

Referring complaints, conduct matters and death or serious injury matters to the IPCC – a review of current police force practice

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Foreword

The great majority of complaints from the public and many allegations of potential police misconduct are dealt with, at least initially, by the police force itself. However, it is essential, for public confidence and accountability, that the most serious matters are referred to the IPCC promptly, so that we can decide whether they require independent investigation, or a degree of independent oversight or supervision.

For that reason, the legislation and regulations governing the police complaints system require forces to refer to us all deaths and serious injuries during or following police contact, as well as a number of other serious allegations, including assaults and alleged corruption. Additionally, forces can choose to refer matters that raise grave or exceptional issues. The criteria are set out in full on page four of this report.

The Home Secretary has made clear that she wants us to be able to independently investigate all serious and sensitive cases, and has provided additional resource for us to do so. In order to fulfil that, it is essential that we can be confident that those serious and sensitive cases that we need to investigate are, in fact, referred to us. We therefore carried out some research earlier this year, looking at over 400 cases that were likely to come within our referral criteria, but which had not been referred to us.

We found that 76 (18%) of these cases should have been mandatorily referred to us, including six deaths and twelve serious injuries, and that a further 17 (4%) were suitable for voluntary referral. The six deaths all followed some form of contact with the police, and in five of them there were issues about the management of known risks to the individual.

These findings clearly raise some concerns. However, we did not find that the failure to refer was a consequence of a deliberate attempt to withhold information from the IPCC. Rather, it resulted from fundamental flaws in the systems and processes within forces, and a lack of understanding of the referral criteria throughout the force. Relevant cases were not always passed to the force's Professional Standards Department (PSD) in the first place, and the PSDs themselves did not record their rationale for deciding whether to refer or not, so their decisions could not be audited.

It was particularly concerning that there appeared to be inadequate mechanisms for alerting PSDs to the outcomes of serious case reviews or domestic homicide reviews. We also found that the majority of cases that should have been referred originated as complaints from the general public, particularly allegations of excessive force or discrimination.

It is crucial, for public confidence in the system, that the IPCC has sight of all the cases that may require independent investigation or oversight. It is equally important that PSDs have sight of all matters that may point to misconduct or poor performance, or where there may be important learning for the force as a whole. Our recommendations are therefore directed at improving the processes by which these cases reach PSDs, and then are referred appropriately to the IPCC.

Dame Anne Owers

Executive summary

1. The Independent Police Complaints Commission (IPCC) has a statutory obligation to secure and maintain public confidence in the police complaints systems in England and Wales, under the Police Reform Act 2002 (PRA).
2. Professional standards departments (PSDs)¹ must refer certain complaints, conduct matters or death or serious injury (DSI) matters to the IPCC so it can decide how the matter should be investigated to ensure public confidence in the system. Forces can also refer cases to us voluntarily that do not meet the mandatory referral criteria, but where the seriousness of the case or the public interest warrants a referral.
3. As the IPCC is expanding rapidly and acquiring greater powers, we need to be certain that we have the opportunity to review all the cases that should be referred to us. We must also fulfil our statutory obligation to ensure the requirements of the Police Reform Act are met. We have looked at whether police forces are applying the mandatory referral criteria appropriately, and at whether they are identifying the cases we would expect for voluntary referral. We also looked at the processes police forces have in place to identify cases that their professional standards departments (PSDs) should assess.
4. We sampled 419 cases (that had not previously been referred to the IPCC) across six PSDs and found that 22 per cent of these (93) should have been referred to us on a mandatory basis (76), or were suitable for voluntary referral (17). The types of cases that were not being referred primarily involved deaths and serious injuries, serious corruption and serious assault. The files that we sampled focussed on the kinds of case that were more likely to come within our criteria for referral.
5. We found that all of the forces we sampled lacked a formal process for assessing whether cases needed to be reported to their PSD,. In particular, this included cases where serious case reviews (SCRs) and domestic homicide reviews (DHRs)² had taken place. We also found that people with responsibility for identifying the cases to be sent to PSDs had had little, if any, training on the referral criteria. We found that the mandatory referral criteria are misunderstood, and that PSD staff had received only minimal training on the referral grounds beyond reading the IPCC's statutory guidance.
6. We also found cases that we assessed as being suitable for voluntary referral. Four of the six PSDs we worked with acknowledged that they did not consider Article 3³ of the European Convention on Human Rights when assessing whether to refer a case to us.
7. We also identified cases that did not need to be referred when considered in isolation, but which might reveal troubling patterns of behaviour. However, the PSDs told us that they do not consider patterns of behaviour that might make referral appropriate when assessing whether to refer a case.
8. Only two PSDs told us that they recorded the rationale when decisions were made not to refer a case to the IPCC. Our own reviews of PSD files demonstrated this. The lack of an audit trail for referral assessment decisions makes it impossible to quality assure these decisions.

¹ Each police force has a professional standards department. PSDs are responsible for dealing with complaints about police officers and staff from the public and colleagues, and investigating misconduct within the force.

² See Annex 1 for definitions.

³ Article 3 of the European Convention on Human Rights provides that no one shall be subjected to torture or inhumane or degrading treatment or punishment. See [our Statutory Guidance](#) for further information.

9. As a result of our findings, we have made the following four recommendations:
- Forces should ensure that they have appropriate processes and communication in place to ensure PSDs are notified of relevant cases, including those where serious case reviews and domestic homicide reviews take place. Forces should ensure that these processes include appropriate quality assurance. They should also provide appropriate training to relevant staff.
 - A referral assessment should be carried out in every case as part of the initial assessment of seriousness. For special requirements investigations⁴ and for all death or serious injury cases, a substantive rationale for not referring should be recorded on the file. These decisions should be subject to quality assurance measures.
 - PSDs should ensure that systems are in place to record and monitor patterns in an officer's behaviour. These systems should trigger a review if there appears to be a pattern of allegations and / or a higher number recorded for particular officers. The review should contribute towards the assessment of the seriousness of the case and the decision about whether to refer it.
 - PSDs should ensure that appropriate guidance and training are in place to enable their staff to make confident referral assessment decisions. These decisions should be quality assured.
10. We will publish an edition of [Focus](#) that clarifies the mandatory referral criteria and provides guidance on voluntary referrals, and will continue to work with forces through our regular meetings with their PSD staff.

⁴ An investigation is subject to special requirements if it appears that the person whose conduct is being investigated may have committed a criminal offence or behaved in a manner that would justify bringing criminal proceedings.

IPCC referral criteria

Mandatory referral criteria

The appropriate authority⁵ must refer complaints (from members of the public) and recordable conduct matters (identified within the force itself) that include allegations of conduct which constitutes:

- serious assault
- serious sexual offences
- serious corruption
- criminal offence or behaviour liable to lead to misconduct proceedings and which, in either case, is aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or belief, age, disability, sexual orientation, gender reassignment, marriage and civil partnership or pregnancy and maternity
- a relevant offence, or
- complaints or conduct matters that are alleged to have arisen from the same incident as anything falling within these criteria

Death or serious injury

11. All death or serious injury matters must be referred to the IPCC. A death or serious injury matter means any circumstances (unless the circumstances are or have been the subject of a complaint or amount to a conduct matter) in, or as a result of which, a person has died or sustained serious injury and:
 - at the time of death or serious injury the person had been arrested by a person serving with the police and had not been released or was otherwise detained in the custody of a person serving with the police, or
 - at or before the time of death or serious injury the person had contact of any kind – whether direct or indirect – with a person serving with the police who was acting in the execution of his or her duties and there is an indication that the contact may have been caused – whether directly or indirectly – or contributed to the death or serious injury. Serious injury means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function

Voluntary referrals

12. A complaint or incident that does not come under the mandatory referral categories can be referred to the IPCC voluntarily where the gravity of the subject matter or exceptional circumstances justify referral.
13. For example, this may be because the complaint or an incident may have a significant impact on public confidence, or the appropriate authority has specific concerns about a matter or it is felt there is a need for independent involvement in the investigation. However, this is only relevant for matters concerning serving police officers and staff.

⁵ The appropriate authority is the Chief Officer with direction and control over the person serving with the police. They are responsible for holding to account everyone within their force, which includes complaint and conduct matters. For Chief Officers, the appropriate authority is the Local Policing Body.

Introduction

14. In 2013, the Home Secretary announced the intention for the IPCC to carry out more independent investigations into 'serious and sensitive' cases. We are currently working to define the factors that may make a case serious or sensitive. As the IPCC expands and takes on more cases, it is imperative that we are confident that police forces are referring the correct types of case to us.
15. During January – February 2015 we carried out work to assess whether police forces are applying the mandatory referral criteria correctly. We also looked at whether they are identifying cases for voluntary referral as we would expect. The research aimed to identify any variations between forces in the rate of referred complaints and conduct matters, and any concerns about the way that forces interpret and apply the referral criteria.

Methodology

16. We analysed police force referral data for 2013/14, considering the number of referrals each force had made as a percentage of the number of people they employed as of 31 March 2012. We then identified six PSDs with low, medium and high referral rates and arranged to carry out file sampling of these forces.
17. We file sampled the following types of cases:
 - complaint and conduct matters where regulation notices⁶ had been served on the police officers and/or staff involved
 - serious case reviews (SCRs)
 - domestic homicide reviews (DHRs)
 - 'miscellaneous' files where death or serious injury had been ticked on Centurion⁷
18. In each of the six forces, we carried out unstructured interviews with at least one PSD staff member who made decisions about whether to refer cases to the IPCC. The topics we discussed included :
 - how PSDs were notified of death or serious injury cases
 - the assessment processes in place to determine whether a referral is made
 - the checks made to identify cases that had not been reported to PSDs
 - staff training on the referral criteria
 - voluntary referrals and Article 3 cases
19. We took formal minutes of these interviews which were agreed by all parties.
20. Although our sample only included six PSDs and our findings may not be relevant to all police forces, we anticipate that the overall messages will.

⁶ A regulation notice is served on a police officer/member of police staff to notify them that an allegation has been made that their individual conduct may have breached the standards of professional behaviour and there will be an investigation into the circumstances.

⁷ Centurion is the software used by police forces for case recording and managing of professional standards data, which includes complaints and conduct cases.

Findings

21. We sampled a total of 419 cases that had not been referred to the IPCC and that came under the following categories:

Complaints	157
Conduct	225
Domestic homicide reviews (DHRs)	10
Serious case reviews (SCRs)	11
Death or serious injury (DSIs)	16

22. Of the 419 cases sampled, we found that 22 per cent (93) met the referral criteria on a mandatory basis (76), or were suitable for voluntary referral (17) owing to the gravity of the matter or other exceptional circumstances. Seven cases potentially met the referral criteria, but the information available was not sufficient to be certain. The chart below shows a breakdown of the sample and types of cases that should have been referred to the IPCC.

419 cases sampled			
Referral criteria	Mandatory: 76	Voluntary: 17	Correctly not referred: 319
Case type	Complaint: 35 Conduct: 31 DSIs: 8 SCRs: 2	Conduct: 8 Complaint: 6 SCRs: 3 DHRs: 1	Conduct: 187 Complaint: 113 DHRs: 9 SCRs: 6 DSIs: 4
Referral Grounds	Serious corruption: 31 DSIs: 18 Serious assaults: 16 Discrimination: 12 Serious sexual offence: 1	Article 3: 4 Public interest: 4 Gravity of subject matter: 4 Near miss: 3 Pattern of behaviour: 2 Level of contact: 1	

NB: The total number of grounds on which cases should have been referred is greater than the number of cases because three cases were missed on two separate grounds. The number of cases identified as referable under the DSI ground is higher than the number of DSI cases because some of the conduct and SCR cases were referable under this ground.

Notifying PSDs about matters that might need to be referred

23. PSDs are responsible for recording complaint and conduct cases and assessing whether they should be referred to the IPCC. It is therefore essential that PSDs are notified of cases that may need to be referred.
24. Our research highlighted flaws in the systems and processes that forces use to notify their PSD about cases that could warrant referral to the IPCC. This was particularly apparent for death or serious injury cases and cases where there has been a serious case review or a domestic homicide review.
25. Serious case reviews and domestic homicide reviews involve a review of the circumstances in which a person has died. The cases they look at tend to involve vulnerable people (for example, victims of domestic abuse or child abuse/neglect). They aim to identify learning for the relevant agencies, including the police. It is therefore essential that these cases are flagged to the PSD and assessed for possible referral to the IPCC – either because they involve a death or serious injury or because they may involve potential conduct matters.

Case study – death of a high-risk missing person

Mr A had dementia and was found dead the morning after he was reported missing from his care home. The force that received the report had been involved with Mr A on five previous occasions in connection with missing person/welfare concerns. On the last occasion, the call was graded incorrectly. A review of police actions after Mr A's death found that he should have been graded as a high-risk missing person rather than medium. It also found that two other incidents earlier that month had not been classified correctly. This meant that no vulnerable adult referrals had been made. A serious case review highlighted that though Mr A's death was an accident, it was likely that it could have been preventable.

The police force should have referred this death or serious injury matter to the IPCC. As a result of the contact the force had had with Mr A before his death, the police interaction with him should be examined to assess whether the contact may have caused (whether directly or indirectly) or contributed to his death.

26. In our discussions with the PSDs, they told us that cases where there had been a death or serious injury could be reported to them through various channels, including:
 - the force control room
 - police custody suites
 - divisional commands
 - members of the public
 - senior officers/management
 - serious case reviews or domestic homicide reviews.
27. The examples PSDs reported to us included receiving a telephone call from their force control room to report a death or serious injury, and information being shared at regular meetings between custody inspectors and PSD staff. In most cases, PSDs rely on someone outside their department to notify them about a case that may need to be referred.

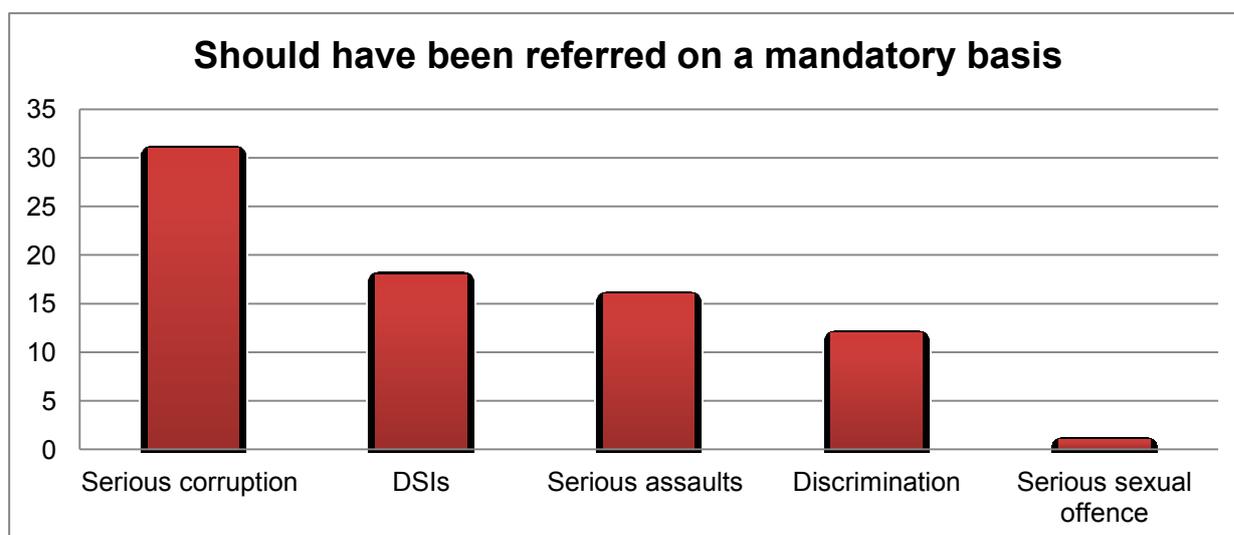
28. PSDs do not hold the files for serious case reviews and domestic homicide reviews, most of which look at either a death or the care of a vulnerable person. Within the total sample of 21 serious case review/domestic homicide review cases we looked at, we could not establish whether the PSD had been notified of the cases, regardless of whether they identified learning for the police. We found no evidence that the PSDs in forces where these 21 reviews took place had been contacted to provide a view on the issues the review reports highlighted, and no paperwork that documented whether referring the case to the IPCC had been considered.
29. We were not able to find a formal, direct link between most PSDs and the police force staff responsible for reviewing serious case review/domestic homicide review cases. All the PSD staff we spoke to told us that the Public Protection Unit or a Gold Group would review serious case review/domestic homicide review cases and, when appropriate, notify the PSD. However, it is not clear whether staff in Public Protection Units or Gold Group meetings are aware of the criteria and requirements for referrals. None of the PSDs we spoke to provided training for staff in departments that assess serious case review/domestic homicide review cases.
30. It was evident from our discussions with PSD staff that there was no suggestion that information is deliberately withheld from the IPCC or wilfully not referred. On the contrary, PSDs were eager to apply the referral criteria correctly. What was missing was the appropriate systems in forces to enable them to do this. In some forces, there was also a lack of understanding of the referral criteria.
31. There must be a clear system in place to allow PSDs to make a robust initial assessment of serious case review / domestic homicide review cases. This assessment should be looked at as the review progresses and further information is gathered. It is crucial that PSDs have a defined role from the outset and that the staff responsible for alerting the PSD to relevant cases have a good understanding of when to do this. These staff must also be kept up to date about any changes to the referral criteria. This is equally important for other force staff who may identify conduct matters or potential death or serious injury cases – for example, the dog unit, firearms unit, custody sergeants, force control room and front counter staff.
32. The list below sets out incidents that force staff should refer to their PSD:
- any incident that potentially meets the IPCC mandatory or voluntary referral criteria
 - incidents where someone is hurt as a result of direct or indirect police action (regardless of the level of injury)
 - the arrest of a police officer/member of police staff
 - all domestic homicide reviews / serious case reviews that involve police action/inaction
 - all dog bites, taser discharges and firearms incidents
 - any police pursuit that results in a collision
 - any near miss in custody
 - off-duty conduct of police officers
 - conduct matters where public interest may be high
- **Recommendation 1: police forces should have appropriate processes and communication in place to ensure that their PSD is notified about relevant cases, including those where serious case reviews and domestic homicide reviews take place. Forces should ensure that these processes include appropriate quality assurance. They should also provide appropriate training to relevant staff.**

No rationale present

33. In the overwhelming majority of cases we looked at, we found that no rationale had been recorded on file for not referring a case to the IPCC. When we asked about recording referral assessments, only two PSDs stated that they record the rationale when deciding not to refer a case to the IPCC.
 34. Referral should be considered as decisions are made about how an incident should be handled. These assessments should be documented to provide an audit trail showing the elements that have been considered in reaching a decision.
 35. A documented referral assessment makes it possible to evaluate whether the IPCC referral criteria have been applied correctly. Because the majority of the files we sampled did not record a rationale for non-referral, it has not been possible to determine whether this is because the grounds for referral are misunderstood or because cases were simply not assessed for referral.
 36. It would be easy to add a box to the initial assessment form to prompt the assessor to record that the case has been considered for referral to the IPCC. For cases that are assessed as subject to special requirements and for all death or serious injury cases, a substantive rationale should be recorded where a decision is made not to refer. A rationale would also be required for cases that are locally resolved where a referral to the IPCC was initially considered.
 37. None of the forces we sampled had in place a quality assurance process to look at the decision not to refer a case to the IPCC. A number of forces told us that they used a review process to assess decisions to make a referral, but it is the cases where a decision is made *not* to refer that represent the greatest risk. These decisions should involve an assurance review process.
- **Recommendation 2: a referral assessment should be carried out in every case as part of the initial assessment of seriousness. For special requirements investigations and for all death or serious injury cases, a substantive rationale for not referring should be recorded on the file. These decisions should be subject to quality assurance measures.**

Mandatory referrals

38. We found 76 cases that met one or more of the grounds for mandatory referral⁸.



⁸ See [IPCC Statutory Guidance](#) for definitions of these grounds.

Serious corruption

39. Forty per cent of the 76 cases that should have been subject to a mandatory referral related to serious corruption (31 cases). These fell mainly into the following categories:
 - abuse of authority for sexual gain (15)
 - perverting the course of justice (11)
 - misuse of police systems/police evidence (4)
40. Almost half (15) of the cases that should have been subject to a mandatory referral for serious corruption involved incidents where people serving with the police abused their position of authority to legitimise unnecessary contact with victims of crime for sexual gain.
41. All of these cases involved police officers making unsolicited contact with victims of crime for a non-policing purpose. In nine (of the 15 cases), officers had established, or attempted to establish, a sexual relationship with vulnerable people who had been victims of either domestic or sexual abuse.
42. The eleven cases of perverting the course of justice generally involved allegations that officers had lied in their account about an incident. We recognise that where evidence is readily available to support or discount the credibility of such allegations, this would be considered as part of the referral assessment process. However, we were unable to confirm whether this had happened in eight of these cases.

Case study – use of unnecessary force

An officer was reported, by colleagues, for using unnecessary force on a member of public during arrest. An allegation was made that the officer had intentionally recorded an inaccurate rationale for both the arrest and for the use of force. The conduct was recorded and the officer was served with a regulation notice, which referred to the arrest as an abuse of authority. However, the matter was not referred to the IPCC.

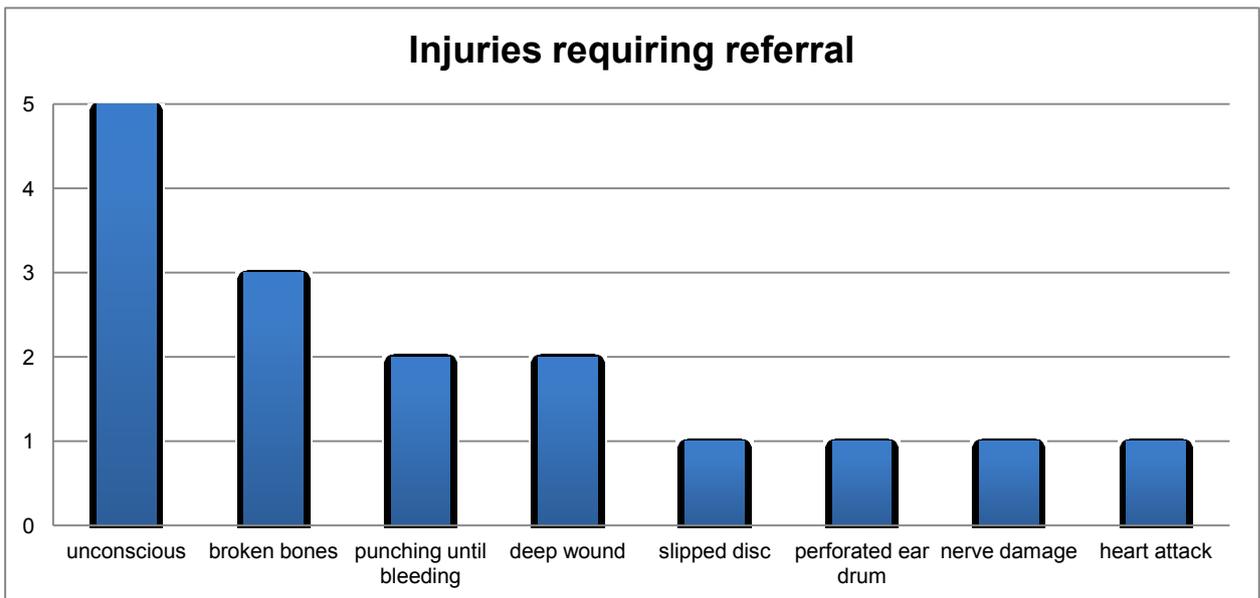
This conduct matter should have been referred on the basis that the officer had allegedly lied in his statement about the reason for the arrest, which could have resulted in the person being charged and/or prosecuted inappropriately. The officer had allegedly used his position as a police officer to record inaccurate information to justify the reason for arrest, thereby potentially perverting the course of justice.

43. Although our sample found a high number of cases where misuse of police systems/evidence was a factor (40 of the 421 cases sampled), only four of these (10 per cent) should have been subject to a mandatory referral. Given that, overall, 22 per cent of the cases we looked at should have been referred, this relatively low number suggests that PSDs recognise that misuse of police systems that does not involve tangible gain (personal or otherwise) is not serious corruption.

Death or serious injury

44. Even when PSDs had been notified of cases, we found that the death or serious injury referral criteria were not always fully understood or consistently applied. The causal link between the police action/inaction was often not linked to the subsequent death or serious injury.

45. Of the 76 cases that should have been subject to a mandatory referral, 24 per cent (18) related to a death or serious injury. Six of these were connected to deaths following police contact. None were deaths of people who had been arrested or detained under the Mental Health Act, or who had died in road traffic incidents or shootings. One was a suicide following release from police custody. Two were conduct matters identified during the investigations of a suicide following police contact/police custody. Although the suicides had been correctly referred to the IPCC, the conduct matters identified during the subsequent investigations should also have been referred. Two were deaths of people who had died after police contact: one had been reported missing from his care home and the other was a vulnerable individual who had had a lot of contact with the police before his death. In all of these five cases, there were concerns about the known risks to the individual and how those risks were managed by the police: for example a known risk of self-harm or the incorrect grading of a missing person report. The sixth case concerned the restraint of a person who subsequently died (see case study on page 12).
46. The remaining 12 cases that should have been referred involved serious injury. Five of these involved incidents where people had lost consciousness while in police custody.



47. Section 29 of the Police Reform Act 2002 defines serious injury. The definition includes the impairment of any bodily function. Clearly, loss of consciousness is an impairment of brain function, however temporary.
48. All five of these cases came from the only police force we sampled that records miscellaneous unreferred death or serious injury cases. Therefore, we are unable to draw any wider conclusions about whether this is a particular issue for that one force, or whether this is a wider misunderstanding.

Case study – death following police contact

A PSD was notified about a death following police contact. An ambulance had asked for police assistance to deal with a man who had reported that his drink had been spiked. The man was reported to be extremely agitated and the ambulance service requested help to restrain him. Two police officers arrived, accompanied the man to the ambulance, and stayed with him while he was taken to hospital. He was kept in hospital for observation and the officers left. Thirty-one minutes later, the man suffered a cardiac arrest and died.

A decision was made not to refer the matter to the IPCC as officers had attended in a support role only. However, the information available suggested that the officers may have helped to restrain the man. As it is not possible to rule out any causal link between the restraint and the subsequent cardiac arrest, the matter should have been referred.

Serious assault

49. Sixteen of the cases we sampled should have been referred on the grounds of serious assault. Twelve of these involved allegations of excessive force being used by an on-duty police officer. The remaining four cases related to off-duty conduct – three of these involved allegations of domestic violence against a police officer.
50. The injuries associated with these 16 cases varied in severity, but all amounted to actual bodily harm (ABH)⁹. One complainant sustained a broken rib and bleeding eye and another was punched several times in the face causing bleeding. In another, a perforated ear drum was recorded.
51. Eight of the cases we looked at either had sufficient information to make a referral assessment, but there was no record that this had been done, or an assessment had been made, but the decision not to refer was incorrect.

⁹ Assault occasioning actual bodily harm contrary to Section 47 of the Offences Against the Persons Act 1861.

Case study – use of force and treatment whilst detained

A man who had been arrested for drink driving attempted to self harm while in a police cell by tying a t-shirt around his neck. One sergeant described him as being non-violent, but non-compliant during the incident.

A second sergeant entered the cell and punched the man in the face several times for no apparent reason. The sergeant also placed his knee into the man's back (leaving him at risk of positional asphyxia). The second sergeant later returned to the cell to mop up blood, lying to his inspector about why he was doing this. The second sergeant took the man, who was dazed, for 'fresh air' while he was dressed only in his underwear. This took place at 7am in mid-December.

This case highlights a number of concerns, most notably the use of force and the fact that the sergeant concealed evidence by mopping up the blood. The matter should have been referred on the grounds of serious assault and serious corruption. In addition, there is a credible allegation engaging Article 3 (of the European Convention on Human Rights) involving inhuman or degrading treatment as the man was taken outside in cold temperatures wearing only his underwear.

Discrimination

52. We sampled 21 cases where discrimination was a factor. We found that just over half of these (12) should have been subject to a mandatory referral.
53. When we looked at these 12 cases in more detail the allegations of behaviour aggravated by discrimination related to:
 - poor treatment – including officers being abusive, aggressive, rude and intimidating
 - failures in duty – including failure to deal with matters fairly, behaviour that was biased, or behaviour that was not impartial
 - targeting/profiling¹⁰
 - unfair treatment of colleagues
 - excessive force
 - perjury
54. The rationale for the decision not to refer was recorded in only three of these 12 cases. In these cases, the PSD had either not recognised the seriousness of the allegation, or had not applied the referral threshold correctly.

¹⁰ Racial profiling refers to the targeting of individuals by law enforcement agencies based on the individuals race or ethnicity and not on their behaviour.

Case study – racial targeting

A complainant alleged that they were the subject of racial targeting by a police dog handler. They claimed that the officer influenced the police dog in order to give cause to perform a stop and search, and that all of the police officers at the scene used intimidation and threats of arrest (which would have been unlawful in the circumstances) to gain his compliance. The complainant reported being strip searched in the back of a police van while the doors to the van were left open. This meant that passers by could have witnessed the strip search taking place.

This complaint was about behaviour which, if upheld, was likely to lead to misconduct proceedings. In addition, the complainant claimed that the incident was the result of racial targeting. Therefore, the complaint meets the referral criteria. Even if the complaint had not involved an allegation of discrimination, we would have expected the PSD to consider referring it voluntarily.

55. The IPCC published new guidelines for police forces on [handling allegations of discrimination](#) in September 2015. This guidance refers specifically to assessing the seriousness of the alleged conduct and the factors to consider when assessing a complaint against the voluntary and mandatory referral criteria. When we published the guidance, we held events for all PSDs where we advised them about how best to share the guidelines with staff who deal with complaints.

Voluntary referrals

56. The IPCC encourages appropriate authorities to refer complaint and conduct matters in cases that do not meet the mandatory referral threshold, but where the gravity of the subject matter or the public interest warrants a referral. The IPCC can also ask forces to refer cases that we decide include areas of specific interest.
57. Decisions about voluntary referrals can be a fine balance, and referrals should not be made without some considered assessment. Our sample included 17 cases that we judged should have been referred voluntarily. Four of these related to incidents in custody suites, including attempts to self harm, concealing weapons and taking drugs. Although the harm or injuries sustained may not have met the mandatory referral criteria, these near misses are cause for concern. Our assessment is that the gravity and exceptional circumstances clearly justified referral.
58. There were six cases in our sample where the gravity of the subject matter or the public interest ought to have triggered a voluntary referral. These cases involved children or vulnerable people where opportunities to intervene or prevent further harm were missed.

Case study – death of vulnerable woman following police contact

An elderly woman, suffering with dementia, died after being injured in a house fire. A serious case review took place and an Agency Review Report was compiled by the relevant police force. The report set out the force's involvement with the woman before her death.

The report stated that police officers had raised three 'adult concern notifications' following incidents involving the woman in the 30 days before the fire.

Case study (cont.)

These notifications had been sent to the force's Protecting Vulnerable Persons Unit. They expressed concerns about the woman's vulnerability and should have triggered further police action; resulting in an adult services referral.

It appears that there was no causal link between the death and the police contact. However, the fact that an opportunity to bring the case to the attention of adult services appears to have been missed, and the nature and amount of contact with the woman before her death, mean that we would have expected a voluntary referral.

59. We identified four cases where we judged that Article 3 of the European Convention on Human Rights was likely to be engaged. Article 3 of the European Convention on Human Rights (ECHR) provides an absolute right that no one shall be subjected to torture or inhumane or degrading treatment or punishment. Whether the treatment engages Article 3 depends on the circumstances, including the duration of the treatment, and the physical and mental effects on the victim, taking into account their age, gender and health.

The information we reviewed about these four cases did not include any rationale about why they had not been referred. Three of the four cases involved police failures or inaction that led to victims suffering harm or continuing to suffer harm. The fourth case related to a young person with mental health issues, who alleged that officers used excessive force and interviewed him without an appropriate adult present. While four cases is a low number, all of these incidents were very serious, and we saw no reference to an assessment of how significant the police failure/inaction was.

Case study – protecting members of the public

Officers attended a report of a woman having been assaulted. The alleged attacker was identified to officers, but they did not progress the incident properly and failed to update the file to show that the suspect was wanted in connection with this assault. Two days after the incident, the suspect assaulted another member of the public and threatened police officers.

This case is an example of officers' inaction resulting in a failure to protect other members of the public from becoming victims of an alleged offender. While the seriousness of the injuries was unknown, the case should have been referred voluntarily because of the potential breach of Article 3 of the ECHR.

60. Not all cases that engage Article 3 are captured by the mandatory referral criteria. Nonetheless, they often involve serious and topical matters that the IPCC may wish to have oversight of. However, it is acknowledged that the IPCC Statutory Guidance provides little guidance about what we expect forces to refer on a voluntary basis.
61. Four of the six PSDs we spoke to acknowledged that they did not specifically consider Article 3 when assessing whether to refer a case to the IPCC. Forces understood that the Article 3 threshold was low, but when probed most forces cited handcuffs being placed on a detainee for an extended period, use of force, or leaving someone in pain in the custody suite as cases where Article 3 considerations may apply. Only one PSD recognised that a failure to prevent inhumane treatment, such as a poor investigation leading to further harm to the victim, was a potential Article 3 case.

Case study – complaint made following arrest of vulnerable young person

A 15 year old's parents made a complaint on their behalf following the young person's arrest for a public order offence. It was alleged that excessive force was used causing bruising to their body, arms and head. The complaint further alleged that no appropriate adult was present while the young person was interviewed, despite them being under 18 and suffering from mental health issues.

We would have expected the PSD to consider referring this complaint voluntarily because the allegations and the vulnerability of the person involved would raise concerns about whether their rights under Article 3 of the ECHR had been breached.

- **We will publish an issue of [Focus](#) (in Spring 2016) to clarify the mandatory referral criteria, and provide further guidance about the sorts of matters forces should refer to us voluntarily.**

Patterns of behaviour not identified

62. Our research found that the PSDs do not consider an officer's history when assessing the seriousness of a case. There were two cases where, in isolation, the behaviour the complaint was about would not meet the referral criteria. However, if a review of the officer's history revealed a pattern of similar behaviour, then the cases would be suitable for voluntary referral.
 63. Of the PSDs involved in this work, only one reported that systems were in place to proactively look at officers' patterns of behaviour. In this force, if two complaint/conduct matters were recorded about an officer in a rolling 12-month period, this triggered an assessment. We know that some other police forces do monitor officers' patterns of behaviour in a similar way, with trigger points for some form of intervention.
 64. Our report about how police forces [handle allegations of discrimination](#) states that an assessment of the officer's history should be conducted at the outset of a case. This then contributes to the assessment of the seriousness of the case and the decision about whether to refer it. This should be a standard step in the initial assessment of any case and should be recorded on the file.
- **Recommendation 3: PSDs should ensure that systems are in place to record and monitor patterns in an officer's behaviour. These systems should trigger a review if a certain number of allegations are recorded within a given time period. The review should contribute to the assessment of the seriousness of the case and the decision about whether to refer it.**

Training

65. Our discussions with PSDs identified a lack of training on the referral criteria for PSD staff responsible for making referral assessments. Half of the forces we spoke to acknowledged that PSD staff received no training on the referral criteria. The other half referred only to referrals to the IPCC being 'touched on' in other training for PSD staff.
66. A number of PSDs told us that staff were advised to read the IPCC Statutory Guidance to familiarise themselves with the referral criteria, and that staff are self taught or 'learn on the job'. Two of the PSDs we spoke to relied on the fact that their staff members were experienced and knowledgeable.

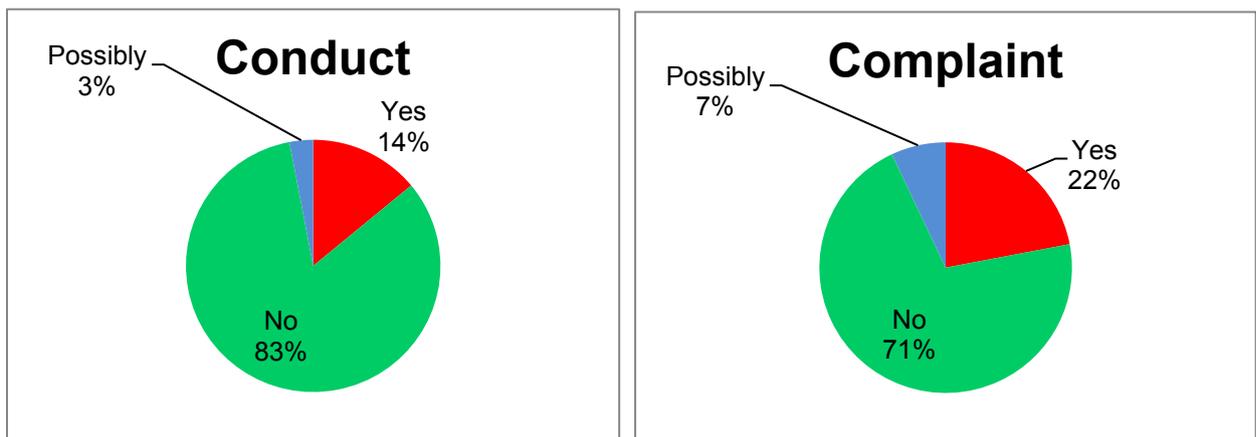
- 67. Where staff are responsible for assessing and deciding whether a case should be referred to the IPCC, they should be trained on the referral requirements. Their training should include the definitions of the mandatory grounds for referral.
- 68. We will support learning by discussing the referral criteria at our regular meetings with PSD staff.
- **Recommendation 4 – PSDs should ensure that systems are in place to enable their staff to make confident referral assessment decisions. These decisions should be quality assured.**

Other observations

Complaint vs conduct discrepancy

As stated above, referrals may result either from complaints from members of the public, or from conduct matters identified by the force itself, without there being an individual complainant.

We found that there were more complaint cases than conduct cases that should have been referred under the mandatory referral criteria – 35 of the 157 complaints we sampled (22 per cent). This compared with 31 of the 225 conduct cases sampled (14 per cent).



- 69. We found that the discrepancy between mandatory complaint cases compared to conduct cases was highest where excessive use of force or discrimination was alleged. For each factor, 11 out of the 12 cases that ought to have been referred were complaint cases.
- 70. The sample size we looked at is small, which means that any conclusions have to be made with caution. However, this finding does mirror the conclusions of our recent [report into police handling of allegations of discrimination](#), where the evidence available was sufficient to conclude that, in general, police forces dealt with conduct matters more effectively than they dealt with public complaints.

Annex 1 – definitions

Domestic homicide reviews (DHRs)

71. DHRs are a statutory review of the circumstances in which the death of a person, aged 16 or over, may have resulted from violence, abuse or neglect. The perpetrator can be someone who was either related to the victim, or had been in an intimate personal relationship with them, or was a member of the same household as them. They aim to identify learning for the relevant agencies, including the police. They do not seek to find or apportion blame.
72. An agency that has been involved, either directly or indirectly, with the victim of a domestic homicide is required to compile a report to the DHR. Each agency writes an 'individual management review' (IMR), which sets out its interaction with the victim, perpetrator and their family.

Serious case reviews (SCRs)

Local safeguarding children boards (LSCBs) undertake serious case reviews (SCRs). These reviews happen in cases where abuse or neglect is known or suspected and a child dies or is seriously harmed and there are concerns about how organisations or professionals worked together to protect the child.

73. SCR also take place when a vulnerable adult has come to harm. There are referred to as adult serious case reviews.

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