



Written submission to The Leveson Inquiry into
the culture, practice & ethics of the press by The
British Press Photographers' Association

INTRODUCTION

In our unsuccessful application to be added to the list of Core Participants of The Inquiry the association contended that our members would be “*subject to explicit or significant criticism during the inquiry proceedings or in its report.*” This is largely due to the nature of the evidence being given to The Inquiry by various celebrity witnesses and the weight of media commentary during the opening weeks of the Inquiry, which gave an unfair and misleading impression of the work that press photographers do.

The association is in a position to make a unique and positive contribution to the debate by providing a more accurate, up-to-date and informed assessment than any other organisation on the specific topics where we have expertise. In this written submission The BPPA will offer The Inquiry our views on:

1. The culture and practices of professional press photographers
2. The market place for news pictures and how it affects those cultures and practices
3. The problems that the market for celebrity images are causing
4. Privacy laws vs public interest

As well as our proposals for

5. Cooperation between all parts of the media to establish clear and enforceable ethical guidelines and codes of behaviour and etiquette
6. The reduction and elimination of the problems of unethical photographers, the so-called ‘stalkerazzi’

The British Press Photographers’ Association (The BPPA) has amongst its membership a large percentage of the country’s front line news photographers. Founded in 1984 to ‘promote and inspire the highest ethical, technical and creative standards from within the profession’, The BPPA has a unique perspective on the current practices and market place for press photographs in the United Kingdom. Press photographers led the way when it came to establishing the guidelines by which all UK Police forces (via ACPO) work alongside the media in the field and we would endeavour to bring a similar problem solving approach to the Inquiry.

The BPPA can speak for press photographers who, because of the highly fragmented nature of our employment may well speak to the BPPA when they would not speak to the Inquiry. The Inquiry should know that our total membership of just fewer than 800 breaks down as follows:

- Directly employed – 24%
- Employed on fixed or rolling contracts 12%
- Working through agencies as freelance photographers 18%
- Entirely freelance 46%

Press photographers are, for various reasons, the very visible face of the UK print media. Because of this we are regularly subjected to false attribution and accusations as well as verbal abuse from members of the public and from a significant number of people who work in the celebrity, entertainment and even law and order industries. The continuous use of pejorative terms such as ‘paparazzi’ about the widest spectrum of news photographers harms our collective reputations.

1. THE CULTURE AND PRACTICES OF PROFESSIONAL PRESS PHOTOGRAPHERS

One of the main problems highlighted by The Inquiry is that the vocabulary used by the public and by much of the media regarding press photography is limited and, largely, wrong. There is a lot of anecdotal evidence to say that this is due to confusion about who we are what we do and it is probably true that we need to work harder to correct those issues. The BPPA represents a range of photographers whose work is used in the print and electronic media. Our members all work as news photographers as their principle or sole occupation and, whilst some specialize in certain types of news photography, all of them will have a good deal of experience in the widest range of types of news work. We would like to introduce the following points for The Inquiry's consideration:

- i. Most news stories are illustrated with photographs and the type and/or style of photograph used is dependent on the nature of that story and the house style of the publication
- ii. We operate in a complex market place where all pictures have a financial value and where the laws of supply and demand operate in equally complex ways
- iii. In the case of photographers working as salaried staff, on contract or on freelance shifts directly for a specific publication, the decisions on what kind of coverage is required and when any photographs are taken are made by editors who are, in turn, liaising with other editors further up the chain
- iv. News agency photographers cover news stories with the knowledge that their work may be used in the widest variety of publications and therefore they need to shoot a range of pictures that would suit those various markets
- v. Where genuinely freelance photographers cover a story, they do so on the basis that they get paid for pictures published and therefore they often have to get exclusive images

The activities of press photographers can range from sports action to press conferences and from feature case studies to war and famine. Most professional press photographers will have touched all of those topics as well as red-carpet events, door-steps and some other genuine news jobs that seem to have been labelled as "paparazzi" by a lot of commentators.

In an attempt to define who we are, The BPPA's blog recently featured the following under the heading "*What Press Photographers Do...*":

Every time you open a newspaper, click on a news website or check out what is happening in the world there is a very high chance that you will be looking at the work of a professional press photographer. From Tiananman Square to Old Trafford and from the red carpet at the latest film premiere to protests on the streets of our cities

those iconic images were almost certainly produced by us and our colleagues.

It can be fun, it's often exciting and it is regularly very dangerous. Press photographers go into situations where very few people apart from the emergency services and armed forces go because we take the job of recording the news and creating a historical record very seriously and because we believe in a free press. Our work sometimes has a very short 'shelf-life' but in that newspaper, that magazine or on that website and on that day it has real importance and our world would be poorer without it.

Next time you see a stunning news picture please think about what the photographer must have done to get it. The chances are that they got up early, travelled a fair way, used the skills that they have learned over several years and made full use of the latest technology to deliver it to their editors.

We often hear that these days "anyone can take a good picture" but that isn't the point. Sure, most people take the odd good picture three or four times a year but professional press photographers do it 99.9% of the time, under pressure and to impossible deadlines and they have a damned good excuse for the 0.1% of occasions when their pictures might be considered less than good.

If that isn't enough, press photographers do all of this within the law, within codes of conduct and under the watchful eye of a critical public. A public who often mistake badly behaved people with posh cameras – citizen journalists and citizen paparazzi – for the genuine professionals and tar us all with the same dirty brush.

To flesh that out a little, we find ourselves responding to news stories – many of which are still breaking – with very little information and a lot of expectations from our newspapers and agencies. The news agenda dictates that we often operate in direct competition to one another on the same story - which results in what lazy television journalists often refer to as a 'pack' of photographers or a 'mass of paparazzi'.

The behaviour of professional photographers, even in a 'pack', is normally good, ethical and entirely legal. The vast majority of the problems that we see on television are caused by non-professionals, people who have nice cameras and no training who join in thinking that they will make their fortune as well as a lot of television crews who never seem to be included in the footage when it is screened on the broadcast news.

These problems are exacerbated by the political and legal cultures in the UK. In other countries, photographers are given access to photograph inside courts, parliaments and committee hearings. In Britain they are not. London is an international hub, there are newspapers, television broadcasters and many international news organisations with foreign bureaus based here. The larger the news story, the greater the number of media that will want to attend - often flying in from other countries. Even at this inquiry, photographers are limited to being out in the street or using poor quality 'grabs' from the television coverage from within the hearing.

Not getting access to people on the inside that often means when a big news story is peaking and someone connected with it chooses to walk out of a building they will have to get through a very large crowd of media massing together often on cramped London pavements wanting to question, film and photograph them.

Wherever possible, professional news photographers will make agreements to keep their distance, use barriers or limit how far they will follow a protagonist down the street. The actions of reporters, television crews and untrained photographers often ruin any such agreements - especially against a background where the photographers have their editors on the other end of a mobile phone watching live coverage on television and demanding a certain type of image.

Professional news photographers have one goal: to get good, interesting pictures that editors will want to use. None of us enjoys the process of having to wait on wet and windy pavements for hours and nobody actually wants to chase cars down the road because people involved in news stories haven't got the sense to stop and talk for two minutes.

2. THE MARKET PLACE FOR NEWS PICTURES AND HOW IT AFFECTS THOSE CULTURES AND PRACTICES

Exclusive and good news pictures have value. Unfortunately, exclusive pictures of celebrity and celebrities have greater value. This is the way the market for photographs has become corrupted over the last couple of decades.

In the UK we have a number of news agencies that shoot news and operate on a subscription basis in the newspaper market. It doesn't matter whether you use one picture or one hundred pictures a week from one of the big agencies – you still pay the same. Because of this, most photographs from big news events will have a relatively low ceiling on their value. On huge news events freelancers have to find exceptional images to make sales and a large number of our members specialise in doing just that. Those who are new to the profession – especially those with no formal training or mentoring – chase the big stories and sometimes behave in unsafe and unethical ways to get their pictures.

Newspapers and magazines that have their own photographers working as staff, on contract or on shifts at news jobs will have access to a wide range of images from agencies and freelancers and so there is a different, subtle pressure on these photographers to get better pictures too. From a large public demonstration a national newspaper could easily see 500 photographs or more and from a massive media event such as the Royal Wedding the number could be in the tens of thousands. Shooting 'stand-out' pictures has become vital as the market place has become more complex, more instant and more saturated.

This is all happening at a time where newspaper circulation is still dropping and work for press photographers is getting thinner on the ground. The employment patterns in our industry mean that there are more people competing for less work and the work that they find has become increasingly casualized. Insecurity could lead to some photographers pushing boundaries in order to satisfy the demands of editors. The BPPA has several reports from photographers who have expressed reservations about being told to shoot pictures that would be regarded as unethical and/or in contravention of the PCC Editor's Code.

The other complicating factor on big news jobs is the seemingly exponential increase in the number of video crews working for television and for websites. Twenty-four hour rolling news has arrived at the same time as better transmission technology, allowing live coverage of more and more events.

A few years ago, overseas television crews were pretty rare but that has changed and you often see video camera operators from other countries. We have pointed out before that the public sees photographers as the very public face of the media and we have detected a tendency for domestic television crews to frame their shots to show us and, wherever possible, not other video cameras. There is a technique used by TV news camera operators where they have to shoot supplementary shots – cut-aways – and on news jobs this is more often than not a selection of shots of photographers at work or waiting for things to happen. The deep irony here is that cut-away shots of photographers working are often staged after the event.

Video editors seem to always include these cut-aways of just the stills photographers and this seems to have led to the viewing public being convinced that all press photographers work in packs. Unfortunately this also means that people who are interested in becoming press photographers assume that this is how it is done.

When you actually analyse what press photographers do, we shoot more one-to-one portraits and case studies than ever. This is partly due to the coverage of major news stories by the agencies but mainly due to the changing nature of newspapers. Simple news reporting has become the property of TV news and the internet. Newspapers have shifted their focus to on opinion pieces, in-depth reporting, topic based news features and covering stories that television do not have time in their schedules for.

The arrival of the citizen journalist has also had an effect on the news photography market. At almost every event, on almost every news story and on almost every street corner there are members of the public with cameras. This is a fact of life but it has had an effect on the value of photography. The assumption that there is a free or cheap source of 'OK' pictures is one that the people who control the purse strings in media organisations make. Look at the recent decision by CNN in the USA to make a lot of video camera operators redundant because they were happy with the free footage they were getting from the public, from CCTV and from PR sources.

The same process has been going on in local and regional newspapers for a while now and it is spreading into national media. Photographs sourced from non-professionals are fine but editors need to know their provenance. The industry is under a microscope and the establishment of this inquiry is testament to that. We need to establish a system under which images sourced from professionals can be trusted to comply with all legislation and with all relevant ethical codes. That same system has to be designed to include a requirement for all other images to have retrospective tests applied to them so that they reach the same standards of compliance.

3. THE PROBLEMS THAT THE MARKET FOR CELEBRITY IMAGES ARE CAUSING

The public's appetite for celebrity gossip, news and pictures has skewed the whole editorial market. The tabloid and mid-market newspapers can sell a lot more copies with the right celebrity story but the main market shift has been the popularity of celebrity based magazines and websites, both in the UK and overseas. The potential value of a few of these pictures has risen because of the hunger for more revealing, more salacious and more personal photographs at a time where the traditional home for these pictures – the newspaper – has to bid against magazines with large circulations and big budgets.

The vicious circle of price, revelation and competition has led to the growth in the number of people with no experience, training or ethical framework acquiring cameras and stalking the celebrities whose pictures sell. The professional photographers who used to work in this market have either moved on to new ones, adapted their business model to work in conjunction with the celebrities and their management on staged “paparazzi” shoots or been forced to compete elbow-to-elbow with the part-timers, chancers and citizen paparazzi who will literally do anything to get their picture and make a sale. We are also seeing a lot more people working the celebrity scene from other countries.

The competition between publications and websites to get the latest, the best and the most juicy stories and pictures of celebrities both in their private and professional lives is driving a market where photographers who are chasing money rather than a desire to report the news are breaking laws, trampling ethical codes and behaving in anti-social ways to feed that market. Where newspapers are concerned, money spent on celebrity pictures can sometimes be justified by increased sales but at other times it just reduces the budget for genuine news.

This is where we return to the point about public and media perception. They see people who look like press photographers, who use much the same equipment as press photographers and whose pictures often end up in the press. Celebrity chasing amateur paparazzi – or “stalkerazzi” as Professor Roy Greenslade refers to them – are causing professionals a lot of problems.

We are becoming the targets of abuse on the streets, we are all being labelled as “paparazzi” and we are being accused of a lot of actions by witnesses to The Inquiry that we are entirely innocent of. To paraphrase the famous line “just because it looks like a press photographer, sounds like a press photographer and takes pictures that end up in the press doesn't mean that it is a press photographer”. Some of the reported actions of photographers were actually those of video crews and reporters. Some of them were those of local agency workers in the

country where the incidents took place. The bulk of the appalling and often illegal actions were those of the people with cameras but no ethics chasing the big payday whose behaviour is overlooked by the market they service.

The fact that some of the activities of the 'stalkerazzi' are illegal and that most of the rest are unethical is a matter of great concern to the association. The effect of the celebrity circus on the perception of and reputation of our profession is also of great concern. The way that the market for all news pictures has become distorted due to the appetite of the readers and viewers is, however, of the greatest concern of all. It is a clichéd phrase but publishing 'that which is of interest to the public is not necessarily in the public interest.'

4. PRIVACY LAWS vs PUBLIC INTEREST

One of the first witnesses to The Inquiry called for the introduction of a privacy law in the UK - which would require any photographer to ask permission before taking a photograph, even in a public place. Apart from questions of the freedom of the press and civil liberties any privacy law would fundamentally change the nature of our society and our democracy. The further worry is that it would actively prevent genuine documentary photography and public interest photojournalism. As a society and as both professional and amateur photographers we have become used to the freedom of being able to take pictures when and where we wish. Curbs on that freedom would be almost impossible to enforce and there is a real danger that people taking pictures on their camera phones would be ignored whilst those using professional looking equipment would be pursued. We have already seen this happening where private security services and some police officers already discriminate against those using expensive looking equipment in their application of policies and some of the anti-terrorist legislation.

Specifically, the industry has real concerns about the potential arrival of French style privacy laws. Olivier Martinez, famous in the UK as an ex-boyfriend of Kylie Minogue, sued Mirror Group Newspapers (MGN) and Associated Newspapers for breach of France's strict privacy laws after the newspapers published stories suggesting Martinez and Minogue had recommenced their relationship, which had ended a year previously. MGN was sued because of an article on the Sunday Mirror's website, while Associated were sued over articles on both the Daily Mail and London Evening Standard websites. For each title the publishers were ordered to pay €4,500.

French law has a reputation for being very strict - amounting to restricting photographers to having to ask permission before shooting pictures of others even in public places, especially if they are for publication. French law, is based on a single sentence in Article 9 of the Civil Code: "Everyone has the right to privacy", which dates back to 1970. This right, which became part of the constitution in 1995, includes not only the disclosure of a person's private life but also the unauthorised taking of photographs and their publication. Several politicians, including Dominique Strauss-Kahn and former President Francois Mitterand have hidden elements of their private life from view using this law. Elements that, had they been known to the electorate, would possibly have cost them elections and therefore their jobs.

The further issue with French law is that, partly due to the inquisitorial nature of their judicial system, very few cases have reached court and even fewer have been reported. Many French photographers and agencies are now operating in an atmosphere where they are not sure what the law actually is and where years of custom and practice have clouded the situation even

further. Threats of prosecution from the rich and the powerful under the French privacy statute have created an imbalance between genuine privacy and the public interest and we can see that under the United Kingdom's adversarial legal system that this problem would be greatly magnified.

During the last year or so there have been a number of occasions where a blanket assumption of an individual's right to refuse to be photographed would have changed the reporting of real news stories:

- The disposal of constituency papers in a public park by Oliver Letwin
- Rioters and looters during the summer disturbances
- The "have-a-go hero" tripping a man who stabbed someone at the Notting Hill Carnival
- Crowd shots at The Royal Wedding

There are dozens more; all serious stories, all well within the traditional remit of good public interest journalism. The problem with creating legislation to deal with celebrity reporting is that it would then be applied to all news, which would be counter-productive in very real and worrying ways.

The ubiquity of CCTV cameras throughout the United Kingdom calls into question any notion of privacy. Whilst the existence in the pockets and handbags of a huge percentage of citizens of this country of mobile phones with ever better quality cameras also means that any idea of controlling the gathering of images would be an unfair and mountainous task.

5. COOPERATION BETWEEN ALL PARTS OF THE MEDIA TO ESTABLISH CLEAR AND ENFORCABLE ETHICAL GUIDELINES AND CODES OF PRACTICE AND ETIQUETTE

There are already a number of sets of guidelines in place by which all members of the media are supposed to operate. These are in addition to a number of pieces of legislation, which have been used, abused, underused and misused in recent years. The Press Complaints Commission's Editors' Code and the Code of Ethics of the National Union of Journalists are very good examples of rules which, if properly applied, would go a long way towards solving the problems that we are addressing here.

The current international and multi-platform market is, however, no place for voluntary codes to function in isolation. The BPPA's Board is of the opinion that we need a four-pronged strategy:

- Make the publishers of websites, blogs, magazines and newspapers and their editors financially and professionally responsible for any lack of due diligence in checking how, where and why pictures that they are publishing were taken. Photographs acquired from citizen journalists, CCTV systems and inexperienced photographers should have a clear and strict series of tests applied before publication to verify their provenance
- Images purchased from holders of UK Press Cards or from reputable agencies that are members of a United Kingdom Press Card Authority member body would require a lower standard of checking and proof because the photographer holding the press card would, according to the new ethical code, already have performed tests as they were shot. Should the images turn out to have been acquired irresponsibly, that would constitute a breach of the code of ethics that they sign up to when receiving their new UK Press Card
- Strengthening of the UK Press Card scheme with an enforceable code of conduct including the suspensions and cancellations of cards. This obviously will not stop the cowboys who don't have genuine press cards but it will provide a framework within which to work
- Agree a simple outline about exactly which laws apply to photographers when they are going about their legitimate business: trespass, assault, intimidation, harassment and so on. It would also be advisable to clarify where and when the various elements of the Human Rights Act and the UN Convention on the Rights of The Child become applicable without allowing rich and powerful vested interests to slip a de-facto privacy law in by the back door

We must remember that this inquiry is primarily concerned with newspapers and the print media but we need to recognise that the market within which they operate is a complex one and that it is very difficult to differentiate between photographers working for the traditional UK based media and those supplying material to overseas publications and the new media. The BPPA's Board would like The Inquiry to acknowledge that the public does not discriminate between the different media and that any changes to the law or any enforceable guidelines have to be framed in a fair and equitable manner.

A consultative body in which all of the stakeholders across the media are adequately represented to develop and agree guidelines should be one of the outcomes of The Inquiry. We would like to see the United Kingdom Press Card Authority given a pivotal role on such a body so that the professional nature of the media becomes more clearly defined. The tests that need to be applied to all images before the publication in any media would need to be agreed and easy to use and the sanctions for not doing so would need to be clear and proportionate.

The BPPA is not in favour of licensing journalists. We believe that the need for people from all walks of life to be able to write, make videos and take pictures is very real. Our proposal is that the publishers of that material should hold the lion's share of the responsibility for checking all materials before publication but that materials supplied by professional journalists who hold UK Press Cards could and should be suitable for a shorter, fast track verification process.

6. THE REDUCTION AND ELIMINATION OF THE PROBLEMS OF UNETHICAL PHOTOGRAPHERS; THE SO-CALLED 'STALKERAZZI'

From within the news photography industry, almost every discussion about how to proceed centres around the separation between the taking and publishing of pictures. The activities of those people with cameras who cause the vast majority of the problems can only be controlled by the market place in conjunction with proper enforcement of existing legislation. They have shown themselves to be perfectly willing to ignore a range of laws, codes of practice and ethical guidelines in the pursuit of money. If the market for their images were to shrink drastically or even disappear then most or all of the problem would go away.

The BPPA's Board has a great deal of sympathy for those who are, through no choice of their own, thrust into the centre of news events and who find their lives disrupted by media attention. We believe that the four-pronged approach spelled out in the previous section along with the best practices applied by police victim support and media teams should be used to manage these situations to steer a path between the legitimate needs of the news media and the effects on the families, their friends and neighbours.

We are keen to emphasise the difference between people who are the legitimate focus of news reporting and those whose every day activities are subjected to intrusive or salacious voyeurism. Defining where the line between the two lies needs to become the responsibility of professionals rather than being left solely to the market place.

Nobody is looking for the elimination of the market for celebrity magazines and websites. A significant percentage of the stories that appear in those magazines have been planned, leaked or staged by the managements of those celebrities involved. The celebrities themselves have a role to play in the correction of the market as well. Their fame and income is significantly based on the public's appetite to know more about them and their lives. It is unrealistic for them to seek to completely remove themselves from their fans, admirers and even their detractors until such times that they choose to make an appearance.

Whilst some of the public are aware of the complex and often symbiotic relationship between celebrity and media, we are firmly of the opinion that only a small percentage of them genuinely understand what the true situation is.

Several of the witnesses to The Inquiry who have complained about the intrusion of photographers into their private lives omitted to mention that they have regularly sought the attention of the media to cover equally private matters when it suited them. Whilst this does

not excuse some of the actions of some of the media we believe that the public's perception is unfairly skewed and as the very public face of the media, photographers are often unfairly criticised. The Inquiry was set up as a reaction to the phone-hacking activities of some newspapers and it is ironic that no photographers have been implicated in this.

We should also look at the way that public relations and marketing companies who organise press events and photocalls work to make sure that they adopt and adhere to practices that don't penalise responsible photographers, reporters and video crews.

CONCLUSIONS

The British Press Photographers' Association is very keen to be a partner to The Inquiry when solutions are discussed and when recommendations are made. We believe that it is in the long-term interests of our profession to contribute to the discussion and to help to shape the future of the industry. The association has an excellent track record in negotiating, agreeing and publicising codes of conduct. The BPPA and other photographer groups got together with the Metropolitan Police and then with the Association of Chief Police Officers (ACPO) to agree the guidelines by which we work alongside each other. These guidelines have been in place for several years and have been very successful.

We would recommend the four-pronged strategy outline previously because we believe that adopting it would provide the following outcomes:

- To provide assurances to the general public that professional journalists exist and that our work is ethical, legal and trustworthy
- To create clear and unambiguous rules for the conduct of media workers
- To establish systems within all publications, whether they are print, on-line or broadcast to check where and how material was sourced
- To use the market place and existing legislation to control the so-called 'stalkerazzi'

Anyone with the money can buy a camera and call themselves photographers and, as things stand, all of us have to contend with the actions of the relatively small number of unethical operators out there on a daily basis. Several times in this submission we have referred to press photographers as the very visible face of the media and all of our colleagues can relate stories of being shouted at, abused and even assaulted because of a general perception that all news photographers stalk celebrities for a living. This is just not true and The BPPA wishes to make that clear.

There are a large number of genuine and well-behaved entertainment and celebrity specialists who never cross the line, break the law or act outside any new rules that we might develop whose careers could be greatly assisted if we get this process right.

The introduction of a French style privacy law would be the archetypal 'sledgehammer to crack a walnut' combined with a textbook case of 'throwing the baby out with the bathwater'. We support the clarification of existing laws and the establishment of a meaningful, clear, enforceable and unambiguous ethical framework as the correct path along which to proceed.

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