

## SUBMISSION

**TO: THE JOINT COMMITTEE ON HUMAN RIGHTS**

**FROM: THE INDEPENDENT POLICE COMPLAINTS  
COMMISSION (IPCC)  
90 High Holborn, London, WC1V 6BH**

**REGARDING: Call for supplementary evidence on Policing and  
Protest**

### Summary

The Independent Police Complaints Commission (IPCC) welcomes the report published by the Joint Committee on Human Rights, entitled 'Demonstrating respect for rights? A human rights approach to policing protest', and the opportunity to provide supplementary evidence to the Committee on Policing Protests in advance of the oral hearing scheduled for 12 May 2009.

The IPCC has called for a public debate on policing protests. This submission sets out the complaints arising from the G20 protests and other recent public order events in the context of the complaints system as a whole and identifies some initial emerging themes. Nothing in this submission should be taken as a judgement on the conduct of individual officers for matters which are still under investigation.

### The Independent Police Complaints Commission (IPCC)

1. The Independent Police Complaints Commission (IPCC) was established by the Police Reform Act (2002) and began work on 1 April 2004. Its statutory purpose is to increase public confidence in the police complaints system in England and Wales<sup>1</sup>. The IPCC makes its decisions independently of the police, government, interest groups and individuals. IPCC Commissioners must not have worked for the police service in any capacity. 'Respect for human rights' is an explicit IPCC core value. The IPCC endeavours to carry its work out to applicable human rights standards and aims to ensure effective remedies for individuals whose rights have been breached.
2. The IPCC's statutory remit includes:
  - **Complaints** about the conduct of individual police officers;

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<sup>1</sup> The IPCC's remit also includes staff from HMRC, SOCA and certain members of staff from the UK Borders Agency.

- **Recordable conduct matters** even if no complaint has been made;
- **Deaths and serious injury** following police contact whether or not a complaint has been made or misconduct alleged.

'Direction and control' matters and quality of service issues are outside the IPCC's statutory remit.

3. Complaints may be made directly to the IPCC or to the force concerned. All complaints must be recorded by the police force or police authority concerned who must then refer to the IPCC any matter involving a death or serious injury following police contact or any serious criminal offence whichever way that matter is raised. In addition, the police may voluntarily refer other cases to the IPCC and the IPCC can itself 'call in' any matter within its remit.
4. When a case is referred to the IPCC, the IPCC will decide on the mode of investigation from the following options:
  - **IPCC independent investigation** – conducted by IPCC Investigators, who have all the powers of a police constable;
  - **IPCC managed investigation** – conducted by the police, but under the direction and control of the IPCC;
  - **IPCC supervised investigation** – conducted by the police under police direction and control in accordance with terms of reference set by and reporting to the IPCC.
  - **Locally investigated by the police themselves.**
5. The decision on mode of investigation will be objectively based on a range of factors including:
  - The known evidence and information – this will often be supported by a formal initial scene assessment conducted by the IPCC;
  - ECHR engagement and any consequent requirement for an independent investigation;
  - The relative seriousness of the case;
  - The level of public interest in the case and/or impact on public confidence in policing;
  - The availability of IPCC resources.
6. Following an independent or managed investigation, the IPCC may:

- refer the matter to the Crown Prosecution Service to consider any criminal charges;
- refer the matter to the appropriate disciplinary authority with recommendation for disciplinary proceedings to be taken;
- make recommendations for operational learning to the force or other relevant local or national body.

Where a force does not accept the IPCC disciplinary recommendations, the IPCC can require a disciplinary tribunal to be convened.

The IPCC does not determine the outcome of any disciplinary or criminal tribunal and does not determine any penalty.

Where a death has occurred, the IPCC will assist the coroner with and provide evidence to any subsequent inquest.

7. The IPCC sets statutory complaint handling standards that the police must follow. Where a complainant objects to a force's decision not to record a complaint or objects to the outcome of a local or supervised investigation, they may appeal to the IPCC.
8. The IPCC has an income of approximately £36 million<sup>2</sup> and employs about 400 staff of whom about 120 are investigators.
9. In 2008/09, the IPCC:
  - Received 2,445 referrals;
  - Carried out 189 assessments<sup>3</sup>;
  - Began 106 independent investigations;
  - Began 117 managed investigations;
  - Began 167 supervised investigations;
  - Received 4634 appeals.

### **Police Complaints Statistics 2007/08**

10. In 2007/08 there were<sup>4</sup>:
  - 28,963 recorded complaints cases which represents an increase of 83% since 2004;
  - Of the 48,280 allegations contained in these complaint cases:

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<sup>2</sup> For 2009/10 financial year

<sup>3</sup> Part year figures. Formal scene assessment began in September 2008

<sup>4</sup> IPCC: 'Police Complaints; Statistics for England and Wales 2007/8'. Statistics for 2008/9 will be published in September 2009

- 21,770 (48%) concerned incivility, politeness or intolerance, or minor neglect of duty;
  - 7,385 (15%) concerned some form of physical assault, including very serious assault or sexual assault;
  - 3,174 (7%) concerned oppressive conduct or harassment.
11. 44 cases referred to the IPCC in 2007/8 involved public order incidents.

### **Complaints arising from recent protests**

#### *G20*

12. As of 6 May 2009, the IPCC had received a total of 262 direct complaints relating to the G20 protests:
- 122 appear to be related to conduct matters from individuals who allege they experienced or witnessed police misconduct (largely allegations of assault);
  - 76 appear to be related to direction and control matters. These appear to be outside the IPCC's remit;
  - 64 appear to be from people who have been concerned by what they have seen on the television or other media. These appear to be outside the IPCC's remit.
13. Her Majesty's Inspectorate of Constabulary (HMIC) is carrying out a review of the police tactics and overall strategy for the G20 protests at the request of the Metropolitan Police Commissioner. The IPCC is liaising closely with HMIC so that they can consider the complaints that are outside the IPCC's remit as part of their review.
14. The IPCC is carrying out four independent investigations into allegations arising from the G20 protests. This includes the criminal investigation into the possible manslaughter of Ian Tomlinson.

#### *Tamil Protest in Parliament Square*

15. As of 6 May 2009, the IPCC has received 5 direct complaints regarding the Tamil protests in Parliament Square. Two allege assault and incivility, two allege a failure by the police to deal with the demonstration sufficiently robustly and one alleges oppressive conduct. The IPCC does not currently have information about how many complaints were made directly to the police about this matter.

*Iona Independent School, Nottingham*

16. As of 6 May 2009, the IPCC had not received any direct complaints relating to this incident. The IPCC does not currently have information about how many complaints, if any, were made directly to the police about this matter

*Hunting Demonstration, Parliament Square, 15 September 2004*

17. For comparison, at a similar stage in the aftermath of the pro-hunting demonstration in Parliament Square in September 2004, the IPCC had received approximately 450 complaints.
18. Following the IPCC investigation, six officers were summonsed. Three were acquitted and the CPS discontinued proceedings against the remaining three. The IPCC required a disciplinary tribunal to be convened against two officers; both were acquitted.
19. The IPCC made a number of operational recommendations following its investigation. These included:
  - officers should be publicly identifiable at all times;
  - evidence should be preserved when batons have been used;
  - a review of the tactical options available to police when subject to attack with a view to minimising the risk of physical force being used by individual police officers and only as a last resort with consideration being given to all equipments now available.

**Recommendations on policing protests**

20. The IPCC welcomes the JCHR's recommendations:
  - to amend section 5 of the Public Order Act to remove the reference to 'insulting words or behaviour';
  - for appropriate human rights training for officers involved in policing protests at all levels.

*Section 44 Terrorism Act 2000*

21. The IPCC also welcomes the JCHR's recommendation that counter-terrorism powers should not be used against peaceful protesters. The IPCC has wider concerns about the use of stop and search in general and Section 44 in particular. The IPCC believes that the use of stop and search should meet the following criteria:
  - Fairness;
  - Effectiveness;

- Carries public confidence.

### *Photography*

22. The Committee notes that the Terrorism Act 2000 does not prevent people from taking photographs or digital images. The IPCC welcomes and values information supplied by modern media / 'citizen journalism' which has been important evidence for IPCC enquiries and investigations.

### *Tasers*

23. The IPCC strongly supports the Committee's view on the use of tasers. Guidance issued by the Association of Chief Police Officers, clearly states that taser use is not intended for public order policing and never against peaceful protesters. The IPCC has recently announced it will require all complaints relating to the use of taser to be referred to it.

### **Emerging issues**

24. IPCC investigations into G20 are ongoing and it is therefore cautious about drawing premature conclusions.
25. The following emerging issues have however been identified from the complaints arising from the G20 protests:

### *Officer Identification*

26. There have been serious concerns that some officers who have appeared in footage of the G20 protests appear to have removed their identification numbers. The IPCC will regard this as a disciplinary matter in any investigation it undertakes and will also consider the conduct of any supervising officer who was aware of this occurring but took no action to prevent it. Police forces should urgently reinforce the requirement that other than in exceptional, specified circumstances, officers are required to be identifiable at all times.

### *Front line supervision*

27. The Committee and the IPCC itself, in previous investigations, has noted the importance of training and front line supervision. Front line supervision is a concern in many IPCC investigations. The IPCC will consider whether the front line supervision of officers at the G20 protests was sufficiently robust and intrusive in the context of the very challenging situation with which many officers were confronted.

*Public Debate and Understanding*

28. The IPCC will examine the conduct of individual officers and may make operational recommendations arising from its investigations. The HMIC review of policing at G20 will consider the tactics and strategy used. Both of these will take place within the constraints of the law as it currently stands.
29. The IPCC therefore welcomes the JCHR's consideration of how the conflicting interests of those involved in and affected by demonstrations should be balanced. The IPCC believes there should be a broader public debate about where, within the applicable human rights standards, the balance between security and liberty should be struck and what expectations we should have of how individual officers use their powers in public order situations.

**IPCC**  
**07 May 2009**