

False
allegations

Trawling goes on trial

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AFTER THE NATIONAL COVERAGE it received, the spectacular collapse of Operation Rose in Northumbria early in April 2002 will be familiar to many people who have followed the development of police trawling exercises. As the news embargo was lifted and it became clear that more than twenty-five innocent care workers had been successfully defended, most of them by solicitor Gill Rutherford and her team, police methods were once again under scrutiny. And once again senior police officers went out of their way to claim that 'trawling' was an entirely normal form of criminal investigation. A year or so ago, when the trial of soccer boss David Jones collapsed, very similar points were made, with one senior officer comparing trawling investigations to the kind of house-to-house inquiries carried out by detectives after a murder has been committed.

Given the critical stage we have now reached, with an unprecedented number of MPs showing an active interest in the issue and with the Home Affairs Committee preparing to undertake its inquiry into care home investigations, it is not surprising that police officers seem increasingly anxious to present trawling as a well-tryed and traditional method. In this respect it is worth noting that the memory of some senior police officers appears to be very short. For there was a time when senior detectives themselves saw the matter differently. Indeed the view that trawling is an *abnormal* mode of investigation originally came not from critics of the process but from police officers who were actively engaged in it.

It is now almost six years since I interviewed Detective Superintendent John Robbins at the headquarters of Operation Care at Upton Police Station on the Wirral. Without any prompting from me Robbins described the approach he and his fellow officers had adopted towards the investigation of historical abuse as 'the reverse of normal police methods'. Normally, he explained, police officers start with an offence and are unsure who committed it. In trawling investigations, however, this process is reversed. What he clearly meant by this was that you start with a suspect or an allegation and end up by discovering a number of crimes, which had not previously been reported. He then went on to utter the words which have become famous. 'Corroboration,' he said, 'is generally done by volume.'

What Robbins told me in 1996 is now deeply embarrassing to senior police officers for no other reason than that his characterisation of trawling was entirely accurate. It remains accurate now. Of course it is quite true that, in the course of investigating serious crimes such as murder, the police may go to great lengths in order to discover fresh witnesses who have not come forward of their own accord. But in this

case the police are seeking evidence about a crime which has already been reported, and whose reality is not in doubt. In trawling operations they are, of course, effectively seeking crimes which have not been reported – and which may not, in fact, have taken place at all. There is a difference between conducting a search for witnesses and conducting a search for complainants. As Detective Superintendent Robbins himself clearly recognised in 1996, the latter approach turns traditional police methods on their head.

This point is noted in a booklet about trawling techniques published jointly by the Merseyside Police, the Cheshire Constabulary, the City of Liverpool Social Services directorate and Cheshire Social Services. The booklet in question was published in 1999 under the title *'You told me you loved me'* and is described as 'An account and analysis of the Joint Investigations into Institutional Child Abuse carried out in the North West of England from 1993 to 1999'. It contains the following oblique acknowledgment of the truth of Robbins' words: 'Critics have pointed out that these operational methods represent a departure from normal police practice. This may be true but the methods have been scrutinised by the judiciary in trials without criticism to date.'

It is highly significant that the authors of the booklet (which features a photograph of Detective Superintendent Robbins, who may well have contributed to its drafting) have attempted to limit the self-inflicted damage done by Robbins's own accurate analysis. They have done so by misattributing it to critics who have, in fact, merely been quoting it.

Seeking complaints

One of the standard letters which the Home Office, until recently at least, was in the habit of sending out to critics of trawling, says this: 'The aim of this process is not to produce fresh complaints, but to obtain evidence, either to support or to disprove the original allegation'.

The letter goes on to note that 'Sex offenders do not commit their offences in public view, and therefore there are usually no known witnesses to the allegations.' Since this claim is obviously true, the suggestion that witnesses are being sought in an attempt to *disprove* allegations cannot be sustained.

The real purpose of trawling operations can only be established by examining police practice. In North Wales, when the major investigation was launched in August 1991, police officers were initially instructed that they should only take statements from witnesses who had complaints to make. The terms in which this instruction was conveyed were these: 'No negative statements to be taken' (North Wales Tribunal Transcript, p. 25,444). This policy was reversed on 16 December 1991, but only, according to Detective Superintendent Ackerley, who led the investigation, in order to make prosecutions easier by documenting all evidence 'albeit there was no complaint' (p. 25,456). Statements in which no complaint was made, and which might be full of praise for particular care workers or a particular home, continued to be referred to as 'negative statements'.

What this terminology reflects is what any dispassionate examination of police trawling will reveal. In practice trawling is not a form of investigation; it is a technique for ensuring that prosecutions can be

brought in relation to long-delayed allegations and for maximising their chances of success.

Once again this is implicitly acknowledged in the multi-agency booklet, *'You told me you loved me'*. Here it is pointed out that, once a police force has adopted trawling as a legitimate mode of investigation, a single complaint of abuse will, almost automatically, trigger a full investigation:

It is arguable that in times past, a single uncorroborated allegation may not have produced such a response. Indeed it was probably the case that the fact that the allegation was uncorroborated often resulted in the matter being given a much lower priority for action. Experience has shown that in many (but not all cases), *proactive inquiry can uncover further allegations* [italics added].

From these words it is quite clear that the 'uncovering' of further allegations is seen as the central task of trawling operations. Again and again the former residents who are contacted in this way are referred to in the booklet as 'potential victims'. At no point in the booklet is there any discussion of the problem of false allegations. Nor is it ever suggested that one of the purposes of investigating complaints might be to *disprove* them.

Breeding allegations

The Home Office letter from which I have already quoted says this: 'As you know, investigations of this nature often start with one complainant making allegations going back over many years.' These words suggest that care workers are unlikely to find themselves being investigated unless somebody has first come forward to make an allegation against them. The idea is a reassuring one. In practice, however, it is not true. The major North Wales investigation of 1991-1992, to take but the most significant example, was launched without a single allegation having been made to the police at the time against fifteen of the sixteen Bryn Estyn care workers who were subsequently arrested. The exception, Stephen Norris, had been convicted in relation to another home and the investigation was launched in response to suspicions that he might be part of a paedophile ring. The allegations against the other fifteen members of staff were in effect 'bred' by the investigation itself.

This pattern, in which trawling operations lead to the progressive multiplication of suspects, is characteristic. Again and again a single completely unreliable allegation, which is subsequently discredited, shown to be impossible or rejected by the prosecution themselves, is allowed to trigger massive police investigations whose main effect is to encourage the proliferation of more unreliable allegations.

In one case in South Wales the original complainant made a series of wholly implausible allegations which included the claim that he had been sexually abused by a train driver, one Brian Green, in the cab of his train while he was driving it. It was eventually established by the police that Brian Green did not exist. By this time, however, a massive investigation had taken place. Its purpose was to gather as many allegations as possible against the members of a paedophile ring which had no more reality than the spectral train driver. As a result of this investigation seven men found themselves facing a total of some three hundred separate allegations. These included a claim that one residential

social worker had impaled a boy on a cucumber and that the same social worker had witnessed a murder, and protected the murderer by his subsequent silence. So little faith did the police have in the veracity of their own complainants that they did not even dig up the patch of ground which had been indicated as the site where the alleged murder victim was supposed to be buried.

In spite of the evidently false claims made by some of the complainants the police pressed on with the prosecution. Six of the seven men were charged, four of them jointly. In a process which lasted more than three years, the cases were brought to trial at Cardiff Crown Court where they eventually collapsed spectacularly in February 2001. A set of allegations made by a complainant who was eventually shown conclusively to be a fantasist and a compulsive fabricator, had been allowed to trigger a massive trawling operation which had in turn led to the collection of some 300 false allegations, and which had cost the taxpayer several million pounds.

The human cost of this particular case has been far greater than the financial cost. One of the defendants, Arthur Rowett, an 80 year-old man, died before his name could be cleared. Another, 50 year-old Simon Smith, died after hitting his head against a radiator when he stumbled and fell while he was being interviewed in a police station. The careers of the four other men who were charged have been destroyed, and their lives blighted. In two cases, social workers threatened to separate fathers from their own children, and indeed from their wives, by removing them from the family home.

In one of the most disturbing episodes in the entire saga, the judge who eventually directed that the three remaining defendants should be acquitted, made no comment on the horrific ordeal which had been suffered by all seven men, and offered no endorsement of their innocence. Whereas the judge in the David Jones trial told the football manager that he would leave the court without a stain on his character, the judge who presided over the spectacular collapse of the Cardiff trial was silent on this issue.

Most disturbingly of all, one of the innocent defendants who walked free from Cardiff Crown Court in February of last year, Tony Burke, found himself facing trial again later in the year. This was because the South Wales Police had managed to trawl up another set of allegations. Made by four men in their forties, two of whom were brothers, these trawled complaints related to events which had supposedly happened at a care home where Tony Burke had taught thirty years ago. Even though almost all documentary evidence had disappeared, and key witnesses had died, an abuse of process hearing failed. Just before Christmas, Tony was convicted and sentenced to 8½ years in prison. His wife Claire, a social worker, and his three young children, have now joined those who wait.

Drawing a line

The investigation in South Wales is only one of at least a thousand investigations into individual homes which have been conducted as part of more than ninety different trawling operations across the country. Even though this particular investigation has collapsed, the trawling operation out of which it grew continues. This is the nature of such

operations. In a paragraph headed ‘The “End Game”’, the authors of *You told me you loved me* express the problem in the following terms:

Given the considerable resources deployed by investigative agencies, the need to design parameters wherein a line might be drawn to the operations has been a constant consideration, but perhaps more properly falls within the category of being an ongoing dilemma.

In other words police trawling operations, once they have been started, are all but impossible to stop. This is but one of many reasons why they are the most dangerous form of police investigation which has yet been devised. Because of the manner in which they encourage and multiply false allegations, and because of the sheer number of the grave miscarriages of justice they have already led to, these operations have already, in the eyes of some observers at least, entirely destroyed the credibility of our system of justice and law enforcement.

Contrary to what the Home Office letters say (or used to say) and to what senior police officers are likely soon to be telling the Home Affairs Committee, the aim of trawling operations is precisely what it is now claimed *not* to be – to produce fresh allegations. In practice this aim will remain, however much the police themselves may seek to normalise trawling by the introduction of ineffectual guidelines. Until such time as the judiciary and politicians act in concert to introduce rigorous safeguards, and to reform radically the manner in which complaints of sexual abuse are investigated and tried, false allegations will continue to multiply and the vast human tragedy to which such allegations have already led will continue to deepen.

There can be no doubt that the Home Affairs Committee has a difficult task ahead of it. For nothing less than the credibility of our entire justice system depends upon the outcome of their inquiry.

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