



Home Secretary  
Jacqui Smith MP  
Home Office  
2 Marsham Street  
London SW1P 4DF

3<sup>rd</sup> December 2008

Robert F. Quick OPM MBA  
Assistant Commissioner  
Specialist Operations

New Scotland Yard  
Broadway  
London SW1H 0BG

Tel: 020 7230 3515  
Fax: 020 7230 2565

Dear Home Secretary

I am writing in response to a series of questions raised by your officials which relate to the search of Damian Green MP's parliamentary office on Thursday 27<sup>th</sup> November 2008. The questions raised are set out below followed by the response of the MPS;

*Question 1: Was a warrant needed to search the Parliamentary office?*

No.

Section 8 (1) of the Police and Criminal Evidence Act as amended permits a Justice of the Peace to issue a warrant authorising a constable to enter and search premises where satisfied on application by a constable that there are reasonable grounds for believing;

- a) That an indictable offence has been committed and;
- b) There is material on the premises mentioned in subsection (1a) which is likely to be of substantial value of the investigation of the offence and;
- c) The material is likely to be relevant evidence and;
- d) It does not consist of or include items subject to legal privilege, excluded material or special procedure material and;
- e) That any of the conditions specified in sub section 3 applies in relation to each set of premises specified.

Section 8 (1a)

The premises referred to in subsection (1b) above are;

- a) One or more sets of premises specified in the application or
- b) Any premises occupied or controlled by the person specified in the application

Cont'd/...

Section 8 (2)

Provides that a constable may seize and retain anything for which a search has been authorised under subsection (1) above.

Section 8 (3)

Identifies the conditions mentioned in subsection 1(e) above and are

- a) That it is not practicable to communicate with any person entitled to grant entry to the premises.
- b) That it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence.
- c) That entry to the premises will not be granted unless a warrant is produced.
- d) That the purpose of the search is frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

The effect of the condition in subsection 3 (c) is that a Justice of the Peace may not issue a search warrant under section 8 if he/she believes entry to the premises will be granted without a warrant (i.e. by consent). As there was no basis for submitting to a JP that it was believed that consent would be refused, it was considered that it was not open to a constable to make an application.

*Question 2: Should the officers have told the Serjeant at Arms she had the right to refuse permission without a warrant?*

Code B52 of the codes of practice state – “Before seeking consent the officer in charge of the search shall state the purpose of the proposed search and its extent. This information must be as specific as possible, particularly regarding the articles or persons being sought and the parts of the premises to be searched. The person concerned must be clearly informed that they are not obliged to consent and anything seized may be produced in evidence. If at that time the person is not suspected of an offence the officer shall say this when stating the purpose of the search”.

On Wednesday 26<sup>th</sup> November 2008 police officers led by the Senior Investigating Officer attended the Palace of Westminster to speak to the Serjeant at Arms. The officers briefed her to the effect that they were seeking permission to search the Parliamentary office of an MP. The Serjeant at Arms was informed that the police had applied for and been granted by a magistrate, three warrants in relation to three other premises related to the MP. The officers informed the Serjeant at Arms that the provisions of Section 8 of the Police and Criminal Evidence Act required that they first seek consent

of the person who occupies or controls the premises where they believe evidence may be found.

The officers explained the nature of the investigation and the purpose of the search and were satisfied that the Serjeant at Arms understood that police had no power to search in the absence of a warrant and therefore could only do so with her written consent or that of the Speaker. Prior to giving written consent the Serjeant at Arms told the officers that she would seek legal advice. Further discussion between the officers and Serjeant at Arms is detailed in the officer's statements.

The Serjeant at Arms indicated that she would give her consent at the appropriate time and that she would take responsibility for informing the Speaker. It was further indicated the officers would seek consent the following day on Thursday 27<sup>th</sup> November 2008 and the MP concerned would be identified to her.

On the 27<sup>th</sup> November 2008 officers attended the Palace of Westminster where they again saw the Serjeant at Arms and written consent to search was provided in two forms; namely a signature on a standard police search form 101 and in a letter provided by the Serjeant at Arms. It is understood that the Serjeant at Arms had obtained legal advice in the interim. The legality or otherwise of police actions in criminal investigations are often subject to challenge and are settled through the judicial process.

*Question 3 – Did AC Quick have to write to the Speaker, confirming the arrest?*

Yes. It is understood that protocol requires the police to write to the Speaker and notify him after the arrest of a member of parliament: see Erskine May chapter 7.

*Question 4 – When did he write?*

Monday 1<sup>st</sup> December 2008.

Yours sincerely



Robert F Quick QPM MBA  
Assistant Commissioner  
Specialist Operations

Cc Mr Speaker  
Serjeant at Arms  
Catherine Crawford, MPA