information was otherwise private and not in the public domain. Field told Leveson it had "been kept out of the media for a long time" and expressed no surprise at the public interest in the lives of "two very high profile people".[9] There was a concern there was interception of some kind, and Field arranged for a security sweeping in of Macpherson's house, car and office, which produced no results.[10] All those working with her had strict confidentiality agreements. Field, however, was not subject to such an agreement (MEFI2). There were numerous calls to Macpherson's publicity team to confirm or deny stories which were never published, and an overall increase in the coverage of the model's private life in the press following the sweep. Field in her witness statement claims it was one particular story on the custody issue that was the beginning of the end for their relationship.

> It is this story, and the build-up of a number of stories about Elle's private activities and private life, that led to the breakdown in my relationship with her and the termination of my contract with Chiltern. I was blamed and punished for being wrongly identified as the leak of these stories.[11]

As Field describes it, she had been due to meet with Macpherson and Suzy Menkes, then fashion editor of the *International Herald Tribune*, to organise a speaking engagement. Two days before the meeting, Field was contacted by Macpherson's lawyer Alex Carter-Silk and told not to attend the meeting or speak to the press about her client. Field described calling Macpherson: "she told me that she could not trust me with the press".[12] On the evening of 21 November 2005, following a meeting with Carter-Silk in which Field claims he was hostile. She returned home to her husband who informed her Carter-Silk had called earlier the same day and "told him that Elle was going to fire me because I had been 'leaking' stories to the media and being indiscrete about her affairs".[13] Field says another client of hers then called and said Carter-Silk had called her and repeated the same allegations. In the following days, Field was told Macpherson had made a complaint about her and was told she must attend the Meadows rehab centre in Arizona for alcoholism treatment in a meeting attended by her husband, Macpherson, her CEO, another colleague and Carter-Silk. Field describes being

[9] Leveson Inquiry, morning hearing, 22 November 2011, p.15 (lines 3-9).
[10] Leveson Inquiry, Witness Statement of Mary Ellen Field. Available at: http://webarchive.nationalarchives.gov.uk/20140122145147/http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Witness-Statement-of-Mary-Ellen-Field2.pdf.
[11] Ibid para 21.
[12] Ibid para 23.
[13] Ibid para 26.

"totally exhausted and defeated by the situation" and so eventually agreed but has repeatedly denied the allegation that she was an alcoholic. Eventually, Chiltern made Field redundant in March 2006. In her statement to Leveson, she said: "There is no doubt in my mind that the termination of my contract with Chiltern came as a direct result of the allegations made by Elle".[14]

### 7.2.3 Press intrusion

Macpherson was one of the earliest identified victims of phone hacking by Mulcaire. She was publicly named as a victim of phone hacking in the criminal case against Mulcaire and Clive Goodman in 2007[15]. Her name was read out in court as part of Mulcaire's apology to the royal family during his sentencing at the Old Bailey (Hanning, 2014). Macpherson's voicemail pin was one of those found in his notebooks, along with her address, mobile number and Vodafone account number. In court, prosecuting counsel, David Perry QC said Macpherson had started noticing problems with her mobile in early 2006 and was informed that her voicemail pin code had been reset (Metro, 2007). He told the court: "She suspected that her messages had been listened to and so concerned was she about private information finding its way into the public domain she had her home swept to see if she was the subject of surveillance". This was the sweep Field had organised in 2005. Macpherson denied having settled with NGN as many of fellow targets had, saying she wanted to put the case behind her (Leith, 2011). In the 2014 trial of Dan Evans, he told the court he was given a list of contacts, including Macpherson's name, and told to "get cracking" when he started working at the *News of the World* (Cusick, 2014).

It is clear that the private information Field was accused of leaking came from the hacking of Macpherson's phone. Field believes Macpherson was persuaded into holding her was responsible for the leaks (MEFI2) though Leveson she said shortly before attending the Meadows, Macpherson told her "after what I had done, talking to the press about her private affairs she should just fire me but she knew I hadn't meant to".[16] Macpherson never contacted Field directly following the phone hacking revelations or after her appearance at the Leveson Inquiry. She did, however, send a final card in April 2006. It said: "Have been meaning to put pen to paper for some time now. Will do ASAP. Much love and light". Field says: "I've heard

[14] Ibid para 33. Field also notes in her witness statement that Macpherson called her in early March 2006, just before she was made redundant, asking for details on the company that had performed the security sweep. She says it is likely she had just been informed about the hacking by Mulcaire.
[15] As stated in Chapter Three (3.3).
[16] Leveson Inquiry, Witness Statement of Mary Ellen Field, para. 29.

when she does press conferences now, Australian journalists say, you have to submit questions in advance. People like *ABC* and *BBC* won't go. Someone in Australia did try to ask about me and she walked out" (MEFI2).

Field believes the voicemail inboxes on both of the phones she had while at Chiltern, her personal phone and a work Blackberry, could have been hacked by Mulcaire. In article 'The truth about Elle and me', it was stated as fact that two of Field's phones had been hacked (Jeffries, 2009) and Field was a claimant in the original hacking cases put before Lord Justice Vos. However, *NGN* attempted to have Field's claim thrown out, with their instructed QC Michael Silverleaf telling the court the claim she had lodged was "fiction" and there was "no evidence of her being a victim" of voicemail interception (Pugh, 2012). Previously, Field refused to accept a payment of £40,000 damages from the publisher (MEFI2). The interception was unable to be proved in court and due to lack of evidence the case was dropped on 17 May 2013. At the time, she told the Guardian: "In court last October News International admitted that they had destroyed evidence. It is extremely disappointing that Elle Macpherson has refused to help the court" (O'Carroll, 2013). She has claimed more recently: "At the time I had a number I have now, and a work phone, a Blackberry. But the bizarre thing was in January 2006 when I'd been fired I had a call from Vodafone who told me someone had tried to access my account – I thought it was a joke. That was the work phone" (MEFI2).

### 7.2.4 The effect of intrusion

The effect of the intrusion into Macpherson's personal life on all spheres of Field's world, regardless of the veracity of her own hacking claim, is clear. It irreconcilably damaged her relationship with Macpherson and resulted, at least in part, to her dismissal from Chiltern in March 2006. Field explains it continues to affect her professional life to this day and has clearly outlined the impact of the episode on her business, reputation, finances and health in media interviews since appearing at the Leveson Inquiry. The emotional impact is evident. Mary-Ellen claims she was less emotional than others and for that reason put forward as one of the test cases (MEFI2). This may be so, but the toll it has taken on her comes through when she talks about the case (MEFI1/MEFI2). Jefferies, who interviewed her for the 'Elle and me' *Guardian* article, describes her welling up and stating: "I really want this to be over". She is dogged in her pursuit of the truth and clearly wants NGN to take some responsibility for the indignity she has suffered as a result of her dismissal from Chiltern.

It is unproven that Field's own voicemail was accessed by Mulcaire, Evans or any other individual working for the press, though she firmly suspects it was. What is clear, however, is that Field was indeed "collateral damage" in the quest by *NGN* to obtain information about her client's private life, even if not have been the victim of intrusion herself.[17] She acknowledges this in her submission to module four of the Leveson Inquiry when she says: "I was not the target of anyone at News Group Newspapers in my own right, I am sure they had never heard of me. I became a victim because of the celebrity of one of my clients".[18] Although there is no element of violence in this intrusion, Field has variously described the experience akin to being mugged and like civilians in a war zone (MEFI1).

Field's account is only one side of the story. Macpherson has only spoken publicly about the hacking of her voicemail once, in an interview with the Telegraph published on 22 November 2011, the same day Field appeared before the Leveson Inquiry. In the interview she said she did not want to be involved in the situation:

> This is not something she has ever before publicly discussed. So when I ask her - particularly given her privacy-is-precious policy - just why she has remained so utterly silent and seemingly unvengeful, it's more in hope than expectation. Surprisingly, she replies. "I believe I've made the right choice," she says. "And I made that choice years ago, because I did not want to perpetuate stories. I did not want to be involved, I did not enter into the discussions whatsoever." This, she adds, was "absolutely" her immediate instinct, and she had no moment of rage upon discovering Mulcaire's intrusion. "I made a decision not to become embroiled. Contrary to any suggestions, I categorically deny receiving any compensation whatsoever." She says hacking has 'never come up' in conversation with Grant or any of her hacked celebrity peers. When it first emerged, she says, "I really didn't need to be jumping on a bandwagon or crusade." Although, she adds, "I don't think I was aware of the magnitude at the time" (Leith, 2011).

Hanning writes in *The News Machine* that many suspected Macpherson settled with NGN and that a "number of her associates" were known to have been targeted, contradicting

[17] Leveson Inquiry, morning hearing, 22 November 2011.
[18] Leveson Inquiry, Submission for Module 4 from Mary Ellen Field. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/08/Submission-for-Module-4-from-Mary-Ellen-Field1.pdf.

Macpherson's version of events and supporting Field's assertion that she could have been hacked, but notes no evidence has been found to support the claim (2014: 106).[19]

Field believes Macpherson wants to leave the episode in the past, so as not to draw attention to intrusive or negative stories. There is at least one *News of the World* story from October 2003, which referred to Macpherson attending a rehab clinic although it is unclear whether this information was obtained through phone hacking or not. Field claims Macpherson regularly attended Alcoholics Anonymous[20] moreover, that the rehab clinic she attended was the Meadows, ironically the same institution Field was sent to in 2005.

> When she went to Meadows, I had no idea. I thought she was doing a pottery course or something. So when all that stuff came out about her being in rehab I was shocked. I believed everything she told me. I rang her manager and said 'we've got to stop this' – he'd been her manager since she was 17 and he had one other client who was Sarah Murdoch – and 'we've got to make them stop publishing this stuff, the poor girl'. He said, 'all publicity is good publicity' (MEFI2).

Field also claims several of the stories the press tried to confirm while she was working for Macpherson concerned relationships she had with actors and sportspeople. Clearly, the reputation of Macpherson for the brand was at stake, regardless of the truth of these allegations. Though Field says she holds no ill will towards Macpherson, she does not talk about her in glowing terms (MEFI2). It is clear that a once close and productive working relationship was irrevocably damaged. The impact of being wrongly accused of leaking confidential information about a colleague and friend is notable. In the interview with *Accountancy Age*, used at the Leveson Inquiry to illustrate the nature of the relationship between Field and Macpherson in happier times the journalist notes: "Field says her work brings her enormous satisfaction. It's both intellectually stimulating and highly sociable. And building up the kind of intellectual property practice that Field has takes many years of experience" (2005).

[19] Mary-Ellen Field is named as one of Hanning's sources in the author's note to *The News Machine,* and it is not a stretch to imagine she provided some, if not all, of the above information. In MEFI2 she repeated many of the aspects of Muclaire's story found in this book.

[20] Field's witness statement to Leveson contains the sentence: "She spent the next hour telling me that she loved me and that she was only trying to help me and that when I returned [from the Meadows] we would go to AA every day together".

Leveson noted: "Ms Field has also made clear how difficult it has been to restore her reputation once such damage had been done" (Vol II: 484). She says her work with the IRS had stagnated, stating that opposing counsel would raise her reputation and her validity as an expert witness. She is now too much of a risk for them, and many other clients, to use in court cases (MEFI2).

She says of the press: "Collateral damage is a horrible word to use for civilians who are killed in wars but it's not that different. You're not the target, but they don't care if you get hurt. They didn't care that I got hurt, and still don't care" (MEFI2). Field described being the victim of press intrusion in visceral terms. It is not just reputation and finances at stake. She told the Leveson Inquiry how her health suffered as a result of the accusations levelled against her. She was diagnosed with a physical condition in February 2006 and believes the stress of this episode directly caused this illness. This reporting of stress to the point of illness, or at least contributing to it, is mirrored in the story of fellow Leveson witness HJK, who has a different story, but one with plenty of parallels.

### 7.3 HJK

HJK is a private individual, so called because of two anonymity orders[21] and was further enforced subject to a Section 19 order under the Inquiries Act 2005 by Leveson LJ.[22] HJK was the only Leveson witness to give evidence anonymously because of this.[23] It is known that HJK is a male, as Leveson LJ refers to him as such in public proceedings, but this remains the only identifying piece of personal information in the public domain. HJK is not a public figure but was the victim of phone hacking by the *News of the World*. Due to the level of secrecy around his identity, journalists had speculated HJK could be an alias for a celebrity when his phone hacking case was brought before the courts. However, as described by Sherborne at one of the first public hearings of the inquiry: "The association of HJK with someone well-known is a matter of great sensitivity. HJK is not well-known, though. I say that before anyone outside this Inquiry attempts a jigsaw identification[24]".[25]

[21] One in the civil action against NGN and one as part of a Judicial Review against the police.
[22] The order made by Leveson on this matter can be found here: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/231111-S19-restriction-order-HJK.pdf
[23] Mazher Mahmood and Chris Atkins were allowed to give evidence with the court cameras switched off as the dissemination of their images would impact their investigative work.
[24] 'Jigsaw identification' is a term commonly associated with cases where the identity of a victim, e.g. a minor, a victim of sexual assault, can be determined by piecing bits of available information together and reporting them.
[25] Leveson Inquiry, opening submissions, 16 November 2011, p.72 (lines 7-10) . Available at: http://www.levesoninquiry.org.uk/hearing/2011-11-16am/.

### 7.3.1 Context

The celebrity individual with whom HJK had a relationship was known only as 'X' in all legal cases and at the Leveson Inquiry. X was described as a "well-known individual" in HJK's witness statement and but was more specifically identified as a "celebrity" and referred to as "my celebrity friend" during my interview with HJK in 2012 (HJKI). HJK met X through voluntary work in 2006, and the pair began dating in shortly after.[26] There are relatively few details known about the relationship between the two in order to protect the anonymity of both parties, other than that the relationship was casual. As HJK puts it: "It was a pretty common story: a couple of dates with a celebrity and a nightmarish situation of me being caught in the crossfire of it. I was always of the opinion that the biggest story was not me having a couple of dates with a celebrity but the crimes that the press committed in order to get a tittle-tattle story" (HJKI).

### 7.3.2 Suspicion and press intrusion

As a result of the relationship with X, HJK was the victim of a series of intrusions by the media. Not only was his phone hacked by the *News of the World*, but he was also door stepped by a reporter from another paper, followed by photographers and the victim of blagging.[27] Unlike Mary-Ellen Field, HJK was aware of the intrusions as they were happening and his relaying of them to X ignited suspicion that he could be the one leaking the information about the relationship rather than a third party.

In April 2006, HJK volunteered his address to an individual on the phone claiming to be from the Royal Mail and recounted find the "suspiciously jubilant" way the individual thanked him for the information strange.[28] A week later a reporter from a publication redacted in HJK's witness statements and hearing turned up at HJK's house and asked if he and X were in a relationship. HJK said: "I continued to deny any relationship with X although I was forced to concede that I knew who X was. The journalist said he had information from his sources that X and I were in a relationship and that X lived with me at this flat". The pair was not living

[26] Leveson Inquiry, Witness Statement of HJK. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Witness-Statement-of-HJK.pdf.
[27] For more on blagging see the Leveson Report (Vol II: 474).
[28] Leveson Inquiry, morning hearing, 24 November 2011, p.4 (lines 2-3). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-24-November-2011.pdf.

together and HJK was "baffled" at the suggestion.[29] It is clear that those working in the media must have had some idea that X and HJK were dating for HJK to become the target of these intrusion techniques. After informing X of this incident and as a result of the exposure, HJK and X decided to end the relationship after just three weeks of dating:

> X was clearly alarmed at what I was saying and despite my assurances I could tell that X was questioning whether or not I could be trusted and whether it was actually me who approached the journalist. This must be the constant fear of someone who is in the public eye.[30]

During his evidence session, he added: "I don't blame X whatsoever, we're still friends" and explained he was concerned his life was about to be "trashed" in the newspapers.[31] Following this call, HJK was called by the journalist on his mobile phone despite not having given him the number and offered money to confirm the relationship, which he declined. HJK and X were in touch as the latter had information from a friend that the newspaper for which the journalist worked were going to publish a story about the two that Sunday. The story, however, was never published.

### 7.3.3 The effect of intrusion

The blagging intrusion had ramifications on the welfare of HJK and X during this time, but ultimately the private information about their relationship was kept out of the press, and out of the public domain. However, it did have a negative on HJK's work life, as he had informed his boss about the situation in anticipation of the publication of the story and described the reaction as unsympathetic. The disclosure about his personal life resulted in what he called a "nightmare" that led to workplace bullying from his boss (HJKI). However, this was not the only press intrusion to have an effect on HJK's professional life.

HJK discovered he had missed the voicemail of an important client who was disappointed not to have been called back. On closer investigation, HJK realised the voicemail had been listened to despite the fact he had never heard it. It was only when HJK was contacted by his mobile phone provider later that year that he realised his phone had been hacked, as they

[29] Ibid p.5 (lines 7-8). In Leveson Report, the judge adds: "The journalist was adamant as to the reliability of his sources, and subsequently proposed that HJK should come to 'an arrangement' with him regarding the disclosure of information. HJK refused to do so" (475).
[30] Leveson Inquiry, Witness Statement of HJK, para. 7.
[31] Leveson Inquiry, morning hearing, 24 November 2011, p.6 (lines 11-12).

explained his account security had been compromised. HJK chased the provider and the police to little avail. It was eventually revealed in 2010, when HJK had approached a lawyer to correspond with police working on Operation Weeting, that documents from the original investigation into Goodman and Mulcaire had included documents including transcripts of messages between HJK and X, call records from Mulcaire's number to HJK's and information in Mulcaire's notebooks including HJK's "address, telephone numbers (work, mobile and private number), passwords".[32] The depth of information held on the pair led to HJK being awarded £60,000 plus damages by NGN in 2012. HJK told Leveson:

> The first thing, in a way I felt strangely relieved that I hadn't dreamed this story, because I had been told of the hacking and the evidence was in front of me, but I was absolutely disgusted by it, by the sheer invasion of my privacy.[33]

In addition to the blagging but before the final revelation that his phone had been hacked, HJK recounted two instances of what he believes was surveillance by the press in pursuit of more information on the relationship with X during his evidence to the Leveson Inquiry. Firstly, in October 2006, HJK recalls being followed by a photographer while out jogging. Secondly, in December 2006, another photographer took a picture of HJK with a family member. Two weeks previously, HJK had been diagnosed with a serious illness, leading him to suspect the continued press intrusion had resulted in his medical records being accessed.

HJK concluded his evidence to the Leveson Inquiry by telling the judge:

> I felt very harassed for the best part of nine months, and I witnessed my life going up in flames around me for something that people would claim to be the public interest and I would challenge that very thoroughly because I don't think, if there was any public interest, we would have known about it because there would have been publication.[34]

In our conversation, he added: "The handful of dates that celebrity had with me is definitely not in the public interest and it certainly didn't justify the violation, harassment and surveillance that I was a victim of" (HJKI).

[32] Leveson Inquiry, Witness Statement of HJK, para. 19.
[33] Leveson Inquiry, morning hearing, 24 November 2011, p.6 (lines 11-12).
[34] Ibid p.18 (lines 5-11).

It is clear HJK feels the effects of the various press intrusions very keenly. He described himself as isolated, trusting fewer people and not letting anyone to get too emotionally close over the following years: "Eventually I didn't trust anybody. It took me a couple of months to recuperate; the stress levels were so intense. Even when I was meeting people in bars I was so suspicious. I was thinking 'are they a part of this, are they not part of it'. It made my life hell" (HJKI).

It also had an effect on subsequent romantic relationships. In 2009, HJK went on a date with someone else. The person told him afterwards he had felt uncomfortable, and as though he was under investigation. HJK says his behaviour has been "deeply marked" by the press intrusion. "It affects you to a degree that an ordinary person cannot understand" (HJKI).

Like with Field, there is an element of violence in the way HJK describes his treatment by the press. At various times during our interview (HJKI), he used phrases like "a series of hit and runs" and described feeling as if David Cameron had "spat in [his] face" by appointing Andy Coulson as an advisor.

There is also anger towards the police and their inaction over his case. He said: "It felt a bit like my neighbours had told me my house was being burgled, I'd called the police and they'd said to me 'Yes we know, we've got a police officer at your house and he's right now helping the thieves to help themselves to your furniture and loading it into their van'" (HJKI). In addition to the settlement with NGN, HJK was successful in a Judicial Review against the Metropolitan Police, forcing them to admit having acted unlawfully by not informing phone hacking victims that their privacy had been breached. The claim was brought by HJK in conjunction with Chris Bryant MP, Lord Prescott, Ben Jackson, the assistant of actor Jude Law, former Met deputy assistant commissioner Brian Paddick. HJK calls the judicial review "the victory of the Five Musketeers" (HJKI)[35].

## 7.4 Further analysis

Tamsin Allen, the solicitor representing some of the phone hacking victims, sent out a press release on 19 January 2012 when many phone hacking cases against *NGN* were settled: "The Claimants now have some clarity about what happened to them in the years between 2000 and

[35] *Bryant & Ors, R (on the application of) v The Commissioner of Police of the Metropolis* [2011] EWHC 1314 (Admin) (23 May 2011).

2005 and satisfaction that justice has finally been done. Many of them have wondered for years how tabloid newspapers were able to obtain secret personal information about them, even suspecting their closest friends and relatives. Lives have been severely affected by this cavalier approach to private information and the law" (Bindmans, 2012). Both Field and HJK were victims of this suspicion. For Field, this suspicion resulted in the loss of her job, damage to her professional and personal reputation and ill health. For HJK, a personal relationship was cut short, their working relationship with their employer became hostile and an extended period of paranoia set in. The breach of individual's privacy by the press is evident in both these instances.

Sherborne, on behalf of the CPVs, made much of damage caused by those by association to public figures. In his opening submission to the inquiry, he told the court:

> As I mentioned at the outset, one of the features of the phone hacking scandal is that victims were not always well-known people or those caught up in headline-dominating incidents. As often as not, it seems, they were people whose crime was simply working for well-known people, people who were involved with or were simply friends of those in the public eye, and therefore who might have access to material that could provide good, but let's face it, relatively cheap copy. Ordinary people, so to speak, who were caught in the cross-hairs, often with very tragic consequences. The collateral damage in a war where every means, fair or foul, has been employed. People who have only been able to bring proceedings against News Group Newspapers because they have the benefit of lawyers who will act on a no win, no fee agreement. People, for example, like Mary-Ellen Field, a distinguished professional, an accountant by training, who was employed because of how good she was at her job by someone very much in the public eye, Elle Macpherson.[36]

This was acknowledged by Leveson LJ in his report in the loss of trust between celebrities and their personal and professional connections:

> The impact of phone hacking on its victims was clear: the experiences of the Dowlers, Ms Miller and Ms Field were referred to elsewhere. Similar evidence was also given by Ms Church, who explained she had been shown information that confirmed that her voicemail had been hacked when she was aged just 17. Ms Church's evidence as

[36] Leveson Inquiry, opening submissions, 16 November 2011, p.70 (line 7-25). Available at: http://www.levesoninquiry.org.uk/hearing/2011-11-16am/.

> to the impact of phone hacking was striking: she said that she questioned how information was getting into the public domain and questioned the loyalty of her friends. Ms Church explained that she tried to cut people out of her life to reduce the number of people who could potentially leak information and she felt a sense of guilt having accused people when it was subsequently revealed that phone hacking was a more likely cause of the information being in the public domain (Vol II: p621).

Joan Smith, another victim of phone hacking by association, referred to the "absolutely staggering nature of surveillance and impact on the victims" (JSI). She said people accusing their families and employees of giving information about them to a national newspaper was distressing. 'Paranoia' and 'mistrust' were commonly used in evidence to the inquiry, and in the final report.

Charlotte Harris, a lawyer acting for victims of press intrusion, had an interesting perspective as she was also put under surveillance by the *News of the* World (though not through phone hacking): "As a lawyer I have gained an insight into the experiences of my clients who have also been subject to surveillance or have been victims of phone hacking. However, to become a target is a very strange situation for a lawyer to find themselves in. I now know why some victims have said that they felt violated by this intrusion into their lives and the lives of those who are near and dear to them because that is how I feel".[37]

Though the victims and those acting for them have detailed the effects of particular intrusions in relation to phone hacking, and the blame apportioned to those found guilty of conspiracy to intercept voicemails spread, Hanning describes Mulcaire as reticent to take responsibility for the chaos his actions caused: "When asked about specific cases involving breaches of the privacy of blameless people he doesn't recall, he recites a ready answer. 'If something bad happened, it would have been for one of three reasons…'" (2014: 114). Mulcaire claims he was either lied to by superiors about the nature of the surveillance, only given piecemeal information about the target for reasons of supposed secrecy, or so overworked that stopping to question the reason for hacking an individual subject slipped through the net. Mulcaire was merely the agent of a larger operation instructed on his targets by those who have been found guilty by the courts. As Jukes states: "Being briefly caught in the searchlight of the News of

[37] Leveson Inquiry, Witness Statement of Charlotte Harris, para. 20. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/12/Witness-Statement-of-Charlotte-Harris.pdf.

the World could lead to someone's love life, health problems, business plans and public angst exposed to a lucrative publicity machine" (2014: 50).

One thing that Field and HJK have in common, other than being collateral damage in the effort to garner private information about celebrities, is their anger at the lack of police action. Both explained to Leveson LJ in evidence that they had approached the police but had received limited responses. HJK stated in 2012: "It's a fantastic victory for privacy in this country. We had nothing to gain, we just wanted to hold the police accountable, and we did. Back in 2006 I was probably more annoyed, vocal and disappointed by the police than I was by the press" (HJKI).

## 7.5 Conclusion

Field and HJK are indicative of the impact of press intrusion where trust is broken in close relationships and friends and relatives fall under suspicion. The effects have been outlined clearly in this chapter as affecting physical and mental health, work life and personal relationships. These effects entirely stemmed from the press trying to gain access to celebrities in respect of their personal lives, and there is no indication that any information gained from hacking Macpherson or HJK would have resulted as something in the public interest. The element of celebrity was the only reason that Field and HJK had to interact with the press in this way.

The effects on the lives of Field and HJK are relatively similar, but the realities are not. HJK has been financially compensated and recognised as a victim of illegal practice and has remained anonymous. Field's public profile as a professional person has been damaged despite being demonstrably innocent of betraying the trust of her employer. However, both demonstrate the wide-ranging effects of those caught up in phone hacking.

Leveson notes in his report: "The diversity of the targets of phone hacking is striking. Without engaging in a very detailed analysis, it is not possible to identify any particular class of person who was more likely to be a victim than any other class. Although the targets included a large number of celebrities, sports stars and people in positions of responsibility, they also included many other ordinary individuals who happened to know a celebrity or sports star, or happened to be employed by them. Other victims had no association with anyone in the public eye at all, but were, like the Dowlers, in the wrong place at the wrong time" (Vol II: 621).

It is, therefore, difficult to establish Field and HJK as wholly representative, but their experiences are illustrative of the effects of press intrusion on trust in relationships. One of the subjects of the previous chapter, Sienna Miller, started to turn on her own family, blaming her mother as certain stories about her private life emerged in the press.[38] Ciara Parkes, the former public relations consultant for Miller and former partner Law held both a close friendship and a business relationship with the two celebrities, but her trustworthiness was questioned by her clients when photographers turned up at their location and stories were published containing private information.[39] More recently in 2016, actor Rhys Ifans, another of Miller's former partners, was awarded damages in a case against *MGN*, a statement in open court read on his behalf noting that the hacking of his phone had resulted in him losing a number of friends through distrust.

As stated by Morrison and Svenning (2002), the press market continues to be more competitive than other forms of media, with an unspoken supposition that intruding into privacy gives an edge in the market. The cases of Field and HJK demonstrate this intrusion for the sake of potential sales, and the resulting collateral damage on their lives, though this term implies an unintended target. As proven in the case of HJK, family, friends and others associated with celebrities were intentionally targeted because of their connection to celebrities. Others, such as Mary-Ellen Field, suffered harm from just being caught up in a web of suspicion caused by press activity to uncover often minor scraps of information about private lives.

As the Leveson Inquiry was hearing the first evidence from victims of press intrusion, including those mentioned in this chapter, one columnist described phone hacking as "looking less like a disease itself and more like merely a symptom...of a much more serious and systematic ailment" (Hewlett, 2011). Here, where the public interest in obtaining information from individuals is so limited, or absent, the nexus between commercial interest, competition for stories and the tactics used to obtain information is even more exposed as industry tactics

[38] Miller told the inquiry: "There was one particular very private piece of information that four people knew about, and I had been very careful to only tell my mother, my sister and two of my closest friends, and a journalist had phoned up saying that they knew about this, and so yes, I accused my family and people who would never dream of selling any sort of information on me, I accused them, someone in that room, of selling a story" (Leveson Inquiry, morning hearing, 24 November 2011, p.28 (lines 1-7). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-24-November-2011.pdf).

[39] For more on this see Ciara Parkes' statement to open court. Available at: http://www.theguardian.com/media/interactive/2012/jan/20/phone-hacking-ciara-parkes.

around being first and fast, with little regard for the wellbeing of those involved. In the context of criminality as celebrity, this is explored more in Chapter 8.

# CHAPTER EIGHT – WRONGLY ACCUSED: CHRISTOPHER JEFFERIES AND REBECCA LEIGHTON

As established in the previous chapter, Mary-Ellen Field and HJK were casualties of phone hacking the *News of the World* because of their associations with celebrities, falling into Leveson LJ's fourth category of victim as 'those with links to the above'. Chapters Five and Six considered individuals who also fell into this category, as well as the first category of 'those with a public profile'. This chapter concerns the second category: 'victims of crime', though the two case studies presented were not the victims of the crimes in question. Both murder investigations were of enormous interest to the public.[1] The murder investigations in question were stories that fit into what Nick Davies describes in *Flat Earth News* as "well-known templates" through which the press can deliver salacious and recognisable tales to their readers (2009: 137), and the two individuals implicated in the crimes were cast as villains in the media immediately following their arrests.

The aim of this chapter is to identify how non-celebrities implicated in high-profile crimes experience press intrusion by establishing the context of the crimes in which the non-celebrity case studies were implicated, including the integration between the press and the police, comparatively examining how interest in the particular crimes resulted in press intrusion into the lives of non-celebrity individuals, in order to establish that non-celebrities can experience press intrusion that far surpasses legitimate public interest reporting to create a recognisable narrative.

## 8.1 Introduction

> One can construct what would be, from a *News of the World* reader's point of view, the 'perfect' murder. The murderer should be a little man of the professional class – a dentist or a solicitor, say – living an intensely respectable life somewhere in the suburbs, and preferably in a semi-detached house, which will allow the neighbours to

[1] Leveson LJ defined 'victims of crime' as: "members of the public who have been at the receiving end of unethical behaviour by the press also include the victims of crime and individuals who have been linked, either directly or indirectly, to crimes" (Vol II: 447).

> hear suspicious sounds through the wall […] with this kind of background, a crime can have dramatic and even tragic qualities which make it memorable and excite pity for both victim and murderer.
>
> (‘*Decline of the English Murder’, George Orwell, 1946)*

On 30 December 2010, Christopher Jefferies was arrested for the murder of Joanna Yeates. The story of her disappearance had featured prominently in the national press over that month, the coverage intensifying when the Yeates’s body was discovered on Christmas Day three miles from her home, a flat Jefferies owned. What happened to retired teacher Jefferies over the following months was a key moment in blackening the reputation of the British press just previous to the *News of the World* Dowler revelations.

The two individuals examined in this chapter were both were proved entirely innocent of the crimes they were accused of, but as Orwell pointed out in 1946, their respective identities served to increase the fascination in the “murderers” as well as the victims. The circumstances surrounding the treatment of Christopher Jefferies by the police and press are more familiar to the public than that of Rebecca Leighton, a nurse working in the Stepping Hill Hospital in Stockport when several patients were killed through saline poisoning. Leighton retained a relatively low profile as a victim of press intrusion and mentioned only once at the Leveson Inquiry. The presence of Jefferies, however, was felt throughout the course of the inquiry. If Sienna Miller was the most extreme example of the press’s determination to glean intimate information about celebrities in Leveson’s terms, then Jefferies was the counterpart for representing non-celebrities caught up in crimes in which journalistic ethics fell away in the desire to construct a narrative of ‘the perfect murder’. As pointed out by one of my interviewees “such is the nature of news that someone can very quickly become a public figure” (PRI).

## 8.2 Christopher Jefferies

Christopher Jefferies owned three flats in a building in Bristol. He lived in the upstairs flat. Joanna Yeates occupied the basement flat with her boyfriend, and Vincent Tabek lived in the other. Jefferies was retired but had formerly been an English teacher. He told Leveson LJ that he had been proud of “having the opportunity to fire pupils with the same sort of enthusiasm

for English literature that I have myself".[2] Aside from his local profile as a teacher, he was a private individual who had no dealings with the media until the disappearance of Yeates, at which time Jefferies had provided two statements to the police to help with their enquiries.[3] He told the inquiry he had provided the first at the same time as many other people in the local area and had given a second when it occurred to him he had forgotten some information in the first statement that could be vital to the investigation.[4]

Avon and Somerset Police arrested Jefferies on 30 December 2011 on suspicion of murder. He described in his statement to Leveson that the intrusion into his private life by the press began the day before the arrest but reached its worst during his time in police custody.[5] The coverage appearing in the national newspapers during this period is thoroughly in Jefferies' evidence to the inquiry laid out, the specifics taking up six pages of his witness statement. Due to the nature of the story and its prominence in the media at the time, it is unsurprising that the variety of titles is so far ranging, including the *Sun*, the *Daily Mail*, the *Daily Record*, the *Daily Express* and the *Sunday Mirror*. After being questioned for three days while officers and a forensic team raided his house. Jefferies was finally cleared as a suspect and released on bail in March 2010. Vincent Tabek was found guilty of the murder seven months later in October. In his witness statement Jefferies told the inquiry: "I can see now that, following my arrest, the national media shamelessly vilified me. The UK press set about what can only be described as a witch-hunt. It was clear that the tabloid press had decided that I was guilty of Ms Yeates' murder and seemed determined to persuade the public of my guilt. They embarked on a frenzied campaign to blacken my character by publishing a series of very serious allegations about me, which were completely untrue, allegations which were a mixture of smear, innuendo and complete fiction".[6] The extent of these untrue allegations won Jefferies damages against eight newspapers titles for defamation in 2011 in respect of 40 articles.

### 8.2.1 'The strange Mr Jefferies'

[2] Leveson Inquiry, morning hearing, 28 November 2011, p.11 (lines 5-6). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-28-November-2011.pdf.
[3] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 7. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Witness-Statement-of-Christopher-Jefferies.pdf.
[4] Leveson Inquiry, morning hearing, 28 November 2011, p.12 (lines 6-12).
[5] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 14.
[6] Ibid para. 20.

The coverage was certainly damning, with Jefferies described in the Leveson Report as a victim subject to a "protracted campaign of vilification by the press" (Vol II: 447). The now infamous front page of the *Sun* from 31 December 2010 bore the headline "The strange Mr Jefferies", a nickname coined by former pupils according to the newspaper. An old photograph of Jefferies in an academic gown with blue-tinged hair and round glasses dominated the spread, with a smaller, more current photograph included in the corner of the text on the front page. On the same day, the *Daily Mail* used the same old photograph, describing Jefferies as a "'nutty professor' with a blue rinse" above the headline "Was Jo's body hidden next to her flat?" The *Mirror* used the current photo, claiming, "Jo suspect is 'Peeping Tom'"".[7]

This coverage and the proceeding reporting on Jefferies intruded in three distinct areas. One, the widespread use of photographs which, while legally obtained, made him instantly recognisable to anyone who might have glanced at a front page in a supermarket, let alone had followed the story in any detail, and was used to enforce an image of him as an eccentric. Two, the claims made about his character, how he was perceived by former pupils, neighbours and friends, including speculations about his sexuality, saturated the coverage. Three, there were strong implications created that Jefferies had been responsible for the murder of Yeates through his perceived fascination with death, based on materials he taught in his former career in the coverage.

### 8.2.1a Photographic image

On the first point, Jefferies told the inquiry the impact of photographs of him being widely published in the press meant he was instantly recognisable. He added: "I suppose it would be fair to say that I had a distinctive appearance and it was as a result of the entire world, apparently, knowing what I looked like that it was suggested to me that really I ought to change my appearance so that I wouldn't be immediately recognised and potentially harassed by the media".[8] A part of this "distinctive appearance" and a fact that was often used to highlight his deviation from normality in press reporting was the blue hair (Cathcart, 2011). At the time of his arrest, his hair was a more natural grey shade, although pictures of his previous look were often used in its place. The publishing of mundane information about

[7] Solove (2008) notes the origin of 'Peeping Tom' and its use as shorthand in many US laws to protect privacy. It is ironic that Jefferies was accused of invading the privacy of others while his own life was under the microscope.
[8] Jefferies' hair was short and dyed dark brown at inquiry hearing, as described in his witness statement and oral evidence.

Jefferies family, property assets and career, compounded this most of which he described as "false, inaccurate or exaggerated" and as a result, he was advised by his solicitor not to go out in public once released by the police on bail to avoid being followed by the press and members of the public.[9] In his pre-Leveson interview with Jefferies for the *Financial Times*, Cathcart described the print coverage as allowing "generous space for photographs, many serving to reveal the contrast between the youthful, pretty murder victim and the wide-eyed and windswept suspect".[10]

8.2.1b Portrayal of character

On the second point, Jefferies described how old school friends, family members and former pupils were approached in the days following his arrest.[11] He was aware of some of the press approaches having been contacted by these acquaintances following the attempts, and pointed out many of the quotes were unattributed with a "handful" of attributed quotes to those he had not been in touch with.[12] Thus, it could be said a series of assertions about Jefferies's character were made, constructed from these quotes, to further the media narrative about him as the suspected murderer of his tenant**.** As in respect of the treatment of the McCann family, members of the press were asked to account for their involvement in the articles in question at the Leveson Inquiry.[13] These included Richard Wallace and Ryan Parry, respectively editor of and reporter at the *Mirror and* Gary O'Shea and Stephen Waring of the *Sun*. The two publications were considered to be the worst offenders by the courts, being subject to two separate charges of defamation and contempt of court. The evidence from these witnesses is laid out in more detail below to examine the newsgathering technique used for the coverage in question.

i) *Mirror*

The *Mirror* was responsible for the headline "Jo suspect is a 'Peeping Tom'" published on the front page with coverage on two inside pages on 31 December. The following day's paper featured the front page article "Was Killer Waiting in Jo's

[9] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 23.
[10] Cathcart noted: "He admitted to having in the past used a shampoo which gave his hair a slight bluish tint, though he strongly denies that it was ever as blue as it appeared in some photographs published in the press".
[11] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 21.
[12] Leveson Inquiry, morning hearing, 28 November 2011, p.17 (line 4).
[13] In his opening remarks, Sherbone made the point to Leveson LJ that there was an overlap between journalists who covered the cases involving the McCanns and Jefferies.

flat?". As outlined in Jefferies's witness statement, the 31 December coverage referred to two former tenants who had allegedly told the paper he would "peer intrusively" into flats, and had bought the flat rented by Yeates from "an ex-colleague who is in jail for child abuse".[14]

Ryan Parry, a staff journalist, had been working on the Yeates murder with the *Mirror's* district reporter Richard Smith in Bristol, and described being told to find out as much as possible about Jefferies when the news of his arrest broke on 30 December, and being in constant contact with the paper's content desk during this time who were following other lines of inquiry.[15] Parry had been largely responsible for background information in the article titled "Nutty Professor" published on 31 December and outlined the sources for the coverage extensively in evidence: calls and emails from those claiming to know Jefferies and accounts of the same nature from London reporters, news agencies and social networks including Twitter, conversations with other journalists, a former tenant of Jefferies, Oliver Cullen (who used to own flats in the same block as Jefferies), family tree searches, Jefferies's neighbour Peter Stanley, and several other former acquaintances of the landlord.[16] Parry's description of the forming of the story for publication demonstrates a thorough and all-hands-on-deck approach, both in terms of the *Mirror's* newsroom but the press at large, and he was relatively defensive of the approach the publication had taken to gathering information on a story of such interest to the public, telling the inquiry: "Well, obviously hindsight's a wonderful thing, and looking back, we - everybody at the Daily Mirror is very regretful of the coverage and we do apologise to Mr Jefferies for vilifying him in such a way, but you have to understand at the time it was such a high profile murder investigation".[17]

Editor Richard Wallace was apologetic for the newspaper's presentation of Jefferies and described it as a "black mark" on his editing record[18], though his second witness statement, entirely pertaining to the newspaper's coverage of Jefferies, was again defensive of the paper's coverage. In it, he wrote: "It is my belief that what the public

[14] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 23.
[15] Leveson Inquiry, afternoon hearing, 24 January 2012, p.49.
[16] Leveson Inquiry, Witness Statement of Ryan Parry, paras. 21-27. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Witness-Statement-of-Ryan-Parry.pdf.
[17] Leveson Inquiry, afternoon hearing, 24 January 2012, p.52 (lines 4-11).
[18] Leveson Inquiry, morning hearing, 16 January 2012, p.67 (lines 4-5). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-16-January-2012.pdf.

are interested in is a central tenet of public interest…As has always been the case, people are interested in extreme human behaviour". The argument that what the public are interested in can be folded into a legitimate definition of the public interest was heard many times during the Leveson Inquiry, and was consistently questioned by the judge, who concluded in his report: "Based on all the evidence that I have heard, I have no doubt that, to a greater or lesser extent with a wider range of titles, there has been a recklessness in prioritising sensational stories, almost irrespective of the harm that the stories may cause and the rights of those who would be affected (perhaps in a way that can never be remedied) all the while heedless of the public interest" (I: 10).

He confirmed that Parry, Smith, reporter Greig Box Turnball and the *Mirror's* crime correspondent Jon Clements had worked extensively to gather information about Jefferies. Sly Bailey told the inquiry: "I think sometimes our editors do get it wrong and that's very regrettable. I think you can see from Richard's evidence today how very seriously and how very sorry he is…regarding the articles published about Mr Jefferies".[19]

ii) *Sun*

The evidence for the *Sun*'s handling of the Jefferies story centred around the 31 December front page "The strange Mr Jefferies" and the following day's front page "Obsessed with death" headline, the latter coverage, as outlined in the evidence of O'Shea and Waring comprised of three separate articles over the front page and two inside pages. The two articles inside were headlined: "What do you think I am…a pervert?" and "Meddler let himself into our flat".

The 31 December coverage described Jefferies as "sporting the wispy blue-rinse hairdo that saw him branded as 'strange' by school pupils" and repeatedly used the words "strange", "weird", "sexual".[20] The 1 January coverage will be partly dealt with

[19] Leveson Inquiry, afternoon hearing, 16 January 2012, p.101 (lines 21-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-16-January-2012 1.pdf.
[20] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 28.

in 8.2.1c, but included allegations that Jefferies had followed a blonde woman home and had let himself into his flats when occupied by previous tenants.[21]

Gary O'Shea, a general news reporter, had been covering the story on the ground in Bristol and with colleague Caroline Grant, a London-based staff reporter, had put together the front-page article based largely on two telephone calls Grant had with an ex-pupil of Jefferies on 30 December 2010.[22] O'Shea described attempting to contact this source for confirmation and further information with no success and told the inquiry: "This pupil contacted us. He wished to share with us his memories on Mr Jefferies. He didn't seek payment from us. He didn't receive payment from us. These were his honest recollections and a decision was made to include those recollections in the newspaper".[23] O'Shea described being "geographically-divorced" from the decision-making at the newspaper on the presentation of the material, and said he had been surprised to find his name bylined with Grant as the majority of the "Obsessed by death" article had been made up from information from her memorandum.[24]

Stephen Waring, the *Sun's* publishing editor, was duty editor over the publication period of this article, as editor Dominic Mohan was on holiday for the Christmas season.[25] Waring took responsibility for the headlines, including the subheadings "Landlord's outburst at Blonde" and "Murdered Jo: suspect followed me, says woman" and said he had dealt directly with the news editor rather than reporters. He told the inquiry he recognised the coverage had been unbalanced and too strong and apologised to Jefferies, adding: "I perfectly readily accept that what we did publish was too strong, but I attempted with the lawyer, and the night lawyer when he came in in the evening, to try and strike a balance between what we could say and what would keep us the right side of the law". Waring clearly took the fall for the *Sun's* misstep, firstly by vindicating O'Shea's view that he had been uninvolved with the presentation of the material and secondly by telling the inquiry during a phone call

[21] Ibid paras. 23-25.
[22] Leveson Inquiry, Witness Statement of Gary O'Shea. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Witness-Statement-of-Gary-OShea.pdf. A full transcript of the phone call and the memorandum produced by Grant for the news desk was presented to the inquiry. There is no suggestion that the reporting of the words of the interviewee were misrepresented.
[23] Leveson Inquiry, morning hearing, 24 January 2012 p.68 (lines 12-17). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-24-January-2012.pdf.
[24] Ibid.
[25] Leveson Inquiry, afternoon hearing, 24 January 2012.

with Mohan following the edition, the holidaying editor had told him to be more balanced. Whether this is retrospective or not but shows editors loyalty.[26]

iii) *Other newspapers*

In addition to the coverage of the *Mirror* and *Sun*, Jefferies pointed the worst coverage as coming from the *Sunday Mirror,* the *Daily Mail*, the *Daily Record* and the *Daily Express*. Dawn Neesom, editor of the *Daily Star*, who were not mentioned directly in Jefferies' evidence but were subject to legal action, said she was "annoyed" that the coverage was unethical and cost the paper money and had also been on holiday when the offending material was published on 31 December and 1 January.[27]

Paul Dacre took more responsibility for the *Mail's* coverage, though pointed out he had not overseen the headlines. He told the inquiry contempt of court had been increasingly vague and the police had made Jefferies a suspect, though added: "I apologise to Mr Jefferies. We learnt from the process. I repeat: ours, I think, was the least offensive of many of the papers that day, including one of the broadsheets, and we've learnt from the experience".[28]

The *Sunday Mirror* coverage will be outlined in 8.2.1c.

8.2.1c Fascination with death

On the third point, it is the colour that was added to the stories through the specific description of the material Jefferies taught pupils in his former career as a teacher. This included both the nature of and the themes within the materials used, including poetry and films. Though one could argue this overlaps with the information gathered as described in

[26] Waring told the inquiry: "I was responsible for it and I'd just like to make a point on record that I'd like to express my sincere personal regrets that my actions contributed to and exacerbated the acute personal distress felt by Mr Jefferies, his friends and his family due to the articles that we published. I apologise personally and on behalf of the Sun newspaper for not taking more appropriate precautions to prevent this".
[27] Leveson Inquiry, morning hearing, 12 January 2012, p.79. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-12-January-2012.pdf.
[28] Leveson Inquiry, afternoon hearing, 6 February 2012, p.76 (lines 1-3). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-6-February-2012 1.pdf.

8.2.1b, the specific references to death and murder went further in terms of biased reporting than simply portraying Jefferies as strange or in some way sexually deviant.

On the *Sun* coverage, which claimed a former pupil had accused Jefferies of being "obsessed with death" made his class "watch films about Nazi death camps – and scared some children with his macabre fascination" and that the former tenant source who claimed the landlord had let himself into their flat had nicknamed him "Hannibal Lector".[29] O'Shea was asked about the reference in his article to Jefferies showing the film *Night and Fog*, about the Nazi concentration to his class, described by a former pupil as "he just wanted to show us death" and said although the paper made a decision to faithfully report what they had been told by the source, he recognised the tone of the reporting should have been "more neutral and dispassionate".[30] Jefferies described the film as "extremely important and extremely moving and in no way exploitative film".[31]

Nick Owens of the *Sunday Mirror* was asked about his involvement in the 2 January article "Suspect in poem killing wife", which described a former student recalling Jefferies favourite poem which "tells the story of a man who was hanged for cutting his wife's throat"[32], in reference to Jefferies teaching Oscar Wilde's 'Ballad of Reading Gaol' to his class. He claimed the byline he shared with journalist Alastair Day was credited to him in error, and had only been involved in the production process,[33] which was supported by the editor Tina Weaver, who told the inquiry she accepted the publication of the information in this way was "a bad decision" but she had been on holiday when it was published.[34]

What is clear from the evidence given is: 1) the editors were open in taking responsibility for the coverage by nature of their position, but many caveated that assertion with their absence from the newsroom due to taking holiday; 2) This calls into question whether the coverage would have been different had the editors rather than duty editors been in charge, although the fact the coverage was seen by each title's legal department does call this into question; and 3)

[29] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 28.
[30] Leveson Inquiry, afternoon hearing, 24 January 2012, p.67 (lines 7-8).
[31] Leveson Inquiry, morning hearing, 28 November 2011, p.25 (lines 19-20).
[32] Leveson Inquiry, Witness Statement of Christopher Jefferies, para 28.
[33] Leveson Inquiry, morning hearing, 6 February 2012, p.109 (lines 7-8). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Morning-Hearing-6-February-2012.pdf.
[34] Leveson Inquiry, afternoon hearing, 16 January 2012, p.17 (line 5). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-16-January-2012 1.pdf.

The reporters working on the ground to collect information about Jefferies may have been intrusive, but many were approached by sources as well as seeking them out. The practices of journalists in this instance, while less than ideal for Jefferies, were not out of step or necessarily unethical in themselves, but rather the presentation of the material was at fault.

This was summarised at the inquiry by former *Daily Star* reporter Richard Peppiatt, who said: "[Jefferies's] life has been irreparably changed and that is the attitude: 'We make mistakes'. But no one wants to take responsibility for those mistakes and the reason is because there's not an individual who you can point the finger to and say is responsible, because it's a culture. Everyone has their hand in there somewhere and that's why you don't see people being fired, because it would be unfair to fire a reporter for that, because all the way up the chain people are putting their hand in and changing things and twisting things. It's a problem with the whole system".[35]

In respect of this, O'Shea told the inquiry: "I acknowledge…that our coverage, our tone, should have been more dispassionate and neutral. As I say, though we are competitive people, I don't let those competitive instincts blind me whatsoever in how I go about my job".[36] Jefferies stated the tone of the reporting had alarmed friends of his who saw the coverage abroad "because it seemed to them that suddenly I had very much become a subject of suspicion as far as the investigation was concerned".[37] Even if it is taken as given that the reporters involved in the Yeates murder case were faithfully relaying information from genuine sources, the overall presentation of Jefferies as a suspect through the compilation of this reporting, including unverified allegations, headlines and pictures led a public perception that was so damaging as to allow Jefferies to take the legal action outlined further in section 8.2.3.

### 8.2.2 The national press and the local police

While the focus of the Jefferies case in this research concerns press intrusion, it is important to understand how much of the information came about, and much of it is outlined in 8.1.1

[35] Leveson Inquiry, morning hearing, 29 November 2011, p.47 (lines 2-12). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Morning-Hearing-29-November-2011.pdf.

[36] Leveson Inquiry, afternoon hearing, 24 January 2012, p.76 (lines 1-2).

[37] Leveson Inquiry, afternoon hearing, 28 February 2012, p.8 (lines 1-2). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-28-February-2012.pdf.

through named and unnamed sources claiming to know Jefferies. Though while the presentation of Jefferies, his character and his implied guilt can be laid at the feet of the press pursuing a story of a large national interest, members of the Avon and Somerset Police came under fire for their handling of the case in respect of dealing with the police. Jefferies returned to the Leveson Inquiry in 2012 to contribute evidence to Module 2, which investigated the relationship between the press and the police. The inquiry also heard from representatives of the Avon and Somerset Police: Colin Port, the Chief Constable, Detective Chief Inspector Philip Jones, and Amanda Hirst, the force's Head of Corporate Communications.

The inquiry had heard varying accounts of the how the police and press relationship operated over the course of the Yeates murder investigation. Wallace in his witness statement alleged the police had told the paper, off-the-record, that they were confident "Mr Jefferies was their man".[38] However, Port told the inquiry the assertion police had briefed journalists before the arrest was untrue, offering a different narrative that Jefferies's name had accidentally been revealed to journalists by the force's press office.[39]

Critically, Jefferies believed that collaboration between reporters and police had been at the crux of his portrayal in the press, stating that "the fact that police wore conducting the investigation under the media spotlight, with Bristol besieged by journalists, no doubt increased the pressure on them to be seen to be making progress in the hunt for the killer and/or to make an arrest or arrests".[40] Jefferies told the inquiry information published in the *Daily Mail* the day before his detention could only have come from his police statement.[41] DCI Jones told the inquiry he was investigating the allegation, as the information published in the newspaper concerning DNA found on Yeates's body was only known to a small number of people working on the investigation.[42]

[38] Leveson Inquiry, Second Witness Statement of Richard Wallace, para 11. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Second-Witness-Statement-of-Richard-Wallace.pdf .

[39] Leveson Inquiry, Witness Statement of Colin Port, para. 12). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/04/Witness-Statement-of-Chief-Constable-Colin-Port.pdf

[40] Leveson Inquiry, Second Witness Statement of Christopher Jefferies, para 4. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Second-Witness-Statement-of-Christopher-Jefferies.pdf.

[41] Leveson Inquiry, afternoon hearing, 28 February 2012, p.11 (lines 4-10).

[42] Leveson Inquiry, morning hearing, 27 March 2012, p.45. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/03/Transcript-of-Morning-Hearing-27-March-2012.pdf.

The example of the close relationship between the press and the police is best exemplified by two bits of information. Hirst told the inquiry that the media pressure put on police forces in the course of high-profile investigations to the extent that she advised Jones not to engage with media coverage.[43] However, at the time of the investigation the police relied on the press for help, with Jones praising the *Sun* for putting up a reward of £50,000 in return for information, saying: "It demonstrates the level to which the murder of Joanna Yeates has touched the nation, and also shows the commitment of the media to supporting our efforts to bring whoever is responsible for killing Jo to justice" (Bartlett, 2011).

James Murray, the associate news editor of the *Daily Express*, told the inquiry journalists at the paper had much contact with the police while covering the investigation:

> I think the calls to the press office were off the record. The questions that we were asking were: what's likely to happen with Mr Jefferies in our timeframe, and explaining that -- what our deadlines were on publication, and they didn't want to go on record about what was going on. They were telling us pretty much very little. They weren't prepared to say on the record: "We're continuing to question him for XXX", or whatever. So it was useful to speak to them. There was some guidance. I think they did say that: "We're continuing to speak to him", but they wouldn't say charges are imminent or charges are expected. These are the sort of phrases that press officers use when dealing with the press because we have to be extremely careful as well, because we're in that unusual stage of subjudice where we're actively working on information and we're building up stories and pulling stuff together, but obviously at the point where that person is charged, then we have to reevaluate what's already been written and take out anything which could be prejudicial and reduce it. So that was the conversation. There wasn't a sort of slurring of his reputation or anything like that.[44]

Jeremy Lawton, the crime correspondent for the *Star*, went so far as to blame the police for not giving enough off-the-record comment to the press: "Though I was on annual leave when Chris Jefferies was arrested I covered the murder of Jo Yeates from the point at which her killer Vincent Tabak was detained until the conclusion of his trial. Had Avon and Somerset

[43] Leveson Inquiry, afternoon hearing, 27 March 2012, p.6. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/03/Transcript-of-Afternoon-Hearing-27-March-2012.pdf.
[44] Leveson Inquiry, morning hearing, 19 March 2012, p.36 (lines 11-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/03/Transcript-of-Afternoon-Hearing-19-March-2012.pdf.

Police chosen to give discreet off-the-record guidance regarding Mr Jefferies' background and the nature of his arrest it is possible he may have been spared the ordeal he described to the Inquiry. In my experience journalists, news desks and editors listen to, respect and react to police guidance".[45]

### 8.2.3 Legal action against the press and police

On 1 January 2011, Yeates' boyfriend Greg Reardon issued the following statement:

> Jo's life was cut short tragically but the finger-pointing and character assassination by social and news media of as yet innocent men has been shameful. It has made me lose a lot of faith in the morality of the British press and those that spend their time fixed to the internet in this modern age. I hope in the future they will show a more sensitive and impartial view to those involved in such heart-breaking events and especially in the lead-up to potentially high profile court cases.

The fact that Reardon defended Jefferies while he was still being held as a suspect speaks volumes about the egregious nature of the press coverage.

#### 8.2.3a Defamation

As previously stated in this chapter, on 29 July 2011 Jefferies settled a defamation case against eight newspaper titles: the *Sun*, the *Daily Mirror*, the *Sunday Mirror*, the *Daily Record*, the *Daily Mail*, the *Daily Star*, the *Scotsman* and the *Daily Express*. The damages were undisclosed but believed to be in the region of £500,000 (Cathcart, 2011). Louis Charalambous, representing Jefferies, described his client as "the latest victim of the regular witch hunts and character assassination conducted by the worst elements of the British tabloid media". He added: "Many of the stories published in these newspapers are designed to 'monster' the individual, in flagrant disregard for his reputation, privacy and rights to a fair trial" (Simons, Muirhead and Burton, 2011).

Jefferies echoed this sentiment and hoped his legal success in this area would result in a change of attitude towards future victims of crime, though remained cynical.

[45] Leveson Inquiry, Witness Statement of Jeremy Lawton, para 55. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/03/Witness-Statement-of-Jeremy-Lawton.pdf.

> I am quite certain that the sort of coverage that happened always leaves some residue behind. I don't think that it would be rational to think otherwise We have been here on a number of occasions before, there have been high profile cases and people have said lessons have been learned and it won't happen again – lo and behold it does happen again and each time it happens it seems to happen in an even more explosive and intemperate way than ever (CJI).

8.2.3b Contempt of Court

On the same day as the defamation case settlement, the *Sun* and the *Mirror* were found in contempt of court[46] in respect of their coverage of Jefferies and fined £18,000 and £50,000[47]. The judgment, handed down by Thomas LJ and Owen J described the *Mirror* coverage as "extreme":

> It was asserted, in effect directly, that his standard of behaviour, so far as sexual matters were concerned was unacceptable, and he was linked to both the paedophile offences and the much earlier murder offence. That indeed was the point of the articles. The juxtaposition of the photographs of two murdered women, together with the layout of the places where they died in proximity to Mr Jefferies home, was stark. Moreover, in the context of the murder of Miss Yeates herself, the second article implied that Mr Jefferies was in a particularly convenient position, as her landlord, to have gained access to her premises to commit murder, according to the article, committed by an intruder (para. 34).

The judges expressed concern on two counts, that if charged with the murder Jefferies would have been able to appeal on the basis of prejudicial reporting, holding up court proceedings, and that witnesses to such a trial would have been reluctant to come forward on the perceived guilt of the defendant. On the *Sun,* the judgment stated:

> The articles in the one issue of The Sun were written and laid out in such a way that they would have conveyed to the reader of the front page and the two inside pages over which the stories were spread that he was a stalker, with an obsession with death,

[46] Under section 2 of the Contempt of Court Act 1981 which states: "The strict liability rule applies only to a publication which creates a substantial risk that the course of justice in the proceedings in question will be seriously impeded or prejudiced".
[47] *HM Attorney-General v MGN Ltd and Anor [2011] EWHC 2074 (Admin).*

> who let himself into the flats of other occupants of the building where Miss Yeates lived, and that he had an unhealthy interest in blonde young women.

On the case, the *New Statesman* republished a piece by Peter Wilby on the press treatment of Jefferies written earlier that year arguing: "over recent years, the police, the government, the courts and the Press Complaints Commission have allowed and even colluded in what amounts to a complete rewriting of legal convention" (Eaton, 2011). Both publications appealed the decision in August 2011, though the *Sun* dropped its bid in January 2012 and the *Mirror* was refused by the Supreme Court in March 2012.

8.2.3c Legal action against the police

Jefferies has said he believed police took a long time to lift his bail to suggest he had been arrested on the basis of stronger evidence that was the case. He was not cleared as a suspect until March 2011 even though Tabek had been arrested and charged by the end of January.

In his statement to the Leveson Inquiry, Jefferies stated had issued a civil action against Avon and Somerset Police for false imprisonment, breach of human rights and trespass (para. 46).

> The whole of the action against the police is not essentially different from the action against the press, because it was as a result of the police action that all sorts of innuendos and calumnies and whatever else appeared in the press. As far as I am concerned they don't escape the sort of responsibility that the press have had to accept, and until that particular chapter is over and there has been some form of vindication there, one is very much still in the process of, as far as one can, restoring the reputation that was destroyed […] Until I have finished with the action against the police, it is something that continues to loom extremely large as far as what I am able to do otherwise is concerned. So I would think that these events have meant that eighteen months of my life which could have been devoted to other things, have very largely had to be taken up with coping with the aftermath of something that I had absolutely no responsibility for. If all the momentum which has gathered around this and other similar things really does result in a sea change as far as the press in concerned then I think that significant good will have come out of it, so that is very much what I hope and it's certainly I think the sort of attitude that friends and

> relatives have taken. It was extraordinarily painful at the time but it may well be that something positive does happen as a result (CJI).

As a result of the action, ASC chief constable Nick Gargan wrote a letter to Jefferies in August 2015, which was made public the following month. In it, he wrote: "While it is not normal practice to make such a public statement, in the circumstances of the exceptional media attention your arrest attracted I acknowledge we should have considered this and I am very sorry for the suffering you experienced as a result". Jefferies also received compensation for damage caused to his property during the police investigation. Jefferies told the media: "[The letter] provides an important conclusion to the whole aftermath of what I had to go through following my arrest. As the letter itself explains it provides the public vindication which was not given at the time I was released from police bail" (BBC, 2015).

### 8.2.4 A final word from Jefferies

Though the police apology 2015 represented an end point to the uneasy relationship between Jefferies and the press, he wrote an opinion piece for the *Guardian* in April 2016 urging David Cameron to guaranteed Leveson Part 2.[48] In the piece, he wrote that by not adhering to the regulatory recommendations made by the Leveson Report: "our national newspapers will remain unaccountable to any meaningful regulator, justice in libel and privacy cases will remain far beyond the reach of most ordinary people, and the truth about who was responsible for wholesale press law-breaking will be buried forever". Cameron resigned two months later following the EU referendum.

## 8.3 Rebecca Leighton

Rebecca Leighton was 26 when she was arrested for the murder of three patients at Stepping Hill Hospital, where she worked as a staff nurse. She lived with her boyfriend, Timothy Papworth in a flat above a shop owned by Papworth's mother. She described her life before the arrest as ordinary, working many hours at the hospital and seeing friends during her time off. Leighton was one of the Stepping Hill staff interviewed over the deaths, which had been caused by tampering with saline drips, and was arrested on the morning of 20 July 2011 at her home in Stockport. She thought the police arriving at her door had come to interview her

[48] This can be found at: https://www.theguardian.com/commentisfree/2016/apr/06/david-cameron-press-intrusion-leveson-promises.

again, but she was taken to the police station and held for three days, questioned from 9am to 8pm. As with the murder of Yeates the year before, the crimes gained national interest very quickly, and Leighton found herself at the centre of a media storm that painted her as "the Angel of Death". She was charged on the 23 July with the murder of five patients, but all charges were dropped on 2 September 2011. On 5 January 2012, nurse Victorino Chua was arrested and later found guilty of the murders and of tampering with the drips of other patients.

Leighton did not appear at the Leveson Inquiry, and so the resources in relation to her case are more limited than in that of Jefferies. However, the portrayal of her character, the nature of newsgathering, the relationship between the press and the police and the lasting impact on her life are as important and relevant as a parallel narrative. She was mentioned in the final report, via the written and oral evidence of Max Clifford[49], as someone who had suffered from confidential information being made public with no public interest justification: "Photographs of Ms Leighton in fancy dress were allegedly taken from her Facebook account and used in articles to suggest her guilt" (Vol II: 642).

Following her arrest, Leighton said she was taken to a police station in Styal for her own protection and was unaware of the level of media coverage she would attract, but is now aware that within a couple of hours of her arrest her name and picture was in the media:

> I remember seeing myself on the TV, and at the time I was on the phone to Tim, and Tim said: 'It's fine, it's been on the news but don't worry about it', because it was upsetting to see where I was knowing I shouldn't have been there and also to see on the TV my mum and dad and Tim. It was upsetting. It was a couple of days after that I saw Tim and it came out in conversation it was in the paper as well. I just asked out of curiosity which paper and he said: 'Becki, you are on the front of every single paper'. He couldn't even go to the shop; my family couldn't even go to the shop, because it was front cover pictures (RLI).

Leighton described members of the press camping outside her parents' house and the Papworth's shop. The shop was shut for a month as the presence of the press affected

[49] Clifford is currently a prison sentence for historical sex offences, but for the purposes of this research it can be assumed his factual statements on this case are reliable and verified by the interview 'RLI'.

business, and Leighton described her parents having to leave the house at midnight to avoid journalists. When she was eventually released, she experienced the presence for the first time.

> *Leighton*: My only first personal experience of it was when I got home. I managed to get home just before the press had arrived. I would say there were about 15 of them. I came home to mums.
>
> *Leighton's mother*: There were more than that earlier, they were backed up down our road, down the cul de sac, both sides, and neighbours couldn't get out of drives or out of out of houses. We ended up sending apology cards to all our neighbours.
>
> *Leighton*: On the day I was home about 15-20 of them. Sky News with big floodlights outside the house. My dad's car reg plates on display for the world to see. It was just horrendous. It's hard to be able to explain in words what it's like. For them to do what they did and then for that time after it was up to three weeks that they wouldn't leave me alone. Continuous media outside the house, any opportunity for a photo. You would learn the times they would arrive and leave so you would either have to be out of the house by seven in the morning and back after 10pm at night to be able to not give them any opportunity but there were times where we had to go out at a particular time and it's horrible (RLI).

Leighton described friends, colleagues and family members being approached by journalists. The similarities between the media siege under which Jefferies and Leighton found themselves is clear.

### 8.3.1 The "Angel of Death"

The *Angel of Death* was the title of a BBC dramatisation of the crimes of nurse Beverley Allitt, who was given thirteen life sentences for the murders and attempted murders of several children in 1991. On the 21 July, the day following her arrest, the *Daily Record* and *Mirror* referred to Leighton as the "Angel of Death Suspect" in their headlines. The *Sun* described Leighton as a "Saline Killer" on the 22 July front page. The *Star* used the term in a headline on their front page on the 22 July and again in coverage on 23 July. The phrase "Death's nurse" was headlined in *Sun* coverage on 23 July. The *Sun*, *Mail*, *Times*, *Daily Record* and

*Mirror* coverage all referred to information taken from Leighton's Facebook page. Leighton's family kept all of the press clippings pertaining to her arrest and subsequent coverage, which she went through with me for this research.

> Saline Serial Killer', 'Angel of Death': even after I was released, I was referred to as the saline nurse. They just brand you with names. 'Hospital Poisoner'. There are loads and these aren't even all of them. Front page, the nurse headlines giving the impression I had done it" (RLI).

The nicknames were the equivalent of "The Strange Mr Jefferies" and equated Leighton to Allitt, but she described the interpretation of the material taken from her Facebook as out of context as the most harmful part of the press portrayal of her character (RLI). The original *Record* article explicitly stated: "On her Facebook page Leighton - known as Becki - says she is engaged, works as a NHS staff nurse and studied at the Open University" (Byrne, 2011) but details past these basic facts were soon put into the public domain.

> It was upsetting because the way that the media portrayed me to be was this party animal. The most upsetting thing from that was that they were saying that my job got in the way of my party life. I hardly ever went out, especially since being a qualified nurse, the hours that you work and the overtime that we did, well they are not social hours are they? But it was the other way round. Work stopped me, well not stopped me but working the hours I was working, I couldn't go out every weekend and everything else (RLI).

Leighton said there were approximately 30 pictures from her Facebook profile used by the press, the majority of them taken while on clubbing nights which she said happened years before she qualified as a nurse. The press reports implied the pictures were contemporary and painted a picture of Leighton as a party girl who enjoyed drinking and fancy dress themed club nights. The pictures were juxtaposed against written material from the nurse's social media account. An article from the *Daily Mail*, dated 21 July 2011, stated:

> Rebecca Leighton's Facebook pages tell of a frantic social life that helped her cope with the stress of work. Last month she wrote on the social networking site: 'Worst night's sleep ever last nite, now for 14 hr shift aggghhhhhhh' and 'really really don't

> want to go to work'. In another post she put: 'Bad bad day follow(ed) by wine is a must'. In one picture, Leighton is seen downing a bottle of wine.

Reading over this press clipping, Leighton says:

> 'Rebecca Leighton's Facebook pages shows and tells of her frantic life which helps her cope with the stress of work'. A photo of her with a glass of wine. [*points to one example of her Facebook posts*]. I never said that. Photos are old, a really old picture over 5 or 6 years old (RLI).

The article referred to her Facebook page being "littered with entries about not looking forward to work" and frequent complaints about "having to go to work, claiming she was drained after long shifts, night shifts and overtime". It also contained a quote from a convenience store owner: "She comes in all the time in her nurse's uniform and buys wine and cigarettes, Echo Falls rose and packets of 20 or 40 Mayfair. At the weekend she comes in all dressed up, wearing a party dress".

In a comment piece for the same newspaper, Jan Moir wrote: "Of course, Miss Leighton, 27, is innocent until proven guilty. And indeed, many friends and neighbours have spoken of her good nature, describing her as a happy and lovely person. She sounds very far removed from the inadequate loners who so often turn up in the dock. Owing to the regular postings she makes on her social media pages, the world already knows a great deal about Rebecca. Primarily, how much she loved to party, dreaded working nights and was barely literate. Turning up at the hospital seemed to be an impediment to her frantic social life […] Regardless of the outcome of the police investigation, isn't it frightening that someone like Rebecca is in charge of vulnerable patients and ministering to the sick? According to her own confessions, she is either overworked, exhausted, disinterested, bored or hungover. If this is a true snapshot of what conditions are like on the NHS front line, then it is a horrifying one?" (2011).

Leighton said she hated the way her Facebook information was pieced together to present a picture of her she didn't recognise: "There were song lyrics from Rihanna – 'I am not bad but I'm perfectly good at it'. I love that song and that's what that was, but they pulled that as if I was saying something totally different. It was a song lyric, that was it. There were other

comments as well but they totally twisted it and that wasn't the meaning of it. I hate Facebook, the way it's been used totally against me' (RLI).

Once Chua was arrested for the crimes, the nickname originally attributed to Ablitt, then Leighton, transferred to him in press coverage. He was described as 'Angel of Death' and 'evil angel' in the *Express* and the *Telegraph* in 2012. Though the assumption of guilt had passed on, Leighton still felt the effect of press reporting of the murders.

> It's still going on now even with the new person that they have got, I'm still being brought into that. They don't write about him without writing about me. Or anything to do about Stepping Hill […] Anything to do with Stepping Hill I get a paragraph at the bottom with a picture of me and it's got nothing to do with me. With the new recent arrest they don't write about him without writing about me. There's no connection whatsoever (RLI).

### 8.3.2 Press and the police

Leighton noted the police had openly stated they felt under pressure to make an arrest and believes that is why she was arrested (RLI). She took legal action against Greater Manchester Police in 2013, claiming officers had leaked her name to the press and had accidentally made her previously private Facebook account private, using a team of Charlotte Harris and Hugh Tomlinson QC to fight her case on the grounds of breach of confidence, negligence and breach of a statutory duty (Halliday, 2013). The claim was settled on 13 June 2014, with the force paying out £8,000 plus £45,000 in legal costs (BBC, 2014). Much like in respect of Jefferies, the force's chief constable Sir Peter Fahy apologised publically to Leighton following the sentencing of Chua: "We are very sorry that Rebecca Leighton ended up spending some time in prison. It showed to some degree the amount of pressure everyone was under, not just the police, the hospital, Crown Prosecution Service, to try and make progress in the case, and we are sorry this happened" (ITV, 2015).

## 8.4 Further analysis

At a NUJ debate in 2012, Jefferies described the coverage of the Yeates murder as "a gift to the tabloids"; adding: "If you think back to the end of 2010 and last year, the story was

something of a gift to the tabloids. It was a ready-made 'Midsomer Murders' script set in a respectable and leafy suburb. I was the person who had been arrested and the press seemed determined to believe the person who was arrested was the murderer, and to portray me in as dark and as lurid a light as possible…Even today I haven't been able to bring myself to read everything" (Baxter, 2012).[50] Leighton also said she was unable to go through the full extent of media coverage (RLI).

### 8.4.1 Fitting the bill

The reason for the level of press and public interest in both Jefferies and Leighton is contradictory: they both fit the perfect profile of a murderer, but through their unlikeliness. In respect of Jefferies, who is undoubtedly an eccentric character, he was an ordinary man living a normal life – the "little man of the professional class – a dentist or a solicitor, say – living an intensely respectable life somewhere in the suburbs" that Orwell hypothesised. The blue-rinsed hair that became a regular feature of press reporting on Jefferies was highlighted so often because it was a visual signal of oddness in comparison to his otherwise ordinary appearance, and a historical one at that[51]. In respect of Leighton, she fit the template left by Allit to the extent that she was given the same nickname, but she was portrayed as an uncaring and unprofessional carer, unlike Allit for whom the justice system could never seem to find a motive for killing her charges. Both friends and family defended Jefferies and Leighton as unlikely suspects in press coverage, though it was noted at the Leveson Inquiry that in the case of Jefferies, any positive views were represented disproportionality to the speculation over his character.

It is interesting that neither Tabek nor Chua, the convicted killers in each of these murder cases, faced the same level of intrusion into their personal lives as Jefferies or Leighton. It may be that this is because the press had gone too far in portraying the wrong suspect as guilty before charged and were concerned about incurring the scrutiny of the Attorney General, or perhaps neither was as exciting as a character in "the murders whose story is known in its general outline to almost everyone and which have been made into novels and re-hashed over and over again by the Sunday papers" (Orwell, 1946).

[50] Though this *News Statesman* article is referenced as a printed record, I attended the event and took this transcription myself.
[51] In this respect, Neville Thurlbeck describes being "totally wrongfooted by the banality" of Rosemary West (2014: 106).

### 8.4.2 The realities of press intrusion

This chapter has examined how the private lives of Jefferies and Leighton were portrayed in the press but will now address the reality of the press mob in respect of a murder case. The experiences of both are not inconsistent with Neville Thurlbeck's description of "pack rules": where reporters from across outlets work together to get as much information about a big news story as possible:

> There may be three people at three separate addresses to speak to, for example. Or one person may be despatched to the scene of a murder to speak to neighbours while another hunts for relatives and another talks to police officers and employers. Others may try to track down an ex-wife or ex-husband of the victim. Another one may try to source a photograph. The information is then pooled and the following morning, the newspaper-reading public gets to read a fully rounded news story (2014: 71).

Jefferies outlined in his witness statement to Leveson the impact on his family and friends:

> After my arrest my friends and relatives were subjected to an unacceptable degree of press scrutiny amounting to harassment. Indeed, one of my relatives was so concerned about the press hounding her that she contacted the Press Complaints Commission. As stated above, when I was released on bail I was told by friends and family not to read the press coverage because it would be distressing for me. Of course, my friends and family did read everything that was written about me. I was oblivious to what was going on during the 3 days I was in police custody; however, they were not. I had spent Christmas with relatives in Derbyshire and had planned to visit an Aunt in Cheshire for New Year. This obviously did not happen. She was one of the first people I contacted after t was released on bail. She was extremely relieved to hear from me but said that she felt that the experience over those 3 days had aged her a 100 years. She later informed me that one of my cousins was reluctant to go out for several days after I was arrested because he was worried people would recognise him or people would link us because we have the same surname.[52]

[52] Leveson Inquiry, Witness Statement of Christopher Jefferies, paras. 47-49.

Leighton said she was protected by her family and a close-knit circle of friends who did not give interviews to the press, though the "odd comment" was made no one sold a story on her to the media. However, she said the interest in private information about her:

> They had a difficult time, some of them didn't going to work, because of them being hounded, not only by the press, but by people who know them and want to know what's going on. I've got a good close network of girlfriends and they stayed at one of their houses for a full week, didn't leave in support of me and the family and Tim. Good friends that I have still got at Stepping Hill, it affected them. Really badly. People have had to have counselling as a result of what happened so it's affected a big range of people (RLI).

She described journalists posting letters and business cards through the door of her family home: "They would try and befriend you, try and make out they are your best friend, sorry to contact at you at this time but would like to speak to you".

She also described press trying to contact friends and acquaintances at their homes, via email and Facebook, and said specifically her hairdresser was offered "a substantial amount of money" to sell a story on her. She adds:

> There was a lot of letters in a way being pushed through Facebook that I know a few of my friends have still kept and they were sending them through the business as well. It went up to £35,000 that they were prepared to pay for a story on me, which I refused. To take money from somebody who has ruined my life. They can write the things that they write but when they write you a letter - they are so two faced. People writing books have contacted me as well about writing autobiography and memoir. There was a lot more but these are the ones we've kept and business cards. They do deceive you. I think I was quite lucky in a way because not many of the reporters when I got home had an opportunity to get me face to face. I think the majority of it happened when I was in Styal. I just got the letters, business cards, phone calls, saying we are more than happy to speak to you, come to a negotiation on price and we really want the exclusive and your chance to have your say (RLI).

The effect on Leighton's career was enormous at the time, having spent weeks in prison and being later suspended from nursing in 2013 as the police had found drugs taken from the hospital in Leighton and Papworth's flat, though she claimed they were for a friend whose prescription had run out.

> From a career point of view it's affected that because even out of nursing I have been trying to get jobs and the people that have been willing to employ me have been nervous about the media attention it might bring on them if they were to employ me. I have had a lot of doors shut in my face on a nasty front but just for the media attention that follows me and everything else so it's totally affected my career, which was everything to me at the time. I left school and that's what I did, nursing. A lot of hard and work and it's frustrating but I have got a harder battle than I think I would have done if the media hadn't totally gone to town with the story (RLI).

Leighton described feeling like a teenager again, living with her parents and without a job, and felt all her hard work at college and university to qualify as a nurse had been taken away from her. She said her mother, who still worked at Stepping Hill, was constantly asked about the case and found it difficult to do her job as a result.

In this vein, Jefferies stated his successful libel settlements had not addressed the extent of the damage done to his personal and professional reputation, particularly in regard to his career of 30 years: "Had I not been retired, I think the effect on my career would have been catastrophic".[53]

### 8.4.3 A damaged reputation

In his *Financial Times* interview, Jefferies spoke of the invasion of privacy he experienced in terms of sexual assault.[54] He said: "My identity had been violated. My privacy had been intruded upon. My whole life … I don't think it would be too strong a word to say that it was a kind of rape that had taken place" (Cathcart, 2011). In CJI he added: "Despite a huge amount of sympathy and support that one has had, I am quite certain that the sort of coverage that happened always leaves some residue behind. I don't think that it would be rational to think otherwise". The view of Leighton was similar: "It was a horrible thing to go through in

[53] Leveson Inquiry, Witness Statement of Christopher Jefferies, para. 52.
[54] Please see Chapter Six for more on invasion of privacy as sexual assault.

the first place, not just for me but for my family and my friends but the pressure that the press has put on us as a family, the shock – my friends and family is horrendous because it's made then into a big public argument and people feel then that they a right to have an opinion on my life" (RLI).

Gerry McCann told the Leveson Inquiry he could "speak with experience" on the damage the media can do to an individual through exposure and intrusion: "We've already said how many good things that they have done as well, so there is power, there is no doubt about it. But what we see on a daily basis are front page tabloid headlines in particular, sometimes followed by a clamour with 24-hour news channels and Internet and a blurring of the media, of stories which appear to have no factual basis, or exaggerated, or distorted".[55]

In these high-profile crime cases, the rights of the individual to privacy and reputation are often lost in the clamour to create a narrative

## 8.5 Conclusion

Gritten describes the unquestionable truth of fame: it can "distort, disorientate and on occasions even destroy people to whom it happens" (2002: 113). As this chapter has outlined, the effect of this unwanted celebrity on those victims of crime wrongly accused of involvement in murder by the police and the press has devastating ramifications on individuals and their friends and families.

The members of the press who gave evidence to the Leveson Inquiry noted they had gone too far in the case of individuals like Jefferies. Peter Wright of the *Mail* described Leveson's 'victims of crime' as "people who have been involved in major stories and have clearly been on the receiving end of stories which shouldn't have been written"[56] and Waring, in contradictory terms, said: "Mr Jefferies was an unusual character, we've vilified him, we didn't present it in a balanced way, but it wasn't through a conviction that this was a guilty man".[57]

[55] Leveson Inquiry, afternoon hearing, 23 November 2011, p.65 (lines 5-13). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2011/11/Transcript-of-Afternoon-Hearing-23-November-2011.pdf.
[56] Leveson Inquiry, afternoon hearing, 11 January 2012, p.13 (lines 9-11). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Afternoon-Hearing-11-January-2012.pdf.
[57] Leveson Inquiry, afternoon hearing, 24 January 2012, p.86 (lines 13-16).

Kenneth Clarke told the Privacy and Injunctions Joint Committee that society had changed as well as the press, in respect of taste and judgment (Q1023, p667). When asked about the possibility of designing a new, legal definition of the public interest, he hit on the point that doing so in a way that encapsulates all possible balancing acts was an incredible challenge, adding: "I know what I mean when I talk about it; it is all wrapped up with vague concepts about the good of society, the general good and my being entitled as a citizen to know certain things about other people and those things that I am not entitled to know about other people which are nothing to do with me and so on. I know what line I am trying to draw, but so far no wonderful draftsman has come forward and drafted that to my satisfaction in a way that avoids all these disputes" (p680).

The public interest, both in legitimate terms and 'what the public is interested in' were extremely relevant to the cases of Jefferies and Leighton. The press presented both as guilty before charged. When discussing the possibilities of how a new press regulator should operate with Stephen Dorrell MP. Leveson LJ noted that in the case of Jefferies: "the story was so big, so important, of such public interest over that new year period that all restraint is lost".[58] The damaging of Leighton's reputation was not to the extent of Jefferies, and indeed she did not seek legal redress from the media over her portrayal as the 'Angel of Death'. However, the police action in her case, legitimate or not, extended the period of coverage past what may have been in less sensational circumstances.

Andrew Trotter, the Chair of the Association of Chief Police Officers, said the case of Jefferies pointed out the "frailties" of the relationship between the press and the police, adding: "we do have a lot of problems in various forces around the country where people have been identified, there may well be campaigns against them, both physical campaigns in the street or on Facebook and things such as that. I think the least information that's released in the first instance would ensure that those things didn't happen".[59]

This point was further enforced by singer Bryan Adams, who did not appear at the inquiry but submitted a statement to be taken as read, said after reporting an incident of stalking to the

[58] Leveson Inquiry, morning hearing, May 23, 2012, p.45 (lines 5-15). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/05/Transcript-of-Morning-Hearing-23-May-2012.pdf.
[59] Leveson Inquiry, morning hearing, 28 March 2012, p.47 (lines 19-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/03/Transcript-of-Morning-hearing-28-March-2012.pdf .

police, it had then been reported in the *Sun.* He wrote: "In general terms, I take the view that victims of crime should be entitled to confidentiality. If information of this sort is to be released, it should be done for proper public interest reasons, not to satisfy a desire for gossip".[60]

In discussing the issue with Baroness Hollins, LJ noted the two-way relationship between the press and police was often to the detriment of celebrity victims of crime:

> So that certainly extends to the leakage of information where a celebrity or publicly known figures have either been arrested or otherwise helping the police with their inquiries, then get mobbed as they emerge from the police station by a whole gang of reporters and photographers. Well, the story, the attack can be public interest, but there is a line […] it seems to me, which goes beyond that which is justified in the public interest into intrusive breaches of privacy.[61]

Many of the editors, journalists and crime reporters giving evidence to the inquiry noted the benefits of working closely with the police in order to help solve crime. As Weaver pointed out, a *Mirror* story on the reopening of a historic murder investigation led to a witness coming forward, and the crime being solved.[62] Mulcaire talks about helping the police numerous times in *The News Machine* and notes there is not much difference between a reporter or private investigator and a police officer. Nick Davies blamed "useless media law and useless self regulation" allowing reporters "free to fabricate falsehoods" about people such as Jefferies and described journalists as the "active ingredient causing damage"[63].

Certainly, from personal experience in discussing their respective cases with them, Jefferies and Leighton were more angry at the actions of the police over the press and both accused forces of protecting and delaying their release from police bail to enforce a public view that progress was being made on the murder cases to a greater extent than it was. They both believe that police leaks were responsible for revealing their identities so soon after being

[60] Leveson Inquiry, Witness Statement of Bryan Adams, para 9. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Witness-Statement-of-Bryan-Adams-taken-as-read.pdf.
[61] Leveson Inquiry, afternoon hearing, 2 February 2012, p.45 (lines 8-13). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/02/Transcript-of-Afternoon-Hearing-2-February-2012.pdf.
[62] Leveson Inquiry, Witness Statement of Tina Weaver, para 60. Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Witness-Statement-of-Tina-Weaver.pdf.
[63] Leveson Inquiry, afternoon hearing, 28 February 2012, p.42 (lines 22-23).

arrested, leaving their family and friends at the mercy of the press. The Leveson Report made extensive recommendations in respect of the relationship between the press and the police, and arguably the most immediate chilling effect of the inquiry fell on crime reporters who said they were already experiencing the drying up of police stories as a result of the inquiry.

Since 2012, both Jefferies and Leighton have willingly interacted with the press in telling the story of what happened to them, having both been cast in roles they did not want or deserve, to play in the public eye. In respect of Jefferies, most examples have been covered. Regarding Leighton, eventually gave a press interview to the *Sunday People* (Fox-Leonard, 2015). As Leveson LJ pointed out in his report:

> For those who have said that the Inquiry has been overly concerned with the complaints of celebrities, Mr Jefferies was not such an individual. Nor were the McCanns or the Dowlers. Clearly, all of these witnesses would have wished for nothing more than to have remained well out of the public eye and off the front pages of newspapers but, for reasons beyond their control, that was not where they found themselves (Vol II: 564).

The examples of Jefferies and Leighton both speak to Lord Justice Leveson's comments on the prioritisation of sensational stories, with little regard for the harm caused to those involved or a legitimate public interest in doing so. The evidence heard at the inquiry in respect to Jefferies, which was echoed in other hearings from those including the McCanns, showed that high-profile crimes, especially those with an actual or potential salacious element, are considered free-for-all. The evidence given by journalists and editors involved in creating and publishing the stories on Jefferies described a competitive environment where information was expected to be passed back to the newsroom and written up as soon as possible, to beat other titles.

As seen in the previous chapters, those at the heart of these stories, and those associated with them, are caught in a network of surveillance from the press while the story is at its height. Kenneth Clarke's evidence to the Joint Committee[64], which continues the legacy of the Younger Committee's reluctance to set down clear, legalistic definitions of the rights to privacy and public interest, refers to the balancing act between rights at the heart of many

[64] See Chapter Three (3.5.2).

regulatory and legal discussions around the case studies put forward in this thesis. As shown by the Jefferies example, as with the Milly Dowler phone hacking revelations, it is only when a case is so egregious it cannot be questioned, that the press responsible for causing the harm will pay lip service to taking responsibility.

# CHAPTER NINE – GENERATION Y: YOUTUBE, CELEBRITY AND PRIVACY

*@unofficial_amy*: @PointlessBlog @Zozeebo Welcome to famous life, didn't you see this coming at all?

*@Zozeebo*[1]: @unofficial_amy @PointlessBlog considering we did not set out to become "famous"… no. It's also not something we should have to put up with

*(Twitter exchange, 28 December 2015)*

Zoe Sugg sat in her house in Brighton, England and tweeted that she was tired of fans turning up at her house to peer in the windows or ring her doorbell. This was over three years on from the publication the Leveson Report and represented a fundamental shift in the construction of celebrity, and resulting privacy intrusion, that had completely bypassed the legal sphere. Sugg, more commonly as 'Zoella', has over 11 million subscribers to her YouTube channel at the time of writing. The thousands of responses to her 28 December tweets incurred the annoyance of some, as above, and the sympathy of others who berated fans for invading the privacy of Sugg and her partner Alfie Deyes in their home. A few months after the incident, Deyes appeared on *This Morning* and told presenters Phillip Schofield and Holly Willoughby: "It's really hard, and because I film everything, I love showing everything, so I probably encourage quite a lot of it" (Corner, 2016). Indicative of their level of celebrity Sugg and Deyes were immortalised in wax for Madame Tussauds in September 2015.

The aim of this chapter is to set out the relationship between celebrity and privacy in respect of those individuals who choose to share intimate details of their lives on the internet, and explore how the boundary between public and private is in flux. It also considers the impact of direct communication between celebrity and audience as opposed to information filtered through traditional media.

[1] Sugg's Twitter handle is now '@Zoella' but was '@Zozeebo' at the time of this exchange. '@PointlessBlog' is the Twitter handle of Deyes.

## 9.1 Celebrity and the internet

In his report, Leveson LJ noted that the media landscape in 2012 was very different to that of 1990 when Calcutt published his original report and recommendations, especially since the internet did not then exist as a consumer medium. He noted the loss of market share for British newspapers had been exacerbated over the last 20 years by the growth of the internet and the "close to exponential increase in the availability of mixed media services through that medium" (Vol II: 720). Not only has the press lost out in financial terms to the internet where a plethora of news is available at the click of a button, crucially often for free, but social media also has, to some extent at least, cut out the traditional press middle man between celebrities and the public. That is not to say the symbiotic machine comprised of celebrities, public relations staff and managers, and the press no longer exists, but the playing field has changed. 'Traditional' celebrities can directly address their fan bases via their personal social media accounts, and often press stories are constructed using elements from these interactions, relaying rather than producing primary information. Certainly, YouTubers now exist alongside traditional celebrities and the lines between the two groups are becoming increasingly blurred.[2] Discussing the future of public interest journalism in the digital sphere, Barnett (2009) notes the "democratising, citizen-enhancing and empowering content" predicted by digital optimists, content which is realised as celebrity journalism by YouTubers producing content about their own private lives for public consumption.

The relationship between celebrity and the digital world exists against the complexity of privacy as discussed in Chapter Two. Some traditional celebrities shun social media for fear of further exposure. Actor Jennifer Lawrence told Radio 1 presenter Nick Grimshaw "If you ever see a Facebook, Instagram or Twitter that says it's me, it most certainly is not" saying she had been scorned enough by the internet to engage with it on a personal level (Newsbeat, 2014).[3] Fellow actor Daniel Radcliffe told Sky News: "I don't have Twitter and I don't have Facebook and I think that makes things a lot easier because if you go on Twitter and tell everybody what you're doing moment to moment and then claim you want a private life, then

[2] For example, singer Troye Sivan launched a successful international career from his non-music focused YouTube channel. Conversely, Tom Fletcher of the British band McFly found a new audience on YouTube by posting videos of his family life.

[3] Lawrence was referring to private, intimate photographs from her phone published on the internet via a hacking group who similarly exposed a number of female Hollywood actors in 2014.

no one is going to take that request seriously" (Glennie, 2013).[4] Others have used it to fight back against press stories that previously would have been responded to through public relations statements. For example, Lily Allen took on the *Sun* in regards to the story 'Lil Too Much? Lily Allen dramatically collapses at Notting Hill Carnival after drinking and smoking binge' (29 August 2016). She published an email sent to her representatives from an unnamed *Sun* journalist on her Twitter account with the comment: "Truth is I'm just a lightweight, I had 2 cans of strongbow [sic] on an empty stomach. I'm here now and I'm absolutely fine" (Allen, 2016).

However, there is a distinction to be made between celebrities using internet platforms to communicate with the public, as demonstrated by Allen, and the "internet micro-celebrities" who have forged their entire careers through social media, a phrase coined by David Weinberger.[5] He argues that internet fame constructs a more intimate relationship between celebrity and fan, as it fosters more of a personal connection between the one and the few (Hammock, 2008).[6] In Britain, Sugg, Deyes and their counterparts are most certainly at the top of this internet fame pyramid.

In summer 2016, some fans of Sugg and Deyes managed to track them down by information the pair had shared on their respective social media platforms. This caused Deyes to send out tweets begging for their privacy, reporting that some fans had already tried to break into their holiday apartment for photographs (Brooks, 2016). It is not an uncommon situation in the realm of traditional celebrity, with actors, musicians and sportspeople being subject to fans willing to go the extra mile in tracking down their idols but is becoming an increasing issue for YouTubers regarding the value of their privacy in regards to security.

## 9.2 The YouTuber as celebrity

The rise of the YouTube celebrity is a fascinating study in the breakdown of the need for a relationship between the mainstream media and audiences to access stardom. YouTube as platform channels a direct relationship between the star and their audience has been described as "the home of passions" catering to the particulars of viewer:

[4] The reporting of this by the *Daily Mail*, from which this interview is sourced, demonstrates the publication's typical view on celebrity's right to privacy via the headline: "Harry Potter star has little sympathy for celebrities who post updates and then moan about their fame".
[5] Though these two entwined when Allen tweeted in 2014: "i'm watching zoella videos on youtube".
[6] YouTubers further embody the view that King takes on traditional celebrities, that "stars appear as themselves in the sense that each character is posed as a revelation of his or her personal desires" (2010: 14).

> It has content to please the pickiest people - including those who don't watch much TV - and its own celebrities who are redefining what popularity means. In the UK, more young people would rather become a professional vlogger (40 per cent of 16- to 25-year-olds) than a reality TV star (6 per cent) or work in industries such as law or politics (34 per cent). Vloggers such as Zoella or PewDiePie not only have loyal fans who tune in regularly but their audiences are rivalling TV's most popular shows such as The X Factor (Howe, 2015).

In 2014, journalist Amanda Dobbins interviewed four American teenagers to try and understand the appeal of British YouTubers to the younger generation. One subject referred to as 'J' told her: "Once you start watching the videos, you feel included in their lives in a way. You feel like you know them so well, so it's just so entertaining to watch them. They'll kind of videotape everything they're doing" (Dobbins, 2014).

The popularity of 'daily vlogging'[7], where YouTubers film parts of their daily lives while narrating the events to their audience, has gone a long way in furthering the profiles of Sugg and her counterparts. The traditional format for YouTube content was 'main channel videos'[8], where a YouTuber sits down in front of a camera to produce a structured video featuring monthly favourites, topical comedy observations or collaborations with other YouTubers. However, vlogs are more liable to reveal private information about the creator-subjects, including where they live, who their friends and family are and where they are likely to be found in public. Whether overtly or accidentally, it is YouTubers themselves who reveal private information. They have to consider privacy concerns and discuss them directly with their audiences, who often act as mini-detectives, compiling information about YouTubers gleaned from a variety of internet sources. In the most part, the press plays no role in this intrusion, merely reporting on the growing YouTube phenomenon from which they are absent.

While YouTube was once the preserve of viral videos of animals and clips of old television shows, a series of small communities started to emerge on the platform around 2006. There were the 'beauty gurus' who would discuss the latest cosmetic launches, 'gamers' who filmed themselves and their screens while playing computer games and 'pranksters' filming themselves scaring strangers or their unlucky families. The followings of the most popular

[7] 'Vlog' is a blog in which the postings are primarily in video form.
[8] So-called as with the rise of vlogging as a primary format, many YouTubers set up a 'vlogging channel' in addition to their 'main channel', though the forms of filming are now often conflated.

grew exponentially until the fandoms of those with thousands, and then millions of followers could not be ignored by the mainstream media[9]. It is still a relatively unexplored area of academic study.

Gleam Futures, which represents Sugg, Deyes and many of their peers, claims to "develop, monetize and protect" their talent. The company has secured magazine covers, book deals, branded merchandise deals and advertising contracts for their client base[10]. Popular YouTubers have little need for the domestic press, or at least national newspapers, each commanding personal audiences of millions across the globe. Advertisers have been quick to pick up on the advantages of these new 'micro-celebrities' and have been working with individual YouTubers and bloggers on promotional campaigns for years, causing the Advertising Standards Agency to review the disclosure of paid-for material appearing in videos and in blog posts and make a ruling in 2014 on an advertising campaign run by Mondelez UK Ltd (ASA, 2014)[11].

In May 2013, YouTuber and blogger Tanya Burr arranged an unofficial 'meet up' in Covent Garden which had to be shut down after thousands of people turned up to see her.[12] At the time she told the Eastern Daily Press: "It was really crazy. I've had meet-ups before and nowhere near as many people have turned up. I haven't met my subscribers since last summer and thought it'd be nice to meet them – I've got a really good relationship with them and I thought that about 50 to 100 people might come along. When I turned up at Covent Garden, I couldn't believe what I was seeing: there were thousands of people there! I was so flattered and amazed that people had come to meet me but it quickly became clear that we'd have to cut the meeting short because it was getting out of hand" (Briggs, 2013). Burr now has a cosmetic range and two published books, and her husband and fellow YouTuber Jim Chapman has a stationary range carried by retailers including Waterstones and Rymans, a clothing edit with department store John Lewis and is a regular contributor to *GQ* magazine.[13]

[9] In his memoir former *News of the World* reporter Neville Thurlbeck claims to have been ahead of the curve: "Latterly, Twitter and YouTube have also proved excellent as a means of keeping an ear to the ground and weighing up the opinions of the great British public" (2015: 123).
[10]. The advertising world caught on to the potential to reach YouTuber and blogger audiences years ahead of the media.
[11] This ruling and other concerns about ASA requirements caused CAP to issue guidelines stating: "Our work on this issue forms part of a five-year strategy and commitment to proactively identify advertising trends in an evolving media landscape and providing support to advertisers to help them create responsible ads" (CAP, 2015).
[12] At the time, Burr had 800,000 YouTube subscribers but as of August 2016 has over 3,500,000.
[13] This commercialisation not limited to a few. In addition to the examples already listed in this chapter, Sugg featured on the *The Great Comic Relief Bake Off*, in 2015 but British YouTubers Joe Sugg (Zoe Sugg's brother), Marcus Butler, Estee Lalonde and Fleur Westaway have published a graphic novel, appeared on *Celebrity Masterchef* and launched lifestyle books respectively.

In a similar, albeit more planned, event Deyes held a book signing at the Piccadilly Circus branch of bookshop Waterstone's in 2014 that had to be shut down after 8,000 fans turned up. He had to move the event to the ExCel Centre in London (Rockett, 2014). Gleam Futures founder Dominic Smales, who occasionally features in his clients' videos as a background character of sorts, told the *Guardian*: "It was No 1 bestseller for three or four weeks. He had a signing in Piccadilly Circus, and 8,000 teenagers turned up…Waterstones' flagship store had to shut on a Saturday. It was a disaster logistically, but it kind of opened up everybody's eyes [to his level of celebrity]" (Jackson, 2016).

The press commentary on YouTube stars has largely focused on examples like the above, on the huge fandoms they have amassed without using traditional media to attract audiences, although sometimes controversy is reported. Louis Cole, well known for his vlogs documenting his travels around the world on the FunForLouis YouTube channel, fell under criticism in August 2016 as it was claimed his portrayal of North Korea was too positive. This garnered international media attention from *NBC*, the *BBC*, the *Independent*, the *Guardian*, *Le Monde* and *Vanity Fair*. His representatives sent an official statement to the press stating it was not Cole's intention to gloss over the negative issues that plague the country, but notably he was able to issue a full response to his audience in a video uploaded to his YouTube channel. Not only did this reach his audience directly, it was not edited as a right of reply in a newspaper might be, and allowed him to relay considerations over the matter in detailed and nuanced terms.

This is not an isolated incident. Sugg came under fire in 2014 after it was revealed her debut novel *Girl Online* had been, at least in part, ghostwritten by writer Siobhan Curham. Publisher Penguin Random House admitted "to be factually accurate you would need to say Zoe Sugg did not write the book *Girl Online* on her own" and Smales confirmed that "Zoe has editorial consultants help her" (Glass, 2014). The resulting press interest and backlash caused by what many viewers considered to be deception caused Sugg to briefly leave the internet. Though ghostwriting is not unusual for celebrities writing books, the general feeling from critics of Sugg over the incident seemed to stem from her portrayal of the book as being entirely her own creation, which makes sense if the appeal of YouTubers is broken down to one factor: the relatability of the individual to the audience. Becky Sheeran, a former TV presenter with her own channel TalkBeckyTalk, which now has over 150,000 subscribers, explains: "It felt like we were normal girls making videos in their bedrooms…I mean you see all these magazines

with people that I would call a celebrity. I don't think YouTubers see themselves as that, we see ourselves, as a community, which I think is a little different to traditional celebrities". She continues:

> The weirdest thing is when you are walking along the street and someone recognizes you and I forget how much information I say on these videos. I put my family on there, my home on there and that is a great feeling when you get to meet subscribers because that's the best part of doing it but it's also quite weird because you forget that you are telling your life and people know when you are a journalist and reporting on a story, when you are on Youtube you are reporting your life and I think we all definitely forget that that there is a huge audience growing that know you and your personal life. It's definitely strange because I see myself as a normal person in my bedroom making videos (BSI).

It is easy to be dismissive of this celebrity, which appears even further removed from the original hero-myth outlined by Gritten and Rojek, but it necessary to realise the construction of the public and private spheres concerning YouTubers. Lumby (2007) points to the relevance of Reid-Walsh and Mitchell's *Girl Culture* in respect of this construction and its relation to fame.

> Using Foucault's concept of heterotopia, they argue that girl's websites can be understood via the lens of Foucault's discussion of the fifth principle of heterotopia: they are spaces which appear to invite an intimacy which they do not ultimately deliver to the visitor. They conclude that teen girls' home pages occupy a contradictory space, 'a *private* space that exists in an openly public domain [original emphasis]' (Reid-Walsh and Mitchell, 2004: 181)' (2007: 350).

In this vein, Weinberger argues that "Fame is becoming ours; we are making it ours, as we are doing so much else in our culture. Fame now reflects us" (2007). Though the press is still interested in the private lives of these new stars, the popularity of which they are only just getting to grips with, it is the audiences and fans that the celebrities are negotiating with. Though Sugg has been confronted with the actions of the paparazzi, she already shares so many of her candid moments with her fans that she is more likely to be faced with hundreds of screaming fans in the street than hundreds of press photographers. It is more akin to

Beatlemania than the experiences of Sienna Miller or Kate Middleton. As reported in the Telegraph:

> Last year, Zoe was mobbed at a One Direction concert and security had to remove her from the stadium and put her in a room backstage. She suffered a massive panic attack and didn't even make the gig. Despite the experience being unpleasant, she doesn't blame the fans. Hyperfandom is something that's part of being a YouTube star. 'I've never had any terrible situations', Zoe says. 'There are people who have found out where I live and sat outside for hours shouting, or ringing my doorbell – as an anxious person that's not ideal! But, I always know that they've got good intentions and that they're not doing it to be creepy'" (Audley, 2014).

## 9.3 A reasonable expectation of privacy?

Is it reasonable for a YouTuber to expect privacy when they reveal so much of their private lives to their audiences, spanning thousands and in many cases millions of people? Individuals such as Sugg have built a career in public by exposing their own private lives while maintaining privacy. Weinberger (2007) says this points to the complexity of the notions of privacy and publicness:

> It turns out that privacy and publicness do not refer to one's physical circumstances, as if what's done behind a closed door is private and what's done outside is public. Rather, we have quite specific norms and expectations that define the public and private. If you are arguing with your spouse while walking down the street, especially if you are keeping the volume of your voices down, it is a private argument even though it's happening in public. People can't come up to you on the street and take sides. If, however, you're screaming at each other, people may well acknowledge the dispute and tell you to be quieter. If you threaten violence in the course of the yelled argument, people may entirely violate your privacy and take sides. In fact, I hope that they do. Privacy, therefore, isn't a matter of where you are. It's what people are allowed to hear and how they're allowed to interact.

Many of the popular "tag" videos on YouTube, where individuals answer a series of set questions or follow a predetermined format conceived by a peer, involve exposing intimate details. Videos with of this type tend to reveal what a YouTuber carries in their handbag, tours

of their homes, information about their relationships and more recently 'storytime' videos where detailed personal anecdotes are recounted. This format has been adopted by mainstream media in providing more interactive ways for audiences to access celebrity content, one example being *Vogue* magazine's '73 Questions'[14] series, where a camera crew follows a celebrity around their home asking a set of scripted questions designed to appear improvised and elicit candid replies. Although it seems the mainstream media are striving up to catch up with the content of YouTube personalities, magazines such as *Vogue* competitor *Elle* have been running 'In The Closet' features, which bear a striking resemblance to many fashion YouTuber videos. There has always been a desire in celebrity journalism to reveal something more personal, candid and unknown. However, while traditionally it has been the press looking to reveal intimate details about celebrities to the public, in the YouTube world it has become increasingly common for fans, with the help of the content provided by their idols, to become the invaders.

This subject has become heavily debated online, particularly on the websites that have now been set up to specifically discuss news emerging from YouTube controversies. On the issue of fans turning up at the Sugg and Deyes, Brooks (2016) says: "Dealing with the ups and downs of celeb life is part of the journey, even if the pair didn't set out to become worldwide stars. Ever since the concept of celebrities began, the famous crowd have had to accept that whilst amazing things like luxury and money are at their disposal, there's also major downsides which include obsessed fans and a slight lack of privacy. Just like people flock to the hotels where boybands are staying or the Hollywood homes tours, people turning up to try and get a peek of Zoe isn't really any different. As rubbish as it is" .

In a discussion on the appeal of his clients, Smales told the *Telegraph*: "[The fans] feel much closer to the talent than they would to someone like Katy Perry. They feel they can be much more intrusive because they see themselves as friends. Which is true and what's so magical about the relationship, but it feels a bit weird because our talent don't see themselves as being any better, bigger or more famous than the people who are watching" (Marr, 2014). Never before has it been more important to examine identity in the analysis of celebrity as "an image is only meaningful if people or fans are 'hailed' by it; can identify with it; can see themselves in (to) or against it, in some personal, existential or pleasurable way" (Redmond and Holmes, 2007: 257).

[14] The first series can be found here: http://video.vogue.com/series/73-questions.

Sheeran goes further in her explanation of a YouTuber's life-as-career:

> It's 24/7…and it's your entire life. No set hours – you know people say to me 'when are you going to get a real job?' If this is not a real job, I do not want a real job because you are working all hours of the day. I am on my phone at 2am in the morning; I am on my phone when I am at meals, when I am with my family. I am having to upload stuff so you are constantly working and constantly updating and constantly putting your life on the internet. I love what I do so I wouldn't change it for the world but it's definitely a full on thing because you don't clock off. You are always TalkBeckyTalk (BSI).

## 9.4 Fandom invasions and press intrusions

On an episode of the podcast *Shane and Friends* the following conversation took place between American YouTubers Shane Dawson, also the presenter of the podcast, and Jesse Wellens from the channel BFvsGF[15].

*Shane Dawson*: I am so scared of what's next because I feel like the YouTuber is this new thing where it's you make the audience feel like you're their best friend, and it's people who are a little bit socially awkward, and then when they realise that they're not their best friend or you're not in love with them – all these Youtubers are like 'I love you, I love you, buy my book, I love you' and then once the viewer's like 'do you really love me?' and they find out you don't, they're going to snap. And I feel like it's just going to keep happening, especially with how YouTubers are now, they ham it up so much. And then you talk to the Youtuber and they're just like 'oh my fans are so annoying' and if anybody recorded that and played it back, your fans would kill you.

*Jesse Wellens*: I know what you're saying, we as YouTubers break the fourth wall, we look straight into the lens and connect with our viewers, that's why we have such strong engagements as opposed to a Johnny Depp that's just in a movie…it's like a different breed of viewers that we've made.

[15] For reference, Wellens is so well known in the USA that the collapse of his relationship with partner and YouTube channel co-owner Jeana Smith was covered by *People* magazine.

*(Episode 67, Shane and Friends, 1 July 2016)*

Increasingly YouTubers and internet celebrities have become more protective of their privacy and even fearful of their safety, and the safety of their fans. Dawson and Wellens preceded the above conversation with a discussion of the death of Christina Grimmie, a YouTuber who was killed in June 2016. Colleen Ballinger, creator of the popular YouTube character Miranda Sings, made a video apologising for not always being able to meet up with fans after live shows. She explained: "Recently there have been some terrifying things going on in the world […] what happened with Christina Grimmie, she was at a meet-and-great and got shot…I'm in a position where I'm telling people where I am, my exact location, where you can find me, and I get death threats" (Ballinger, 2016).

In 2014, Sugg wrote a blogpost entitled "Ordinary girl in an overwhelming world" in which she said:

> I just want you to know that behind "Zoella" is Zoe, a normal girl, a girl who sometimes falls asleep with her makeup on, or has a panic attack in the airport, who cares what people think of her way too much, who sometimes eats chocolate for breakfast. I often think that a lot of people just expect that the YouTubers they watch or look up to, are used to the commotion, or stopping for pictures when you go shopping, or standing on a stage in front of 5,000 people screaming at you, or accepting an award in wembley stadium in front of 9,000 people ON MY OWN (absolutely terrifying). I can honestly tell you, I still wake up every day and pinch myself and it's not really sunk in. People ask me if i'm a celebrity…and the answer is no. I'm not. I just make videos that lot's of people like to watch. Does that mean that it's okay for groups of girls to sit outside my house and wait for me to leave, or to ring my doorbell multiple times? I'm not sure it does [sic].

Though Sheeran is not open to the same level of intrusion as Sugg and Deyes or Ballinger, she says that this fan interest tends to fall into two categories: that of gradually collecting information on a YouTuber through bits of information gleaned from videos and social media content and being recognised in public. This is not to say necessarily negative but can be disconcerting.

> I am lucky in the sense my sister is very similar to me, so our life is pretty much the same. We share that with our subscribers but the private bits are my family life that are behind closed doors and they get to see bits and bobs, they get to see photos and I occasionally have my mum in a video but there are definitely some things which are best kept private and best kept within a family (BSI).

Though fan invaders can be as intrusive through their physical presence and informational sleuthing as the paparazzi or reporters, they are not operating through press agendas demanded by a proprietor, editor or newsroom culture.[16]

This is not to say that the British press are entirely innocent of privacy intrusion in regard to YouTubers. Two examples of such behaviour pertain to Sugg. The first of these regards the practices of the paparazzi, which have featured in every chapter of Part Three of this thesis. In February 2015, the *Mirror* published the article 'Make-up free Zoella looks almost unrecognisable without her slap on trip to beauty salon' online and in print as a "picture exclusive" (Forrester, 2015). It was a traditional tabloid spread showing a celebrity without makeup on, to reveal their true faces to the world instead of the one presented by celebrity.[17] However, Sugg did and continues to appear without makeup in many of her videos when demonstrating beauty products, or simply filming herself when not wearing it in day-to-day life. There is no true face to reveal in this instance. In March 2016, Sugg published a series of Snapchats describing being followed by a man in a car down into an underground car park: "Turned out it's this guy, who's 'paparazzi', who hangs around outside my house waiting to get photos of me" (Turner, 2016). It is notable that although Sugg has pointed to these two individual examples she has not been subject to the paparazzi hounding described by Sienna Miller, Lily Allen, Cara Delevingne and other traditional celebrities. The desire for pictorial information is greatly reduced, as she provides so much of it herself.

The second example is the revelation of the location of her house. Sugg moved to Brighton in 2014, initially into a rented flat and then into a bought house with Deyes. Though details of

[16]As noted by Henry Jenkins: "Fandom is a dispersed but networked community which does not work through traditional organizations; there are no gatekeepers (and few recordkeepers) in fandom, and the scale of fan production — hundreds of thousands if not millions of new works every year — dwarfs that of commercial publishing" (Owens, 2014).

[17] YouTuber and blogger Gemma Tomlinson (2013) has said: "I suppose the worry I have is that for a whole generation the circling of cellulite by tawdry tabloids, the "shocking" photos of makeup-less celebs, the way mental illness, drug addiction and eating disorders are treated like some kind of media sideshow that we all have to be okay with because someone chose to put themselves "out there", all of this is normal for people who have grown up not knowing a time before the media was quite like this".

both addresses had been shared widely on the internet on online forums such as GuruGossiper, resulting in fans turning up to try and meet Sugg at her home, the sharing of the details of the house on mainstream media websites increased public knowledge of the location. Sugg had played a part in this making the mistake that several YouTubers had before, and accidentally revealed her address to her audience on a parcel label in the background of a video in December 2014 (the video was subsequently deleted and re-uploading without the offending shot).[18] In the run-up to Sugg's appearance on *Comic Relief Bake Off*, the *Daily Mail* ran an article 'The house that 7 million followers on YouTube bought: Video blogging sensation Zoella splashes out on £1m five-bedroom mansion in Brighton' which showed pictures of the house. Deyes has repeatedly stated in videos and on social media that the couple will not meet or having pictures taken with fans who wait for them outside the house. In the video 'Okay, let's talk about it', Deyes addressed his audience on the topic of meeting YouTubers and how to react: "Zoe and I have tons and tons of people outside our house every single day, and that's one place personally that I refuse to meet people because that's where I live, this is my private property, and you can't let people climb over the walls and stuff, it gets crazy" (Deyes, 2016). It is not unusual for celebrities to be protective of their addresses for obvious reasons. Many examples, from the murder of Jill Dando on her doorstep, the stalking incidents experienced by high-profile stars such as Madonna and Brad Pitt, the 'Bling Ring' robberies in the USA, and the action taken by Daniel Craig against the *Mail on Sunday*[19], which bears stark resemblances to Sugg's case, all demonstrate how privacy protection plays a part in insulating the self against targeted criminal behaviour.

In the video, Deyes distinguishes meeting a YouTuber at an event, where fan interaction is expected, and in the street where it may be expected but is not as controlled, explaining: "There are so many of you who watch these videos, who watch YouTube in general now…going out and about…I've gone into the Brighton shopping centre before and been taken out by security from so many of you guys meeting me". It was a clever negotiation, talking directly to his audience and explaining the privacy and safety concerns that come with being a famous face on YouTube without alienating his fans. He did, however, bring into question the nature of YouTube fame inadvertently: "YouTubers are normal people […] It often gets very busy for people in town who make YouTube videos if they have large audiences, just like if someone had a large audience who was a singer or a TV actor or a film

[18] Sugg and Deyes relationship, which they had initially tried to keep private, was revealed in a similar way. In the background of one of Jim Chapman's vlogs, Sugg's laptop screen could be seen containing a photo of the pair on holiday.
[19] Outlined in Chapter Six.

actor". He maintains his reliability to the audience, describing his experience at meeting famous singers at a *Band Aid* event and realising they were "normal people". Youtubers are often at pains to point out they are not famous, they are different from the traditional celebrity, they are just a normal person, sitting in front of a camera.

At the Leveson Inquiry, editors and journalists described the art of revealing the machinations behind the celebrity machine, and explained that not only do celebrities have huge teams of people helping create the image consumed by the public – and therefore it is in the interest of the public to reveal the truth behind this construction – they often create their own privacy invasions by informing paparazzi of their locations or working with journalists to expose information they want in the public domain.

## 9.5 Conclusion

YouTubers, at least those at the level of Sugg, now have the same teams in place as traditional celebrities. As journalist Grace Dent points out: "Many of these oh-so-natural vloggers have an army of staff, a business premises and a honed corporate growth plan, and their videos are little more than sponsored content" (2016). This has even been highlighted by those in the community, with one going so far to say: "The word 'YouTuber' has become so synonymous with money grabbing idiots making 'relatable content' that I no longer like calling myself one" (Hayes, 2016). While true, the popularity of these internet micro-celebrities depends on their level of familiarity and direct relationship to their audiences and the breaking down of the fourth wall between celebrity and fan. This breakdown may contain a level of artifice, particularly in relation to working with advertisers, but is reliant on its appearance of "realness" to have appeal.[20] In the opening to this chapter, Sugg latter puts famous in quotation marks in the Twitter exchange: while she recognises she is, she simultaneously delegitimises the word in relation to herself. She claims not to recognise herself as a celebrity but must acknowledge her status so as not to reject or offend her devoted audience, and affect her influence and or damage her brand.

For Sugg and her contemporaries, privacy concerns and safety have become part of their day-to-day lives. They are unlikely to harness the same restrictions that traditional celebrities

[20] This is something Dent recognises: "But they are very much now. Here is entertainment that is constantly updated, easily shareable, free to subscribe to and which comes with gorgeous open comment boxes so the viewer can interact with the star" (2016).

have used against the press against their own fans in order to retain the strong bond they hold with their audiences. Though they are subject to the same burdens: "being stalked by the paparazzi, pestered by autograph-hunters and taunted by strangers" (Rojek, 2001: 148). The press has become a group of secondary invaders, reduced to lagging behind and commenting on information that has already been revealed by fans.

# CHAPTER TEN – CONCLUSIONS

Newspaper journalism has a unique role in society, even as technology and online media continues to reframe the space in which journalistic material is produced and consumed. Cole and Harcup argue it "still represents more than any other medium the essential of journalism: to find things out and tell others about them; to tell stories in a simple and accessible way; to explain; to root out hypocrisy and corruption among those who wield power,in so many ways, over the rest of us; to right wrongs and campaign; to provide the stuff of everyday conversation; to enrage and enter- tain; to shock and move; to celebrate and condemn" (2010: 14). That is why, though regulation, the law and the production of content continue to diverge, the need to continuously improve the ability to balance the right to privacy against freedom of the press, taking legitimate public interest into account.

At the time of writing, the anonymous privacy injunction resulting from the case *PJS v NGN* still applies, preventing the British press from naming the married celebrity couple anonymised as 'PJS' and 'YMA', with whom the former engaged in sexual activity with individuals anonymised as 'AB' and 'CD'. 'AB' and 'CD' approached the *Sun on Sunday* with the story, but the newspaper was prevented from publication by the injunction. Though the application for the order had been declined in the High Court, the Court of Appeal granted it in January 2016.[1] The newspaper appealed against the decision and was successful in having the injunction lifted on 18 April 2016, as the name of 'PJS' had been published in foreign jurisdictions. However, the case was referred to the Supreme Court four days later and upheld in a judgment handed down on 19 May 2016.[2] Lord Mance noted in the judgment: "There is no public interest (however much it may be of interest to some members of the public) in publishing kiss-and-tell stories or criticisms of private sexual conduct, simply because the persons involved are well-known; and so there is no right to invade privacy by publishing them".

The case is reminiscent of the injunctions of 2011, particularly that of *CTB* in the publication of the identities of 'PJS' and 'YMA' in other countries and on social media, a matter the judges recognised in their judgment stating: "Whatever the decision of the Supreme Court, it will probably give rise to further, entirely legitimate, debate on the value of such injunctions

[1] *PJS v News Group Newspapers Limited [2016] EWCA Civ 100.*
[2] *PJS v News Group Newspapers Limited [2016] UKSC 26.*

in the internet age".[3] Nigel Tait of Carter-Ruck, the firm representing 'PJS' said he would in future seek to obtain superinjunctions for celebrity clients as the internet renders even anonymised injunction useless (Ponsford, 2016). Various media commentators have been quick to jump on the injunction as the continuation of wealthy celebrities suppressing the freedom of the press. One could argue the public interest in privacy matters, as distinct from details of the private lives of others, has diminished since the Leveson Inquiry. The continuing phone hacking trials garner some coverage but not on the scale of the column inches in 2011. Privacy is no longer the hot topic it once was, though is surely of continuing concern to celebrities, the press and legal teams working on both sides. The tort of misuse of private information now exists in common law, but little discussion of 'privacy law through the back door' is heard in the public arena.

That is not to say that the 'dark arts' are no longer in operation. The *Sun* ran the story 'Paul Gascoigne new low as he exposes himself in the street on the hunt for more booze' in July 2016, featuring photographs of the former footballer in the street. The sister of Paul Gascoigne accused tabloid journalists of leaving bottles of alcohol on the doorstep of the former footballer to lure him out for pictures, which the newspaper denied (Goodfellow, 2016).

The academic literature on the right to privacy of individuals seemed to split in the 2000s between those concerned with intrusions by the state, those concerned with interventions by third parties such as social media sites and web companies holding personal data and those concerned with intrusions by the press, or those working with members of the media. But now those streams are converging together. With so many people across the world self-publishing private information about themselves and others every day, the boundaries between the invaders and the invaded are more blurred than ever before.

Similarly, though unwanted press intrusion into the private lives of celebrities reached a peak in the same decade, with the use of phone hacking, blagging and overt or surreptitious paparazzi snaps to draw back the curtain on the private lives of those in the public eye, there is now more self-published material by celebrities than ever before online, to the extent that celebrity is being created by living lives online as demonstrated in Chapter Nine. Do celebrities now command more control over their private lives with the ability to directly communicate with audiences of millions rather than relying on journalists interpreting their

[3] *PJS v NGN [2016] UKSC 26.*

words? While initially control-based definitions of privacy seemed too restrictive for this research[4], it is through the desire and ability to control the perception of the self that informs the way celebrities interact with fans through social media. A celebrity can now correct an alleged misquote, challenge the method by which an unflattering image has been obtained or directly attack the press: there is a new level of intimacy between celebrities and the general public that the media is always seeking to replicate through social media platforms.

To return to the main research question, the element of celebrity in regards to the human subject of press intrusion is relevant. From the Royal family to Sienna Miller, an actor about whom no one knew much until the way she dressed and her choice of partner made her fascinating to the public, to Tinglan Hong, Mary-Ellen Field and HJK who became of interest by association to celebrity to Chris Jefferies and Rebecca Leighton who came to understand how criminality can function as a form of celebrity. The destruction of Chris Jefferies's reputation was a by-product of the interest in the murder of Joanna Yeates. Though definitions of the public interest are numerous, what the public are interested in is both created and satisfied by the media. Marshall best describes this as "celebrities, via journalistic reportage…become the effective conduit for discourses about the personal" (2005: 27).

## 10.1 Overall conclusions

### 10.1.1 The element of celebrity has a major impact on press intrusion into the private lives of individuals, regardless of their personal status

Though some have argued that extent of press intrusion into private lives, particularly in relation to Operation Motorman and phone hacking at NGN and MGN titles, shows little regard for the status of the individual, the enormous majority of victims known were targeted because of their status, relationship to a celebrity, or because they might have access to information pertaining to a celebrity.

In relation to the case studies examined in this research, the conclusions to each of the chapters of Part Three serve to answer the supplementary research questions but are condensed below.

[4]See Chapter Two.

a) Royalty operates as a heightened state of celebrity, which has historically resulted in press intrusion into privacy to a greater extent than that of 'traditional' celebrities. Regarding public interest reporting, as a result of operating as a 'private family in public' and given their role in public life, they are arguably closer regarding proper scrutiny. However, particular royals such as Diana and Kate have gained a status more akin to Grace Kelly, a beloved star in Hollywood before she married into royalty. The impact of the death of Diana on the Royal Family and the press's reputation in relation to this has resulted in greater control of the private lives of the Duke and Duchess of Cambridge since their wedding in 2011, particularly in respect of their children.

b) The power of the photographic image in representing celebrity has resulted in an increasingly competitive market, and so the paparazzi are a major contributor to press intrusion both regarding physical presence and invasion of privacy following publication. There has been a historic failure of historic press regulators to efficiently control the paparazzi, particularly given the inclusion of freelance photography and its transcendence of geographic boundaries. The term "stalkerazzi" employed by a representative of the BPPA shows how the Protection from Harassment Act 1997 has been effectively employed by celebrities to allow participation in public life. Though the British press claim to be acting responsibly regarding using paparazzi images, sometimes the story or the status of a celebrity transcends the fear of regulation, and only legal redress can be used to effectively prohibit egregious intrusions.

c) As previously stated, though celebrity is the common denominator in the majority of press intrusion into the private lives of individuals, the effects on those associated with them manifest across all areas of personhood and wellbeing, including health, professional life and in respect of personal relationships, most notably the fostering of distrust between friends, family members and associates. Many victims of phone hacking were only targeted because of their relationships with celebrities and other public figures, but particularly those who were considered implicit in salacious incidents involving personal relationships. Though Leveson LJ points to the diversity

of these targets, those who weren't in the public eye were chosen because of the element of high-profile cases, which arguably constitutes as a site of celebrity in its own right.

d) In line with the above, high profile crime cases make celebrities of their victims, be they the victims of the crimes committed or those wrongly accused of involvement. The impact of being thrust into the public eye in these terms, paired with the mining of private lives for information for the narrative of a crime case is devastating on individual reputations and the experiences of friends and family. The responsibility for examples where this has gone too far is variably laid at the feet of the press, the police and the public. The common denominator is the thirst for information, be it the police needing it to solve cases, the public wanting to know intimate details, and the press presenting individuals as characters to satisfy a desire for narrative. The relationship between the press and the police resulted in a series of recommendations in the Leveson Report and has come under review by the police's own regulators. However, it remains to be seen how the press will act in another high profile case of this nature, and how the press regulator or regulators will act in the instance.

### 10.1.2 The symbiotic relationship between celebrities and the press transcends regulation

As outlined in the introduction to this chapter, a control-based definition of privacy is the best way to understand the unique relationship between celebrity and the press and the impact that the element has on privacy intrusions by the press.

#### 10.1.2a Fame tax

The “fame tax” that actor Simon Pegg (2011) describes in the first lines of this research is attributed to all celebrities in varying degrees, and while individual stances are taken into consideration by the courts in deciding privacy cases, most celebrities enjoy the benefits of fame, be it money, power and influence, the ability to interact with elites from various spheres of public life, garnering the adoration of a fan base or being able to choose career projects at their own leisure. There are those who shun the limelight but accept that engaging in publicity ensures the success of projects they have a financial or philanthropic stake in, be it a film or

album, a charity endeavour or supporting a political party. In 2013, Benedict Cumberbatch held up a sign to paparazzi hoping to snap a picture of the actor on the set of television show *Sherlock*, which read: "Go photograph Egypt and show the world something important". In 2014, actors Andrew Garfield and Emma Stone emerged from a restaurant bearing handwritten signs: "We don't need the attention, but these organisations do" and listed a series of charities. Journalists and editors when defending privacy intrusions by their industry often argue the benefits that celebrities enjoy by way of their public profiles, though this is just the superficial layer of this symbiosis.

10.1.2b Exposure as control

Without legitimising allegations that have gone unproved, it should be noted that the complicity of celebrities and their representatives in the leaking of their own private information is alleged by many of journalists and editors used as secondary sources in this research. The Leveson Inquiry and Report drew clear lines between the interconnected relationships between the press, the police and politicians but did not thoroughly examine the effect of the public relations professionals, managers and agents had on the presentation of a celebrity to the public. In many cases, this has been a last resort for celebrities who would wish to keep aspects of their private life out of the press.

In the case of *Douglas v Hello!* the actors argued that they had sold the rights to their wedding to *OK!* in order to control the information revealed about what they considered a private affair due to the intense public interest in the couple at the time. Andrew Morton wrote the biographies of Princess Diana and Monica Lewinsky in conjunction with the respective subjects to allow them to have a singular voice in the public sphere of opinion about them, which required them to put more private information into the public domain. The Duke and Duchess of Cambridge recognise that the public is interested in pictures of their children, and so as with generations of the Royal Family before them, provides those pictures on their terms.

The extent to which a celebrity draws back the curtain on their own life is always taken into account by the British courts in relation to privacy intrusion by the press, but in terms of press practice the argument is usually made by defenders that any celebrity making money from being in the public eye is fair game. *Beyond Contempt* exemplifies this in relation to the phone hacking trials:

> Langdale's cross-examination of [Calum] Best was indicative of the defence's strategy when it came to several phone hacking victims who sought favourable publicity but reviled the negative. 'You wouldn't have appeared on Celebrity Love Island if the press hadn't been interested in your personal life, and personal relationships,' Langdale said to Best, following up with a final rhetorical question that seemed to answer itself: 'Some media intrusion you have actively encouraged yourself?' […] The implication was clear. If celebrities complained about the papers making money out of their stories, they were still the beneficiaries of the eco-system when it suited them (Jukes, 2014: 57).

However, the relationship between celebrities and the exposure of their private lives is often more oblique than realised by the public, which is then used by the press as a justification for similar individuals regardless of their own practice in this respect.

#### 10.1.2c Journalists as celebrities

The appearance of celebrities at the Leveson Inquiry caused huge media interest, as discussed in the previous chapters. A similar level of interest was afforded to political elites like as David Cameron and Tony Blair. But no one gave the air of celebrity like Piers Morgan, former editor of the *News of the World* and the *Mirror*, who appeared via video link from New York with copies of his book carefully placed in shot along with two bottles of Evian water, causing speculation in the RCJ press annex and on social media that he had been sponsored by the brand knowing his appearance would draw a large audience. By its nature journalism is part of the all-encompassing celebrity system in its own power hierarchies (Critcher, 2005) and Morgan is perhaps the most apparent realisation of this fact. His interactions with politicians and celebrities are documented throughout his writing, both in *The Insider* and his journalism. He is as much of a celebrity as many of the famous faces he exposed as a tabloid editor or interviewed as a television personality[5]. The other current and former editors of Fleet Street who appeared before the Leveson Inquiry drew crowds due to their notoriety and reluctance to appear in public, namely Paul Dacre.

In addition, Rebekah Brooks became of particular interest to the media following her arrests. One of the major news stories emerging from the phone hacking trials of 2012 and 2013 was

[5] Frith describes him at the British Society of Magazine Editors Awards in 2005 as "now a celebrity rather than someone who writes about celebrities after the huge success of his books" (2008: 218).

the revelation of an unsent love letter written by Rebekah Brooks to Andy Coulson, discovered on her computer during police investigations at her home. It was used in court as evidence of the close relationship between the two, who had an on-off romantic affair for several years, and thus proof that Brooks had likely known about phone hacking at the *News of the World* under Coulson's editorship[6]. Like Morgan, she was also part of an elite group, regularly socialising with politicians and celebrities. Her relationships with Tony Blair, David Cameron and Jeremy Clarkson were indicative of the intrinsic connection between the press, politicians and public figures.

### 10.1.3 A new generation of celebrities as privacy invaders

The notion that celebrities are a site of cultural discourse on the private relies on the premise that what the public understands about the private lives of celebrities is true. Celebrity magazines like *Heat* began to amass popularity in the 2000s because they presented a different insight into celebrity life. Former *Heat* editor Frith said 2000 saw a sea change in the British public's approach to celebrity news: "Quotes given when celebs are not on their guard or don't have PRs breathing down their necks is what we want…readers want their magazines fast, pacey and unapproved now – they don't want retouched photos and bland copy-approved interviews anymore. They don't believe them" (2008: 39). His successor Lucie Cave told the Leveson Inquiry: "We like to peel back the curtain to how the celebrity machine works".[7]

Though celebrity magazines rose in circulation in the 2000s, the development of online social media platforms has had two major effects on celebrity and privacy: 1) Celebrities are now able to self-publish private information by way of written words, pictures and videos online, and conversely have private information shared by others in the same via the same formats and means; and 2) social media platforms have created a whole new breed of celebrity, the internet 'micro-celebrity' whose entire appeal extends from them being relatable private individuals who share their lives with their audiences through vlogs and social media. The issues with regulation regarding the latter, particularly YouTubers, have so far been in relation to advertising standards and their terms of agreement with the platform in regards to content. No greater example of the celebrity as privacy invader is exists than that of YouTubers.

[6] "In the first of many ironies at the trial, Brooks and Coulson's barristers wanted the love letter excluded from the case because its disclosure would harm or breach their human rights, namely the right to privacy" (Jukes, 2014: 25).

[7] Leveson Inquiry, morning hearing, 18 January 2012, p.20 (lines 23-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/01/Transcript-of-Morning-Hearing-18-January-2012.pdf.

### 10.1.4 The Leveson Inquiry was more useful in revealing the extent and nature of privacy invasions than recommending adequate redress

The Leveson Report set out a recommended model for a press regulator to succeed the Press Complaints Commission: an independent self-regulatory system with a statutory underpinning. Given the evidence the judge had heard, and the proposed regulatory models put forward by interested parties it was not a surprise, and yet neither was the outcry from the press and the reluctance from politicians to enact any legal restrictions on the press in this way. Leveson LJ completed the task he was given but his regulatory recommendations have come up against many obstacles. As noted by Fielden (2012), the inquiry provided an opportunity for the establishment of an incentivised model, providing the state of regulation with legal, commercial, and ethical value. Working in a hostile media environment against a multitude of political interests and concerns, some have referred to the Leveson Inquiry as a failure. However, it is true to say the improved state of press regulation, though not in line with Leveson's ideal scenario, has led to the creation of two new regulators, IMPRESS and IPSO, and the Crime and Courts Act (2013).

The judge anticipated the challenges of such recommendations in the hearing of Tony Blair's evidence when he told the former Prime Minister: "The reaction to the whole Inquiry has been itself illuminative. In part, aggressively defensive of the media's position; in other parts, recognising that something else has to change. I hope that the press will work with a solution rather than against a solution, by recognising that the last thing I want to do is to imperil freedom of speech or a free press…but to get a solution that will work, and that is sensible most certainly is".[8]

However, though many would already resign the events in Court 73 to another failed attempt to alter the culture, practice and ethics of the press the evidence heard before the inquiry is of profound significance for the three reasons outlined in the introduction to this research: 1) The proceedings of the inquiry were live streamed, allowing access to the hearings by anyone with a computer and internet connection, 2) the media reporting on the inquiry was extensive if selective and in many cases biased for obvious reasons and 3) a vast amount of information on the inner workings of the British press, police and political system was made public, some

[8] Leveson Inquiry, afternoon hearing, 18 May 2012, p.45 (lines 13-25). Available at: http://www.levesoninquiry.org.uk/wp-content/uploads/2012/05/Transcript-of-Afternoon-Hearing-28-May-2012.pdf .

of which for the first time. I believe the value of this information and the archive of evidence submitted to the inquiry cannot be overstated, and the true success of the inquiry lies in the accumulation of this data and not in the final report or the recommendations. Many of the CPVs I spoke to formally and informally felt secure that Leveson LJ would uphold his end of the bargain, but the press and politicians failed to properly implement his recommendations for various reasons of self-interest. Ironically, it was the further exposure of private information made possible by the Inquiry that led to its success as a body of evidence, but failed to adequately address the concerns of those who had put themselves forward.[9]

## 10.2 Future research opportunities

### 10.2.1 Leveson Part 2

The Leveson Inquiry as we know it was only Part 1 of what was intended to be a two-part inquiry. As the inquiry website archive continues to state: "Part 2 of the Inquiry cannot commence until the current police investigations and any subsequent criminal proceedings have been completed". Even if the legal actions against publishers are resolved in the near future it is unlikely that we will see a true 'Leveson Part 2', firstly because public interest in the dark arts of the press has subsided from the heat and controversy of 2011-2012, and secondly the Prime Minister who called for the inquiry has stepped down and been replaced. However, there is certainly scope for research investigating the likelihood of a formation of the second part of the inquiry, how it could work in a post-Leveson Part 1 media landscape and how and why the police and legal resources have been exhausted.

### 10.2.2 The future of press regulation

From 12 September 2016 the Independent Press Standards Organisation will have been in place for two years. The Culture, Media and Sports Committee are to take evidence on the position of the regulator from Sir Alan Moses, the IPSO Chairman, and Matt Tee, the Chief Executive as well as from the Press Recognition Panel and Impress. The evidence and findings from this inquiry will be enlightening as views on the effectiveness of IPSO have been contested by Hacked Off and a comparative study could be conducted into the relationship between the Calcutt Report and Review, and the Leveson Report and this inquiry.

[9] Thurlbeck, a notable opponent of statutory regulation, who holds himself up as an example of the effectiveness of the law in controlling illegal press activity, says he failed to fully expose the extent of the relationships between the press and politicians and will "never change the political beast and the Fleet Street jungle" (2014: 158).

### 10.2.3 Press photography regulation

The one factor that each research chapter in this thesis shares is the description and examination of paparazzi intrusion. It is clear that from the Royal Family to Sienna Miller to contemporary examples such as Cara Delevingne that some paparazzi will do anything for the right photograph. Though the British press claimed at Leveson to take strong lines on whether or not photographs were obtained in a climate of harassment, the internet has provided a market that transcends geographical borders and thus regulatory and legal jurisdictions. I believe there are many avenues to explore in this area. As discussed in Chapter Six, the registry that Leveson pondered for picture desks and photography agencies was never realised. I propose a useful study could be conducted into the practices of national newsroom picture desks, along with those of British celebrity magazines, to understand how photographs are vetted and if practices are consistent with descriptions given at the Leveson Inquiry. There is also scope to conduct international research into freelance photographers and agencies in Europe and the USA to examine practice and the marketplace in the field.

## 10. 3 Final thoughts

Leveson LJ: Mr Paxman, I am entirely cognisant of the problem and have said on more than one occasion during the course of this Inquiry that the one thing I am determined not to do is to produce a document which simply sits on the second shelf of a professor of journalism's study for him to discuss with his students as yet another attempt that went nowhere.

Jeremy Paxman: Yes. As high as the second shelf, eh?

**(***Leveson Inquiry, 23 May 2012)*

Though one would expect a level of insight from veteran political journalist and broadcaster Jeremy Paxman into the potential successes and failures of Leveson's endeavour, his comment was tinged with the unmistakable cynicism of many of his media counterparts, a cynicism which was not necessarily warranted in 2012. The British public was outraged at the public figures of the press, rather than lambasting a public figure whose wrongdoings or indiscretions were presented in the press.

The problem posed by the dichotomy at the heart of academic discourse on celebrity and privacy concerns at play is unsolvable. On the one hand, the ability of an individual to protect oneself and one's family from press harassment offers a respite from public life, irrespective of the public profile. However, the socio-historical context of British press practice and the numerous calls from politicians, judges and victims to reform systems to prevent malpractice do not alter the fundamental fact that celebrities are the hosts of our private and public debates.

# BIBLIOGRAPHY


Advertising Standards Agency. (2014). ASA Ruling on Mondelez UK Ltd. Retrieved from: https://www.asa.org.uk/Rulings/Adjudications/2014/11/Mondelez-UK-Ltd/SHP_ADJ_275018.aspx#.V9b6n5MrJxg [Accessed: 17/3/15].

Allen, A. (1988). *Uneasy Access: Privacy for Women in a Free Society*. New Jersey: Rowman & Littlefield.

Allen, L. [@lilyallen] (2014, 8 May). i'm watching zoella videos on youtube [Tweet]. Retrieved from: https://twitter.com/lilyallen/status/464415781430648832 [Accessed: 18/3/15].

(2016, 28 August). Truth is I'm just a lightweight, I had 2 cans of strongbow on an empty stomach. I'm here now and I'm absolutely fine [Tweet]. Retrieved from: https://twitter.com/lilyallen/status/770305659288059904 [Accessed: 28/8/16].

Akbar, A. (2009, 28 March). Lily Allen admits: 'I feel like a caged animal'. *Independent*. Retrieved from: http://www.independent.co.uk/arts-entertainment/music/news/lily-allen-admits-i-feel-like-a-caged-animal-1656029.html [Accessed: 2/2/11].

Atkinson, P. and Silverman, D. (1997). Kundera's Immortality: The interview society and the invention of the self. *Qualitative Inquiry* (3): pp304-325.

Audley, A. (2014, 20 October). Zoella IS a great role model. *Telegraph*. Retrieved from: http://www.telegraph.co.uk/technology/social-media/11175254/Zoella-IS-a-great-role-model.html [Accessed: 18/3/15].

Balakrishnan, A. (2008, 7 April). The press pack that chased Diana. *Guardian*. Retrieved from: https://www.theguardian.com/uk/2008/apr/07/paparazzi [Accessed 2/2/11].

Ballinger, C. [ColleenVlogs]. (2016, 11 July). Why I don't say hi to fans [YouTube video]. Retrieved from: https://www.youtube.com/watch?v=QtgwAoHawa8 [Accessed 11/7/16].

Bamber, D. and Brown, C. (2003, 8 June). Cox victory paves the way for showbiz war on tabloids. *Telegraph*. Retrieved from:

http://www.telegraph.co.uk/news/uknews/1432321/Cox-victory-paves-the-way-for-showbiz-war-on-tabloids.html [Accessed: 2/2/11].

Baxter, S. (2012, 17 March). Chris Jefferies: Only press fines can prevent trial by media. *New Statesman.* Retrieved from: http://www.newstatesman.com/blogs/steven-baxter/2012/03/press-jefferies-journalism [Accessed: 18/3/12].

BBC Newsbeat. (2013, November 11). Jennifer Lawrence: The internet has scorned me so much. Retrieved from: http://www.bbc.co.uk/newsbeat/article/30000181/jennifer-lawrence-the-internet-has-scorned-me-so-much [Accessed: 17/3/15].

BBC Online. (2003, 7 June). Cox privacy case 'a watershed'. Retrieved from: http://news.bbc.co.uk/1/hi/uk/2971330.stm [Accessed: 2/2/11].

(2005, 9 November). 1993: Diana sues over gym photos. Retrieved from: http://news.bbc.co.uk/onthisday/hi/dates/stories/november/9/newsid_2515000/2515739.stm [Accessed: 2/2/11]

(2008, 18 January). Miller wins nude photographs case. Retrieved from: http://news.bbc.co.uk/1/hi/entertainment/7195605.stm [Accessed: 5/2/11].

(2011, 7 April). Kate Middleton's family raise photo concerns with PCC. Retrieved from: http://www.bbc.co.uk/news/uk-12999453 [Accessed: 18/10/11].

(2011, 10 May). Middleton family complains to PCC over bikini snaps. Retrieved from: http://www.bbc.co.uk/news/uk-13352580 [Accessed: 18/10/11].

(2011, 6 September). Middleton family photos removed from newspaper websites. Retrieved from: http://www.bbc.co.uk/news/uk-14804731 [Accessed: 18/10/11].

(2013, 16 September). Christopher Jefferies told 'sorry' by police over arrest distress. Retrieved from: http://www.bbc.co.uk/news/uk-england-bristol-24104834 [Accessed: 16/9/13].

(2014, 13 June). Former Stepping Hill nurse Rebecca Leighton wins police payout. Retrieved from:

http://www.bbc.co.uk/news/uk-england-manchester-27839522 [Accessed: 13/6/14].

Barnes, R. (2006). The Caroline Verdict: Protecting Individual Privacy Against Media Invasions as a Matter of Human Rights. *Penn State Law Review*, 110 (3): pp599-614.

(2010). *Outrageous Invasions: Celebrities' Private Lives, Media and the Law*. Oxford: Oxford University Press.

Barnett, S. (2013). 'Leveson Past, Present and Future: The Politics of Press Regulation', *The Political Quarterly* (84, 3): pp353-361

(2009). *Journalism, Democracy and the Public Interest: rethinking media pluralism for the Digital Age*. Oxford: Reuters Institute for the Study of Journalism.

Bartow, A. (2006). A Feeling of Unease About Privacy Law. *University of Pennsylvania Law Review* (154): pp52-62.

Billig, M. (1992). *Talking of the Royal Family*. London: Routledge.

Bindmans. (2012, 19 January). Victory for phone hacking claimants as News Group Newspapers back down on the eve of trial. Retrieved from: https://www.bindmans.com/news/victory-for-phone-hacking-claimants-as-news-group-newspapers-back-down [Accessed: 19/1/12].

Bingham, T. (2010). *The Rule of Law.* London: Penguin.

Bird, S. and O'Neill, S. (2008, 26 February). Violent woman-hater Levi Bellfield is main Milly Dowler murder suspect. *Times*. Retrieved from: http://www.thetimes.co.uk/tto/news/uk/crime/article1873969.ece [Accessed: 16/9/13].

Borer, M. (2006, 11 August). Interviewing Celebrities: Strategies for Getting Beyond the Sound Bite. *American Sociological Association*. Montreal: Canada.

Bowen, G. (2009). 'Document Analysis as a Qualitative Research Method. *Qualitative Research Journal,* (9: 2): pp: 27-40.

Briggs, S. (2013, 31 May). How Norfolk's YouTube sensation Tanya Burr caused chaos in London's Covent Garden. *Eastern Daily Press.* Retrieved from: http://www.edp24.co.uk/news/how_norfolk_s_youtube_sensation_tanya_burr_caused_chaos_in_london_s_covent_garden_1_2217174 [Accessed: 1/4/2013].

Brooke, H. (2009, 15 May). Public interest of public curiosity? *BBC News Magazine.* Retrieved from: http://news.bbc.co.uk/1/hi/magazine/8051577.stm [Accessed 30/05/11].

Brooks, H. (2016, 8 January). Zoe and Alfie now have a major security issue. *We The Unicorns.* Retrieved from: http://www.wetheunicorns.com/debate/zoella-house/#7W81AAmOX7hE5u96.99 [Accessed: 8/8/16].

(2016, 27 June). Zalfie Ask For Privacy On Holiday After Fans Track Down Their Hotel. *We The Unicorns.* Retrieved from: http://www.wetheunicorns.com/news/zalfie-privacy-holiday-zoella-alfie-twitter/#pfXFdDHkTVsimHWF.99 [Accessed: 8/8/16].

Brown, M. (1993, 15 January). The Calcutt Report: Review seeks tribunal with powers to curb press: The details of the report. *Independent*. Retrieved from: http://www.independent.co.uk/news/uk/the-calcutt-report-review-seeks-tribunal-with-powers-to-curb-press-the-details-of-the-report-1478555.html [24/3/12].

Burden, P. (2008). *Fake Sheiks and Royal Trappings.* London: Eye Books.

Burrell, I. (2004, 27 April). On the other side of the lens. *Independent*. Retrieved from: http://www.independent.co.uk/news/media/on-the-other-side-of-the-lens-561334.html [Accessed 2/2/11].

Committees of Advertising Practice. (2015). https://www.cap.org.uk/News reports/Media-Centre/2015/Insight-New-vlogging-advertising-guidance.aspx#.V9b6kpMrJxg [Accessed: 17/3/15].

Calcutt, D. (1990). *Report of the Committee on Privacy and Related Matters*, Cm 1102.

(1993). *Review of Press Regulation*, Cm 2135.

Carvajal, D. (2004, 10 October). For the famous, "Privacy" Even in Plain Sight. *New York Times*. Retrived from: http://www.nytimes.com/2004/10/10/weekinreview/10carv.html [Accessed: 11/12/10].

Cathcart, B. (2011, 8 October). The ordeal of Christopher Jefferies. *Financial Times*. Retrieved from:

http://www.ft.com/cms/s/2/22eac290-eee2-11e0-959a-00144feab49a.html [Accessed: 8/10/11].

(2012). *Everybody's Hacked Off*, London: Penguin.

Cockerton, P. (2013, 25 April). Kate Middleton topless pictures: Two charged after pictures of sunbathing Duchess published. *Mirror.* Retrieved from: http://www.mirror.co.uk/news/world-news/kate-middleton-topless-pictures-two-1851681 [Accessed: 17/8/13].

Cohen, C. (2006) Critical readings : moral panics and the media Maidenhead: Open University Press, 2006.

Cohen, L., Manion, L., and Morrison, K. (2000). *Research Methods in Education.* 5th edition. Falmer: Routledge.

Cole, P., and Harcup, T. (2010) *Newspaper journalism*. London: Sage.

Select Committee on Communications. (2013, 27 March). Media convergence. Second Report of Session 2012–13. Retrieved from: https://publications.parliament.uk/pa/ld201213/ldselect/ldcomuni/154/154.pdf.

Corner, N. (2016, 24 March). After Zoella complains about privacy, vlogger boyfriend Alfie Deyes admits he 'encourages' people to visit their home. *Mirror.* Retrieved from: http://www.mirror.co.uk/tv/tv-news/after-zoella-complains-privacy-vlogger-7620388 [24/3/16].

Chung, A. (2009). Rethinking Public Privacy in the Internet Era: A Study of Virtual Persecution by the Internet Crowd. *Journal of Media Law* (2): pp191-217.

Churchward, P. (Director). (2009). Episode #13.5 [Series 13, Episode 5]. Wilman, C. (Executive Producer). *Top Gear*. London, British Broadcasting Corporation (BBC).

Critcher, C. (2005). Mighty dread: Journalism and moral panics. Allen, S. (ed). *Journalism: Critical Issues*. Berkshire: Open University Press, pp177-187.

Culture, Media and Sport Select Committee. (2010, 24 February). Press standards, privacy and libel. Second Report of Session 2009–10, Volume I. Retrieved from: https://www.publications.parliament.uk/pa/cm200910/cmselect/cmcumeds/362/362i.pdf.

(2010, 24 February). Press standards, privacy and libel. Second Report of Session 2009–10, Volume II. Retrieved from:

http://www.publications.parliament.uk/pa/cm200910/cmselect/cmcumeds/362/362ii.pdf

(2012, 1 May). News International and Phone-hacking. Eleventh Report of Session 2010-2012, Volume I. Retrieved from: http://www.publications.parliament.uk/pa/cm201012/cmselect/cmcumeds/903/903i.pdf

(2012, 1 May). News International and Phone-hacking. Eleventh Report of Session 2010-2012, Volume II. Retrieved from: http://www.publications.parliament.uk/pa/cm201012/cmselect/cmcumeds/903/903ii.pdf

Cusick, J. (2014, 27 January). I hacked 200 phones for NOTW, says ex-reporter Dan Evans. *Independent*. Retrieved from: http://www.independent.co.uk/news/uk/crime/i-hacked-200-phones-for-notw-says-ex-reporter-dan-evans-9088795.html [Accessed 27/1/14].

Daily Mail. (2007, 26 January). 'I'm only famous for my romance with Jude not my films' says Sienna. Retrieved from: http://www.dailymail.co.uk/tvshowbiz/article-431506/Im-famous-romance-Jude-films--says-Sienna.html#ixzz1N7dDTvga [Accessed: 8/6/11].

Davies, C. (2007, 29 March). Middleton complains to PCC over photo. *Telegraph*. Retrieved from: http://www.telegraph.co.uk/news/uknews/1546992/Middleton-complains-to-PCC-over-photo.html [Accessed: 18/10/11].

(2011, 6 May). Royal wedding: one week on, royals revel in flawless PR performance. *Guardian.* Retrieved from: https://www.theguardian.com/uk/2011/may/06/royal-wedding-one-week-on [Accessed: 6/5/11].

Davies, N. (2008). *Flat Earth News* London: Vintage.

(2009, 8 July). Murdoch papers paid £1m to gag phone-hacking victims. *Guardian*. Retrieved from: https://www.theguardian.com/media/2009/jul/08/murdoch-papers-phone-hacking

(2011, 27 January). News of the World faces new allegation of phone hacking within last year. Retrieved from: https://www.theguardian.com/media/2011/jan/27/phone-hacking-kelly-hoppen-sues

Davies, N and Evans, R. (2010, 9 March). Max Clifford drops News of the World phone hacking action in £1m deal. Retrieved from:

https://www.theguardian.com/media/2010/mar/09/clifford-news-of-the-world-phone-hacking

Delevingne, C. [@caradelevingne] (2014, 14 March). It scares me because they act like they're assassins with there telescope lenses, hiding in bushes or whatever they can find [Tweet]. Retrieved from: https://twitter.com/caradelevingne/status/450697245332348930

(2015, 22 September). Ha! Who needs privacy anyway? [Tweet]. Availavle at: https://twitter.com/Caradelevingne/status/646448115071844352

(2016, 11 February).. My new aim is to be in control of my face! Sounds strange I know [Tweet]. Retrieved from: https://twitter.com/Caradelevingne/status/697734075302293504.

(2016, 11 February).. That's doesn't mean I will stop making faces but it means I will not let paps get a picture unless I want them to. Which is mostly never [Tweet]. Retrieved from: https://twitter.com/caradelevingne/status/697734358476525568.

Department for Culture, Media and Sport. (2013). *Connectivity, Content and Consumers: Britain's digital platform for growth.*

Dessau, B. (2014, 26 February). Review: Inside No 9: The Last Gasp, BBC2. *BeyondTheJoke.co.uk*. Retrieved from: http://www.beyondthejoke.co.uk/content/review-inside-no-9-last-gasp-bbc2 [Accessed: 28/2/14].

Deyes, A. [PointlessBlogVlogs] (2016, 2 September). Okay, let's talk about it. [YouTube video]. Retrieved from: https://www.youtube.com/watch?v=LwtUfy2lXOo [Accessed 02/09/2016].

Dent, G. (2016, 22 February). Not even Simon Cowell can compete with Zoella unpacking a Boots carrier bag. *Independent*. Retrieved from: http://www.independent.co.uk/voices/not-even-simon-cowell-can-compete-with-videos-of-vloggers-shopping-at-boots-a6889906.html

Denzin, N. (1978). *The research act: A theoretical introduction to sociological methods*, New York: McGraw-Hill.

(2001). 'The reflexive interview and a performative social science', *Qualitative Research*, (1,1): pp23-46.

Dickson, A. (2011, 8 March). Sienna Miller: 'I've bought my freedom'. *Guardian* Retrieved from: http://www.guardian.co.uk/stage/2011/mar/08/sienna-miller-flare-path [Accessed 02/05/2011].

Dillard, A. (1982). *Living by Fiction*, New York: Harper and Row.

Dobbins, A. (2014, 21 April). Why Do People Care? *New York Times*. Retrieved from: http://nymag.com/news/media/internet-fame/teens-on-british-youtube-2014-4/ [Accessed 12/5/16].

Dubied, A. and Hanitzsch, T. (2013). 'Studying celebrity news'. *Journalism* (5,2): pp.137-143.

Dyer, R. (1986). *Heavenly Bodies: Film Stars and Society*. London: BFI.

(1998). *Stars* [with a supplementary chapter and bibliography by Paul McDonald]. London: BFI.

Eaton, G. (2011, 29 July). Chris Jefferies receives libel damages from eight newspapers. *New Statesman.* Retrieved from: http://www.newstatesman.com/blogs/the-staggers/2011/07/jefferies-newspapers-damages [Accessed 29/7/11].

Economist, The. (2005, 1 September). The Fame Machine. Retrieved from: http://www.economist.com/node/4344144 [Accessed: 18/1/11].

Elmhirst, S. (2010, 31 May). The NS Interview: Sienna Miller. *New Statesman*. Retrieved from: http://www.newstatesman.com/film/2010/05/interview-congo-celebrities [Accessed 12/5/11].

Evans, N. (2013, 25 April). Kate Middleton topless pictures could see French Closer magazine shut down for five years. *Mirror*. Retrieved from: http://www.mirror.co.uk/news/uk-news/kate-middleton-topless-pictures-could-1853076 [Accessed 4/6/13].

Feintuck, M., & Varney, M. (2006). *Media Regulation, Public Interest and the Law*. Edinburgh: Edinburgh University Press.

Field, M. (2011). *The Leveson Inquiry* – Exhibit MEF1 signed 26 October.

Fielden, L. (2012). *Regulating the Press: A Comparative Study of International Press Councils*. Oxford: Reuters Institute for the study of journalism.

Flyvbjerg, B. (2004). Five misunderstanding about case study research. Seale, C. (ed). *Qualitative research practice*. London: Sage, pp.420-434.

Forrester, K. (2015, 28 February). Make-up free Zoella looks almost unrecognisable without her slap on trip to beauty salon. *Mirror.* Retrieved from: http://www.mirror.co.uk/3am/celebrity-news/make-up-free-zoella-looks-5245939 [Accessed: 8/7/16].

Fortini, A. (2010, 5 May). Kristen Stewart: Elle's June cover girl on relationships, privacy, and her critics. *Elle.* Retrieved from: http://www.elle.com/culture/celebrities/a11135/kristen-stewart-443897/ [Accessed: 12/3/11].

Frith, M. (2008). *The Celeb Diaries.* London: Ebury.

Gavison, R. (1980). Privacy and the Limits of Law. *The Yale Law Journal*, 89 (3): pp421-471.

Glass, K. (2014, 7 December). Zoella's bestseller: the plot thickens. *Sunday Times.* Retrieved from: http://www.thesundaytimes.co.uk/sto/news/focus/article1492699.ece [Accessed: 14/12/14].

Glennie, A. (2013, 21 November). Stars who tweet have no right to privacy, by Daniel Radcliffe: Harry Potter star has little sympathy for celebrities who post updates and then moan about their fame. *Daily Mail.* Retrieved from: http://www.dailymail.co.uk/news/article-2510908/Daniel-Radcliffe-says-stars-tweet-right-privacy.html#ixzz4KEW29wXh [Accessed: 16/6/16].

Gomm, R., Hammersley, M., and Foster, P. (eds.). (2000). *Case study method: Key issues, key texts*. Sage: Chicago.

Goodfellow, J. (2016, 9 August). The Sun flatly denies Lindsay Gascoigne's allegations that reporters planted alcohol outside footballer's house. *The Drum*. Retrieved from: http://www.thedrum.com/news/2016/08/09/sun-flatly-denies-lindsay-gascoigne-s-allegations-reporters-planted-alcohol-outside [10/8/16].

Gore, W. (2012, 21 September). UK restraint over topless Kate Middleton pictures proves power of PCC. *Independent.* Retrieved from: http://www.independent.co.uk/voices/comment/uk-restraint-over-topless-kate-middleton-pictures-proves-power-of-pcc-8162881.html [21/9/12].

Goulet, V. and Ponet, P. (2009). 'Journalists and Sociologists', *Questions de communication*, Vol 16.

Green, D. (2012, 5 October). David Allen Green. *The Lawyer*. Retrieved from: https://www.thelawyer.com/issues/online-september-2012/david-allen-green-head-of-media-preiskel-co-llp/ [Accessed 5/10/12].

Greenslade, R. (2000, 10 April). Snap judgments. *Guardian*. Retrieved from: https://www.theguardian.com/media/2000/apr/10/mondaymediasection.comment [Accessed 20/02/2011].

(2001, 26 March). Jason and the arbitrators. *Guardian*. Retrieved from: http://www.guardian.co.uk/media/2001/mar/26/pressandpublishing.mondaymediasection [Accessed 20/02/2011].

(2001, 22 October). Naked Fury. *Guardian*. Retrieved from: http://www.guardian.co.uk/media/2001/oct/22/mondaymediasection.comment [Accessed 02/02/2011].

(2003, 7 June). Sara Cox wins privacy case. *Guardian*. Retrieved from: http://www.guardian.co.uk/media/2003/jun/07/pressandpublishing.privacy [Accessed 02/02/2011].

(2011, 24 June). Were the media wrong to report on serial murderer Bellfield? *Guardian*. Retrieved from: https://www.theguardian.com/media/greenslade/2011/jun/24/medialaw-judiciary [Accessed: 15/8/12].

(2016, 29 April). NUJ backs Impress, calling Ipso a 'pointless so-called regulator'. *Guardian*. Retrieved from: https://www.theguardian.com/media/greenslade/2016/apr/29/nuj-backs-impress-calling-ipso-a-pointless-so-called-regulator [Accessed: 29/04/16].

Gritten, D. (2002). *Fame: Stripping Celebrity Bare*. London: Penguin.

(2002, 9 November). Fame: who needs it? *Telegraph*. Retrieved from: http://www.telegraph.co.uk/culture/film/3585494/Fame-who-needs-it.html [Accessed: 8/11/10].

Habermas, J. (1989). *The Structural Transformation of the Public Sphere*. Oxford: Blackwell Publishers.

Halliday, J. (2013, 3 June). Nurse cleared of Stepping Hill poisoning sues police. *Guardian*. Retrieved from: https://www.theguardian.com/uk/2013/jun/03/nurse-stepping-hill-rebecca-leighton-sues-police [Accessed 3/6/13].

Hammock, A. (2008, 1 May). The new fame: Internet celebrity. *CNNN*. Retrieved from: http://edition.cnn.com/2008/TECH/05/01/roflcon/ [Accessed: 4/01/15].

Hanning, J. (with Mulcaire, G.) (2014). *The News Machine: Hacking, The Untold Story.* London: Gibson Square.

Hanra, H. (2010, July). Kristen Stewart - A Twilight Love Story. *Elle UK*, 132-141.

Hardy, R. (2011, 5 November). Why fame wasn't for me. *Daily Mail.* Retrieved from: http://www.dailymail.co.uk/femail/article-2057076/Jamie-Theakstons-glamorous-TV-lifestyle-went-moved-radio.html [Accessed: 11/12/11].

Hari, J. (2011, 10 June). Spare us the fawning over Prince Philip. *Independent*. Retrieved from: http://www.independent.co.uk/opinion/commentators/johann-hari/johann-hari-spare-us-the-fawning-over-prince-philip-2295288.html [Accessed 10/06/2011].

Hartshorne, J. (2010). The Value of Privacy. *Journal of Media Law*, 2 (1): pp67-84.

Hastings, C. (2016, 20 March). Diana's 'deep regret' over her BBC 'victim' interview: Top aide reveals her horror as the 'scales fell from her eyes' – as secret papers expose plot to keep Palace in the dark. *Daily Mail.* Retrieved from: http://www.dailymail.co.uk/news/article-3500917/Diana-s-deep-regret-BBC-victim-interview-aide-reveals-horror-scales-fell-eyes-secret-papers-expose-plot-Palace-dark.html [Accessed: 20/3/16].

Hattenstone, S. (2007, 3 March). I always end up putting my big fat foot in it. *Guardian*. Retrieved from: http://www.guardian.co.uk/film/2007/mar/03/ [Accessed 21/05/2011].

Hayes, H. [@TheHazelHayes]. (2016, 12 September). The word ‘YouTuber’ has become so synonymous with money grabbing idiots making ‘relatable content’ that I no longer like calling myself one [Tweet]. Retrieved from:

https://twitter.com/TheHazelHayes/status/775454431517241344.

Hewlett. S. (2011). The Leveson inquiry witnesses are collateral damage. *Guardian*. Retrieved from: https://www.theguardian.com/media/2011/nov/27/leveson-inquiry-national-newspapers [Accessed 27/11/2011].

Hill, A. and Robinson, J. (2011, 13 May). Phone hacking: Sienna Miller has accepted £100,000 from the News of the World. *Guardian*. Retrieved from: https://www.theguardian.com/media/2011/may/13/phone-hacking-sienna-miller-news-of-the-world [Accessed: 13/05/2011].

Hill, L. (2007, 5 July). Burnt Sienna. *New York Times*. Retrieved from: http://nymag.com/movies/features/34430/index1.html [Accessed 12/05/2011].

Hirsch, A. (2008, 31 October). Sienna Miller sues paparazzi for harassment. *Guardian*. Retrieved from: http://www.guardian.co.uk/lifeandstyle/2008/oct/31/sienna-miller-big-pictures-darryn-lyons [Accessed 05/02/2011].

Holden, M. (2011, 15 March). Be William's princess? I'd rather watch "X Factor". *Reuters*. Retrieved from: http://uk.reuters.com/article/uk-britain-wedding-celebrity-id UKTRE72E76320110315 [Accessed: 16/6/16].

Holmes, S. (2005). 'Starring…Dyer?': Re-visiting Star Studies and Contemporary Celebrity Culture. *Westminster Papers in Communication and Culture*, 2 (2): pp6-21.

Horrie, C. (2003). *Tabloid Nation: From the Birth of the Daily Mirror to the Death of the Tabloid*. London: Andre Deutsch.

Howe, M. (2015, 2 October). Media: Media should harness power of online video. *Campaign.* Haymarket Business Publications Ltd. http://www.campaignlive.co.uk/article/media-harness-power-online-video/1366183# [Accessed 19/6/16].

Hughes, K. (2009). Photographs in Public Places and Privacy. *Journal of Media Law* (2): pp159-171.

Hunt, L. (2009, 13 May). MPs' expenses: Stephen Fry and his big brain don't get it, *Telegraph* (13/05/09). *Telegraph*. Retrieved from: http://www.telegraph.co.uk/news/newstopics/mps-expenses/5

316651/MPs-expenses-Stephen-Fry-and-his-big-brain-dont-get-it.html [Accessed 30/05/11].

Index on Censorship. (2011). 'Privacy is Dead, Long Live Privacy'. *Index on Censorship magazine.* Volume 40, Number 2.

Iosifidis, P. (2011). *Global Media and Communication Policy.* New York: Palgrave Macmillan.

Inness, J. (1992). *Privacy, Intimacy and Isolation*. Oxford: Oxford University Press.

ITV. (2015, 18 May). Police apologise to nurse arrested over Stepping Hill deaths. Retrieved from: http://www.itv.com/news/update/2015-05-18/police-apologise-to-nurse-arrested-over-stepping-hill-deaths/ [Accessed: 18/5/2015].

Jackson, J. (2016, 7 August). YouTube star Zoella's manager: 'I knew my business had to be in social media'. *Guardian.* Retrieved from: https://www.theguardian.com/media/2016/aug/07/youtube-zoella-dom-smales-tanya-burr [Accessed: 7/8/16].

(2016, 28 April). The Sun to face trial over phone-hacking claims. *Guardian.* Retrieved from: https://www.theguardian.com/media/2016/apr/28/sun-trial-phone-hacking-damages-les-dennis –sun civil court [Accessed: 28/4/16].

Jeffries, S. (2001, 26 November). 'The truth about Elle and Me'. *Guardian.* Retrieved from: https://www.theguardian.com/theguardian/2011/nov/26/mary-ellen-field-macpherson-leveson

Joint Committee on Privacy and Injunctions. (2012, 27 March). Privacy and Injunctions. Session 2010 2012, Volume I. Retrieved from: http://www.publications.parliament.uk/pa/jt201012/jtselect/jtprivinj/273/273.pdf.

(2012, 27 March). Privacy and Injunctions. Session 2010-2012, Volume II. Retrieved from: http://www.parliament.uk/documents/joint-committees/Privacy-and-Injunctions/JCPIWrittenEvWeb.pdf.

Jukes, P. (2014). *Beyond Contempt*: *The inside story of the phone hacking trial.*

| | |
|---|---|
| Kerr, D. | (Director). (2014). Last Gasp [Series 1, Episode 4]. Jon Plowman (Executive Producer). *Inside No. 9*. London: British Broadcasting Corporation (BBC). |
| Kieran, M., Morrison, D. and Svennevig, M. | (2000). 'Privacy, the public and journalism: Towards an analytical framework'. *Journalism*, 1: pp145-169. |
| King, B. | (1987). The Star and the Commodity: Notes towards a performance theory of stardom. *Cultural Studies*, 1 (2): pp145-161. |
| | (2010). Stardom, Celebrity and the Money Form. *The Velvet Light Trap,* 65: pp7-19. |
| Knauf, J. | (2015, 14 August). A letter from Kensington Palace. *Prince of Wales.gov.uk.* Retrieved from: http://www.princeofwales.gov.uk/media/our-view/letter-kensington-palace [Accessed: 16/5/16]. |
| Kovach, B. and Rosenstiel, T. | (2001). *The Elements of Journalism*. London: Atlantic Books. |
| Leith, L. | (2011, 23 November). Elle Macpherson: the brains behind the Body. *Telegraph*. Retrieved from: http://fashion.telegraph.co.uk/news-features/TMG8907817/Elle-Macpherson-the-brains-behind-The-Body.html [Accessed: 12/12/11]. |
| Leveson Inquiry | (2012, November 29). *The Leveson Report: Executive summary and recommendations.* Retrieved from: http://www.official-documents.gov.uk/document/hc1213/hc07/0779/0779.pdf |
| | (2012, November 29). *The Leveson Report: Volume I.* Retrieved from: http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_i.pdf |
| | (2012, November 29). *The Leveson Report: Volume II.* Retrieved from: http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_ii.pdf |
| | (2012, November 29). *The Leveson Report: Volume III.* Retrieved from: http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iii.pdf |
| | (2012, November 29). *The Leveson Report: Volume IV.* Retrieved from: |

http://www.official-documents.gov.uk/document/hc1213/hc07/0780/0780_iv.pdf

Lindof, T., and Taylor, B. (2002, 11 September). *Qualitative Communication Research Methods*. London: Sage

Loughlan, P., McDonald, B. and Van Krieken, R. (2010). *Celebrity and the Law*, Sydney: Federation Press.

Lumby, C. (2007). Doing It For Themselves. Teenage Girls, Sexuality and Fame.*Stardom and Celebrity: A Reader*. Redmond, S. and Holmes, S. (eds). Sage: London, pp. 341-352.

Maher, K. (2008, 19 June). Sienna Miller: I'm not this tragic figure. *Times*. Retrieved from: http://entertainment.timesonline.co.uk/tol/arts_and_entertainment/film/article4165502.ec [Accessed 11/02/2011].

Marr, A. (2004). *My Trade*. London: Macmillan.

Marr, W. (2014, 16 August). Zoella, Tanya Burr and the UK's YouTube superstars. *Telegraph.* Retrieved from: http://www.telegraph.co.uk/lifestyle/11031778/Zoella-Tanya-Burr-and-the-UKs-YouTube-superstars.html [Accessed 14/5/16].

Marshall, D. (1997). *Celebrity and Power: Fame in Contemporary Culture*. London: University of Minnesota Press.

(2005). Intimately intertwined in the most public way. Allen, S. (ed). *Journalism: Critical Issues*. Berkshire: Open University Press, pp19-29.

Marx, G. (2001). Murky Conceptual Waters: The public and the private. *Ethics and Information Technology,* 3 (3): pp157-169.

Mason, M. (2010). Sample Size and Saturation in PhD Studies Using Qualitative Interviews. *Forum: Qualitative Social Research*, 11(3).

Metro. (2007, 26 January). Elle ordered sweep of home for bugs. *Metro.*Retrieved from: http://metro.co.uk/2007/01/26/elle-ordered-sweep-of-home-for-bugs-12083/ [Accessed: 12/12/11].

McGuigan, J. (2000). British Identity and 'the people's princess'. *The Sociological Review*, 48 (1): pp1-18.

Morgan, P. (2005). *The Insider: The private diaries of a scandalous decade*. London: Ebury.

Morrison, D. and Svennevig, M. (2007). The defence of public interest and the intrusion of privacy: Journalists and the public. *Journalism*, 8: pp44-65.

(2002). *The Public Interest, the Media and Privacy.* BBC.

Morton, A. (1997). *Diana: Her True Story – In Her Own Words*. London: Michael O'Mara Books.

Natta, D., Becker, J., and Bowley, G. (2010, 1 September). Tabloid Hack Attack on Royals, and Beyond. Retrieved from: http://www.nytimes.com/2010/09/05/magazine/05hacking-t.html?pagewanted=all&_r=0 [Accessed 1/9/10].

Neil, A. (1997). *Full Disclosure*. London: Pan Books.

Newsweek staff. (2009, 12 December). Tiger Stalking: In defense of our tabloid culture. *Newsweek.* http://europe.newsweek.com/tiger-stalking-defense-our-tabloid-culture-75577?rm=eu [Accessed: 30/1/11].

Noblit G., and Hare R. (1988) *Meta-ethnography: synthesising qualitative studies*. London: Sage Publications.

O'Carroll, L. (2013, 17 May). Elle Macpherson adviser drops News of the World phone-hacking claim. Retrieved from: https://www.theguardian.com/media/2013/may/17/elle-macpherson-adviser-phone-hacking-claim [Accessed 71/5/13].

(2014, 31 January). NoW Sienna Miller exposé 'effectively approved' by Jude Law's PRs, jury told. *Guardian*. Retrieved from: https://www.theguardian.com/uk-news/2014/jan/31/news-world-sienna-miller-jude-law-phone-hacking-trial [Accessed: 31/1/14]

O'Malley, T and Soley, C. (2000) Regulating the press. London: Pluto.

Orwell, G. (1946). Decline of the English Murder. *Shooting an Elephant and Other Essays* (2009). London: Penguin.

Owens, T. (2017, 24 July). Understanding the Participatory Culture of the Web: An Interview with Henry Jenkins. *The Signal*. Retrieved from: https://blogs.loc.gov/thesignal/2014/07/understanding-the-participatory-culture-of-the-web-an-interview-with-henry-jenkins/ [Accessed: 18/6/17].

Paine, S. (2000). *Endangered Spaces: Privacy, Law and The Home*. London: CAMC Publications.

Patton, M. (2002). *Qualitative Research & Evaluation Methods* (Third Edition). California, Sage.

(2015). *Qualitative Research & Evaluation Methods* (Fourth Edition). California, Sage.

Peck, N. (2011, 7 July). Harassment and Injunctions: Cheryl Cole. *Informm.* Retrieved from: https://inforrm.wordpress.com/2011/07/07/harassment-and-injunctions-cheryl-cole-%E2%80%93-natalie-peck/ [Accessed: 7/7/11].

(2013). Public Figures, Press Victims and Private Lives: Some privacy implications of the Leveson Report. *After Leveson*. London: Abramis.

Pegg, S. (2011). *Nerd Do Well*, London: Arrow.

Penfold-Mounce, R. (2010). *Celebrity Culture and Crime: The Joy of Transgression.* Basingstoke: Palgrave Macmillan.

Petley, J. (2012). 'The Leveson Inquiry: Journalism ethics and press freedom'. *Journalism* (13, 4): pp. 529-538.

Petridis, A. (2014, 15 June). Cara Delevingne: 'I'd love to punch a photographer, I dream about it at night'. *Guardian*. Retrieved from: https://www.theguardian.com/fashion/2014/jun/15/cara-delevingne-model-interview [Accessed: 16/4/15].

Plunkett, J. (2013, 31 March). Heat magazine's Lucie Cave: 'It's about being cheeky, funny, not mean'. *Guardian.* Retrieved from: https://www.theguardian.com/media/2013/mar/31/heat-magazine-lucie-cave-celebrities [Accessed: 31/3/13].

Ponsford, D. (2003, 13 June). PCC blasts Cox 'myths'. *Press Gazette*. Retrieved from: http://www.pressgazette.co.uk/story.asp?storyCode=23199&sectioncode=1 [Accessed 22/03/2011].

(2016, 15 June). Lawyer for 'threesome' celebrity 'PJS' says next time he will seek a super-injunction. Retrieved from: http://www.pressgazette.co.uk/lawyer-for-threesome-celebity-pjs-says-next-time-he-will-seek-a-super-injunction/ [Accessed: 17/6/16].

Post, R. (2001). Three Concepts of Privacy. *Georgetown Law Journal*, 89 (6): pp2087-2098.

Press Association. (2014, 27 January). Close family member paid to leak stories about Jude Law to the News of the World, court told. *Press*

*Gazette.* Retrieved from: http://www.pressgazette.co.uk/jude-law-confronted-james-bond-star-daniel-craig-over-sienna-miller-affair-claims-court-told/ [Accessed 19/6/14].

(2016, 15 September). Duchess of Cambridge has privacy breach complaints upheld. *Guardian.* Retrieved from: https://www.theguardian.com/uk-news/2016/sep/15/duchess-of-cambridge-kate-middleton-privacy-breach-complaints-upheld-prince-george [Accessed: 15/9/16].

Press Complaints Commission. (2003). Sara Cox and the PCC – Myths and Facts. Previously Retrieved from: http://www.pcc.org.uk/news/index.html?article=MTk= [Accessed 22/3/11. No longer available but a summarised version can be found in Ponsford, 2003].

(2007). Kate Middleton. Retrieved from: http://www.pcc.org.uk/case/resolved.html?article=NDUwOQ== [Accessed 20/4/11].

(2009). Premier PR on behalf of Daniel Craig. Retrieved from: http://www.pcc.org.uk/cases/adjudicated.html?article=NTU1Mw [Accessed 20/4/11].

(2011, 5 September). Pippa Middleton. Retrieved from: http://www.pcc.org.uk/case/resolved.html?article=NzMzMQ== [Accessed 5/9/11].

Preston, P. (2011, 21 May). Twitter and WikiLeaks have made a mockery of the courts. *Guardian.* Retrieved from: https://www.theguardian.com/media/2011/may/22/twitter-wikileaks-mockery-of-the-courts [Accessed: 22/05/2011].

Pugh, A. (2012, 18 December). Phone-hacking: Mary-Ellen Field claim is 'fantasy' and 'fiction', says News International lawyer. Retrived from: http://www.pressgazette.co.uk/phone-hacking-mary-ellen-field-claim-fantasy-and-fiction-says-news-international-lawyer/ [Accessed: 20/12/12].

Rachels, J. (1975). Why Privacy is Important. *Philosophy and Public Affairs*, 4 (4): pp323-333.

Redmond, S. and Holmes, S. (eds). (2007). *Stardom and Celebrity*. London: Sage.

Reines, R. (2012, 22 July). Elle of a way for Macpherson to get revenge on Arpad Busson. *Sunday Telegraph.* Retrieved from:

http://www.dailytelegraph.com.au/entertainment/elle-of-a-way-for-macpherson-to-get-revenge-on-arpad-busson/story-e6frewyr-1226431591099 [Accessed: 22/7/12].

Rigby, E. and Gibb, F. (2015, 16 December). Second Leveson inquiry is abandoned. *Times.* Retrieved from: http://www.thetimes.co.uk/tto/news/medianews/article4642007.ece[Accessed: 14/7/16].

Rockett, K. (2014, 20 September). YouTube blogger Alfie Deyes mobbed by 8,000 screaming fans at book signing. *Mirror.* Retrieved from: http://www.mirror.co.uk/news/uk-news/youtube-blogger-alfie-deyes-mobbed-4293469 [Accessed: 18/5/16].

Rojek, C. (2001). *Celebrity*. London: Reaktion.

(2015, 9 September). Strange job: being Queen Elizabeth II, Britain's longest reigning monarch. *The Conversation*. Retrieved from: https://theconversation.com/strange-job-being-queen-elizabeth-ii-britains-longest-reigning-monarch-47169 [Accessed: 9/9/15].

Ronson, J. (2015). *So You've Been Publicly Shamed*. London: Picador.

Rosen, J. (2000). Fall of Private Man. *The New Republic*. Retrieved from: https://newrepublic.com/article/74127/fall-private-man [Accessed: 11/2/11].

(2001). *The Unwanted Gaze*. New York: Vintage Books.

Ross, D. (1997, 1 December). Interview: Andrew Morton: He couldn't shout: Diana was in on this.' 'She trusted me. It would have been a betrayal'. *Independent.* Retrieved from: http://www.independent.co.uk/life-style/interview-andrew-morton-he-couldnt-shout-diana-was-in-on-this-she-trusted-me-it-would-have-been-a-1286288.html [Accessed 9/12/11].

Rozenburg, J. (2010). *Privacy and the Press*. Oxford: Oxford University Press.

Rubin, H., and Rubin, I. (1995). *Qualitative interviewing: The art of hearing data*, London: Sage.

Runcie, C. (2014, 7 December). Zoella and publishers confirm that Girl Online was ghostwritten. *Telegraph.* Retrieved from: http://www.telegraph.co.uk/books/girl-online/zoella-girl-online-ghostwritten-zoe-sugg/

Sapsted, D. (2011, 24 April). Diana's legacy looms large over Kate's big day. *The National*. Retrieved from: http://www.thenational.ae/featured-content/latest/dianas-legacy-looms-large-over-kates-big-day [Accessed: 24/4/11].

Scott, A. (2009). Flash Flood or Slow Burn?: Celebrities. Photographers and Protection from Harassment. *LSE Law, Society and Economy Working Papers*, 13: pp1-29.

Seamark, M. (2011, 10 May). Outrage at screening of dying Princess Diana photo: Cannes documentary to show graphic picture for first time. *Daily Mail.* Retrieved from: http://www.dailymail.co.uk/news/article-1385357/Princess-Diana-dying-photo-shown-Unlawful-Killing-Cannes.html [Accessed: 14/6/11].

Seward, I. (2014, 27 May). Kate Middleton's naked bum picture proves Bild and foreign press are obsessed with embarrassing Royals. *Mirror.* http://www.mirror.co.uk/news/uk-news/kate-middletons-naked-bum-picture-3613346 [Accessed: 5/3/15].

Sharma, SK. (1993). *Privacy Law: a comparative study.* New Delhi: Atlantic.

Silver, J. (2007, 15 January). Snap, crackle and pap. *Guardian*. Retrieved from: https://www.theguardian.com/media/2007/jan/15/mondaymediasection.themonarchy [Accessed: 20/02/2011].

Simons Muirhead and Burton. (2011, 29 July). Press Release - Christopher Jefferies. Retrieved from: http://www.smab.co.uk/news/news/press-release-christopher-jefferies/ [Accessed: 29/7/11].

Simmonds, D. (1984). *Princess Di: The National Dish*. London: Pluto Press.

Simmons, H. (2009). *Case Study Research in Practice*. London: Sage.

Solove, D. (2002). Conceptualizing Privacy. *California Law Review* (90): pp1087-1155.

(2006). A Taxonomy of Privacy. *University of Pennsylvania Law Review* (154, 3): pp477-559.

(2007). "I've Got Nothing to Hide" and Other Misunderstandings of Privacy. *San Diego Law Review* (44): pp745-773.

(2008). *Understanding Privacy*. London: Harvard University Press.

Steven, S. (2005). Suicide in the Media: A Quantitative Review of Studies Based on Nonfictional Stories, 35 (2), pp121–133.

Suchet, R. (2014, 30 May). Charlize Theron: Press Intrusion 'Like Rape'. *Sky News.* Retrieved from: http://news.sky.com/story/charlize-theron-press-intrusion-like-rape-10403174 [Accessed: 30/5/14].

Sweney, M. (2008, 21 November). Sienna Miller settles with Big Pictures. Retrieved from: http://www.guardian.co.uk/media/2008/nov/21/sienna-miller-big-pictures-privacy [Accessed: 05/02/2011].

Sugg, Z. (2014, May). Ordinary girl in an overwhelming word. *Zoella.co.uk*. Retrieved from: https://www.zoella.co.uk/2014/05/ordinary-girl-in-overwhelming-world.html [Accessed: 6/6/16].

Taylor, S. J. and Bogdan, R. (1984). *Introduction to qualitative research methods: The search for meanings*. New York: John Wiley & Sons.

Thomson, J. (1975). The Right to Privacy. *Philosophy and Public Affairs*, 4 (4): pp295-314.

Thomson, M. and McCann, N. (2009), Harassment and the Media. *Journal of Media Law*, 2: pp149-158.

Thurlbeck, N. (2015). *Tabloid Secrets: The stories behind the headlines at the world's most famous newspaper.* London: Biteback.

Tomlinson, G. (2013, 3 June). Social media, thigh gaps, and what we can all learn from Honey Boo Boo. Retrieved from: http://www.hellogemma.com/2013/06/03/social-media-thigh-gaps-and-what-we-can-all-learn-from-honey-boo-boo/ [Accessed: 1/5/16].

Tominey, C. (2010, 28 March). Royals target scapegoat in privacy fight. *Express*. Retrieved from: http://www.express.co.uk/news/uk/165633/Royals-target-scapegoat-in-privacy-fight [Accessed: 12/3/13].

Turner, G. (2004). *Understanding Celebrity*. London: Sage.

Turner, L. (2016, March 24). Zoella Just Experienced The Scary Side Of Fame. *Look.* Retrieved from: http://www.look.co.uk/beauty/zoella-paparazzi-214811#xmypd5xWZQpHFAlR.99 [Accessed: 5/6/16].

Upton, D. (2014, 26 March). 'Inside No. 9' Is a Bit Like a Box of Chocolates, Albeit One Full of Dark, Bitter Sweets. Retrieved from: http://www.popmatters.com/review/180233-inside-no.-9-series-one/#ixzz4LHbxXhYy [Accessed 26/3/14].

Wacks, R. (2010). *Privacy: A Very Short Introduction*. Oxford: Oxford University Press.

Warren, S. and Brandeis, L. (1890). 'The Right to Privacy'. *Harvard Law Review*, Volume 4, Number 5, pp193-220.

Weinberger, D. (2007). Privacy, norms and politics. *KM World*, 16.9: 1,3.).

Wengraf, T. (2002). *Qualitative Research Interviewing*, London: Sage.

Westin, A. (1967). Privacy and Freedom. *Administrative Law Review* (22, 1) pp. 101-106.

Whitehead, T. (2016, 12 June). Celebrity injunction and privacy cases double in five years. *Telegraph*. Retrieved from: http://www.telegraph.co.uk/news/2016/06/12/celebrity-injunction-and-privacy-cases-double-in-five-years/ [Accessed 12/6/16].

Whittle, S. and Cooper, G. (2009). *Privacy, probity and public interest*, Oxford: Reuters Institute for the Study of Journalism.

Williams, Z. (2005, 5 February), As I was Saying…*Guardian.* Retrieved from: http://www.guardian.co.uk/lifeandstyle/2005/feb/05/weekend.zoewilliams1 [Accessed 03/04/2011].

Winnett, R., and Hope, C. (2011, 18 May). Kenneth Clarke signals privacy law to ease fears over gagging orders. *Telegraph*. Retrieved at: http://www.telegraph.co.uk/news/uknews/law-and-order/8519961/Kenneth-Clarke-signals-privacy-law-to-ease-fears-over-gagging-orders.html

Wright, S. (2010, 4 September). Wayne Rooney cheats on pregnant wife Coleen with £1k-a-night prostitute. *Mirror*. Retrieved from: http://www.mirror.co.uk/news/uk-news/wayne-rooney-cheats-on-pregnant-wife-245523 [Accessed 4/9/10].

Yin, R. (1984). *Case study research: Design and methods*, London: Sage.

(2009). *Case study research: design and methods* (Fourth Edition). London: Sage.