CPS LECTURE 2013

Public confidence in policing: joining the dots

Thank you very much for asking me to give this lecture. I was asked to provide its title in autumn last year, a few months after I had taken over as Chair of the Independent Police Complaints Commission (IPCC). At that time, it was clear, following the Leveson Inquiry, our own and HMIC's reports on corruption, and a number of high profile prosecutions of police officers, that the issue of police integrity, and public confidence in policing, had moved centre stage in a way that I certainly had not seen for many years. It was also clear that the policing landscape was about to undergo some fundamental changes, with the arrival of Police and Crime Commissioners, the emerging College of Policing, and the proposed National Crime Agency.

Since then, there have been further jolts to public confidence. The Hillsborough Independent Panel's report has put together a narrative that raises some very serious concerns about the background to, and the aftermath of, the tragic deaths of 96 Liverpool fans in 1989; the Jimmy Savile revelations starkly remind us of the consequences of not joining up the dots, when institutions and individuals hold information in closed boxes which in some cases they are too afraid to unlock.

So, we - and you at the CPS - are operating in a more complex landscape, with considerable pressures on and expectations of us. Last month, the Home Secretary made a statement to Parliament, focusing on police integrity and putting forward seven specific measures designed to provide assurance and rebuild public confidence. One of those was an enlarged role, and greater resources, for the IPCC to be able to take on more independent investigations

into serious and sensitive cases. I want to reflect in this lecture about how I see that expanded role fitting into the developing landscape of police oversight and accountability, and how we can best join up the dots between ourselves and other bodies and agencies whose roles overlap and can complement our own.

But first, I want to set out the stall for independent oversight itself. This is the second role I have had which involves oversight of one of the institutions that are key to public confidence in the criminal justice system. As Chief Inspector of Prisons, I was responsible for inspecting all prisons in England and Wales (as well as immigration and military detention) and latterly, together with the Inspectorate of Constabulary, inspecting all police custody suites. As Chair of the IPCC, I head an organisation with oversight of the police complaints system, and the power to carry out independent investigations in serious cases. Those roles carry considerable powers – for prisons, the right of entry into any prison at any time and unfettered access to people and documents; for the police, powers of arrest, the ability to question under caution and to carry out covert intelligence-gathering.

There is a reason for that. Police and prisons have the most extreme coercive powers available in our society in peacetime. Imprisonment is the most severe punishment that can be inflicted in our society. It is not just the loss of liberty. By definition it operates out of the public gaze, behind high walls, where power inevitably rests with the custodian, not the detainee. Police have a range of coercive powers: powers of arrest and detention, forcible entry and search, the ability to deploy a range of lethal and non-lethal weapons – yet they need to exercise those powers within the UK's tradition of policing by consent, which relies on public trust and confidence that these powers will be used fairly and

reasonably. The IPCC owes its creation to the fact that that trust and confidence has not always been present.

But we are also part of a wider oversight and accountability network. This includes the judicial and legal processes that define the limits of lawfulness and provide human rights protection: involving the CPS, the courts and inquests. It includes both the essentially reactive process that drives the IPCC's work – independent investigation of an allegation that something has gone wrong – and the essentially preventive work of inspectorates, designed to provide regular independent assurance that things are going right. Those processes are separate, but need to be complementary, so that the people who depend on us do not fall through the gaps.

Independence is at the heart of that work for us, as it is for you. It is the first word of our name, and one of our five core values. It is expressed in your mission statement, to deliver justice through independent and effective prosecution, and your values of independence and fairness. It is not, as we know, always a comfortable place to sit. We need to be credible with the organisations we relate to: whether that is the police service or the courts, and yet we need to be seen to be exercising independent judgment that is also credible to victims, complainants or bereaved families.

Independence, for the IPCC, is not neutrality - we are not neutral in the face of abuse, unfairness or injustice. Like you, we do not act for those who are asserting those things, but we were set up because many of those people, and the public in general, did not trust the police to investigate themselves; just as the CPS owes its origin to a distrust of the police deciding whether to prosecute their own cases. Independence, both actual and perceived, is the bedrock on which our credibility and authority stands: and, as I have said in

previous lectures, it is something that needs to be guarded jealously and continuously. It is expressed in values and culture as well as statute; in approach as well as outcomes; in the staff we choose to recruit and the statutorily independent Commissioners who oversee the work.

But independence does not mean that we should work in a silo, unaware of the decision-making and role of the other independent players in the field, or that we should not try to ensure that our activities are complementary and not counter-productive, and where possible concurrent rather than consecutive.

Equally important, though is the wider context. The IPCC has an explicit duty, to secure public confidence in the complaints system. That must mean not just that individual complaints are deal with effectively and fairly, but that they have an effect on the way that the service itself operates. There is little point in something which is simply a job creation scheme.

So, external processes of inspection, independent investigation, prosecution and judicial oversight are clearly essential. But they will not make a real difference without a vitally important fourth element: the operational management of the service itself. You may have heard the joke about how many psychiatrists are needed to change a light bulb – only one, but the light bulb must really want to change. Similarly, all the sanctions and recommendations in the world, and the learning that should come out of investigations or inquests, will be ineffective if institutions lack the will, or the capacity, to change, or if identified failings are not then fed into standards, values, training and supervision.

That requires strong internal management systems, but it also crucially requires a capacity to listen to external voices, and to resist the siren call of

'that's the way we do things here'. You will hear some managers complain about the 'burden' of oversight – the number of bodies that can and do monitor what they are doing – but in my experience good managers recognise the vital importance of an outside eye, a free consultancy, validating what is going well and providing early warning about what is not.

So, if we are to establish proper accountability and oversight, this necessarily implies effective interaction between the preventive and reactive independent oversight bodies, and between us and the services we oversee. If that works effectively we can create a virtuous circle.

I want to look at three areas in which joining the dots is particularly important. The first is the protection of the right to life, guaranteed under Article 2 of the European Convention on Human Rights. The second is the handling of complaints against the police in general. The third is the issue of police integrity.

As this audience well knows, Article 2 requires not only that the state must not, except in exceptional and clearly defined circumstances, kill people; it also means that the state must take positive steps to protect life, particularly when it has assumed control and responsibility for someone, for example by arresting or detaining them. It can also cover circumstances in which the state's failure to act has resulted in death – for example, when police have failed to respond adequately to someone who made it clear that there was an imminent threat to their life from someone else.

The incorporation of the Article 2 duty into domestic law, through the Human Rights Act 1998, has had consequences for both the investigative and judicial processes. The necessity for an investigative process, independent of the

hierarchy of the organisation responsible, was clearly set out by Lord Bingham in the *Amin* case[1], which followed the racist murder of Zahid Mubarek in Feltham Young Offender Institution. For that reason, the Prison Ombudsman's remit was extended to include investigating all deaths in prisons or immigration detention; and the IPCC's mandate, from the outset, has included oversight of all deaths that occur during or after police contact, and independent investigation of those where that contact may have contributed to the death.

For that reason, police forces must refer to us all cases of deaths or serious injuries that occur during or following police contact, so that we can decide whether Article 2 is engaged, and therefore that an independent investigation is needed. In that investigation, we will determine whether there is an indication of criminal conduct by an individual police officer or member of staff, in which case we refer it to the CPS to consider prosecution; or whether we believe that they have a case to answer for gross misconduct (which can lead to dismissal) or misconduct, in which case we can if necessary direct that there be a police misconduct hearing.

At the same time, the courts from *Middleton*[2] onwards have clearly established the need for an enhanced coronial process in relation to such deaths: with a requirement that inquests look more broadly at the circumstances of the death and that juries can deliver narrative verdicts on that point. This sits alongside the independent investigative capacity, and criminal proceedings where necessary, as the processes through which the state can ensure compliance with Article 2 obligations.

[1] Lord Bingham, *R (Amin) v Secretary of State for the Home Department* [2004] 1 AC, HL [31]
[2] *R v HM Coroner for the Western District of Somerset ex p Middleton* [2004] UKHL 10

But Lord Bingham's judgment in *Amin* went further. In relation to tragic deaths, he held that it was a key part of the Article 2 responsibility that organisations should learn lessons 'so that those who have lost their relative may at least have the satisfaction of knowing that lessons learnt from his death may save the lives of others'. That has been repeated in other later judgments.

I want to look at those three elements - the investigation, the proceedings that follow and the lessons learnt – to see how effectively we are able in practice to join the dots.

First, we at the IPCC must be able to ensure an effective investigation. That involves having sufficient resources and powers to undertake a timely and effective inquiry, and the capability and capacity to use them effectively. We have made clear that we lack powers in some important areas, and that we operate with limited resources.

First, we have not been able to require police officers or staff to attend for interview if they are witnesses, rather than suspects. For example, the officers who were present when Mark Duggan was shot in Tottenham in August 2011 all refused to attend to be interviewed, though they did agree to answer questions in writing through their solicitors. That led to a protracted and profoundly unsatisfactory process that lasted for over six months, during which we wrote questions and they in time provided some answers, which inevitably led to further questions and further partial answers. I have described this process as being about as effective as putting a message in a bottle and floating it down the Thames. It simply does not compare with a direct interview, during which answers can be directly and quickly probed and tested against other evidence and interviews. The public is rightly shocked that public

servants, witnessing a death, are not prepared to provide full, speedy and effective cooperation with the subsequent investigation.

We have now been given a statutory power, in the emergency legislation passed in connection with the Hillsborough investigation, to require officers and staff to attend for interview: but of course we cannot compel them to answer questions. It could be that police are advised simply to turn up and not say anything. Given the current state of public confidence (or lack of it) in policing, I believe that it would be a classic own goal if the police responded negatively, defensively or minimally to what is the clear intention of Parliament and the expectation of the public – that full cooperation means a readiness to answer questions at interview. Equally, the availability of this new power does not preclude us from needing to show that we use our existing powers effectively: for example, operating the right, relatively low, threshold for determining that there is a sufficient indication of criminality or misconduct to require us to interview someone under criminal or misconduct caution.

A second gap is that we have no power over private contractors exercising policing functions, unless they have been specifically designated as custody officers. That is becoming all the more important as police forces, under budgetary pressures, devolve more functions to the private sector: such as transport (often of people who are mentally ill or under the influence of alcohol or drugs); call handling (which can dictate whether an emergency is properly responded to); and some public order functions. Some of those can clearly be directly relevant to a death.

Over the last few months, I have spoken to many people who are dissatisfied with the process and outcome of the investigation into the death of a relative. Indeed, at present we are midway through an extensive review of the way we

handle investigations into deaths following police contact, which will be published in the autumn and draws on the views and insights of many stakeholders and bereaved families. It is, of course, a key part of the Article 2 obligation to involve families as far as is possible in the process of determining how and why their relative died. They, as well as the other institutions involved, need to be joined in.

We know that the review will reveal some things that we need to do better or faster, and we will have to ensure we have the resources, powers, skills and culture to achieve that. A key issue is timeliness.

The length of time proceedings can take can significantly add to families' distress and hinder the grieving process. At the IPCC, that requires us to obtain and effectively deploy sufficient resources to deal with cases as quickly as possible, without compromising the scope and robustness of the investigation. That is a major challenge. We have only 100 investigators to cover the whole of England and Wales, and to deal with all those cases – which include serious corruption, assault and aggravated discrimination, as well as deaths – that are referred to us and require independent investigation. The Metropolitan Police Service's Department of Professional Standards alone has over 400 staff and the MPS as a whole was able to deploy 30 police officers to investigate the Andrew Mitchell case alone. I am very clear that we are under-resourced for the work that we need to do, and that in consequence we are too often having to face the difficult choice of trading timeliness to try to ensure thoroughness.

But it is also clear that it is the lengthy and often confusing process as a whole, as well as our part in it, that adds to the distress and sometimes incomprehension of bereaved families.

Much of that is, rightly, beyond our control. We do not prosecute or convict. We are not parties to internal misconduct or disciplinary proceedings. We do not determine the timings of inquests. But I do believe that all of the organisations involved have to do all we can to eliminate unnecessary overlaps and delays, and that where there are apparently irreconcilable differences, we need to find out why and either explain them or deal with the issues they represent.

It is therefore good that we and the CPS now work much more closely during an investigation where there is an indication that there may have been criminal behaviour, so that prosecutors are aware of the issues that may be coming to them, and so that during the investigation we can follow up those issues that may be material to a decision to prosecute. It is designed to avoid the lengthy delays and iterations that have sometimes followed the conclusion of our investigations, and I am grateful for the work that Sue Hemming and Malcolm McHaffie have done to assist this process.

It is also welcome that the Coroners and Justice Act 2009 and the regulations to be laid under it contain provisions to try to speed up the timeliness of inquests. Coroners will have to notify the Chief Coroner if there is a delay of over a year and provide reasons for this, and the Chief Coroner will report this to the Lord Chancellor. The draft regulations may in addition specify a target date – perhaps three months – for inquests in less complex cases.

A trickier issue for all of us is those occasions when our findings appear to materially differ. We are all independent decision-makers, and in some cases we are operating different tests, or have different powers. But it is inevitable that the public will be puzzled and sometimes incredulous if there appear to be irreconcilable differences in our conclusions. That is why, for example, I

commissioned an external review of our investigation into the death of Sean Rigg in Brixton police station: because our findings differed significantly from those at inquest.

Sometimes, differences are unavoidable: Coroners have the benefit of questioning witnesses under oath, whereas we sometimes struggle to question them at all. Where our investigators have not been able, despite their best efforts, to test the evidence before them at interview, I believe it would be helpful if they specifically identified those issues as matters that can be probed further and put to witnesses during the inquest. We are, after all, partners in the Article 2 process, as the Administrative Court clarified in its decision in Coroner for Inner London case[3]. The evidence that emerges at inquest may, of course, lead to a different decision in relation to prosecution, fulfilling the need for an effective remedy under Article 2. I think that the IPCC may also wish to examine whether the same requirement should lead us to redetermine our decision on misconduct if new evidence clearly adds to or contradicts that obtained in our investigation: since we are the only body that can direct misconduct proceedings against an individual. That would close the circle of our complementary Article 2 obligations.

I hope that closer working between the IPCC and the CPS will also help resolve or explain some occasions where prosecutions do not follow in cases we refer to them. We are, of course, using different tests: our threshold for referral to the CPS is different from and lower than the test for prosecution in the Code for Crown Prosecutors. But, given the seriousness and public interest, especially in cases that involve a death, I suggest that this is an area that

[3] 2009] EWHC 2681 (Admin)

deserves examining more closely so that we are confident of being able to explain it to others.

There is a similar and even clearer disconnect between our findings that there is a case to answer for gross misconduct (where dismissal can be the outcome) or misconduct, and the eventual timing and findings of the internal police proceedings that follow, even though here we are applying the same test as a misconduct panel. We can if necessary direct that a disciplinary hearing for gross misconduct should take place. However, the proceedings that follow, unless they involve chief officers, are entirely internal to the police force and are usually carried out in private.

In too many cases, these complex proceedings drag on for so long that officers retire or resign, or key witness evidence is no longer available. We recently released a letter from the Deputy Chair, Deborah Glass, expressing her considerable frustration at the 'unhappy litany of delay and prevarication' in one force, over two years, meant that it was no longer practicable to proceed with the hearing.

It is very noticeable that if we have to go as far as to use, or even threaten to use, our powers of direction, we know of no example where dismissal has followed, because the force by definition does not own our findings. In general, our findings of a case to answer for gross misconduct rarely lead to dismissal: this was the outcome for only one of 17 officers in our investigations into deaths in custody or fatal road traffic incidents over the last three years. Three of them retired or resigned before proceedings took place.

I am clear that we are not, and should not be, the decision-maker in these cases, for it is the panel that hears all the evidence. But there must be a

question as to whether an internal process, not usually open to the public, where we have no power to present our case or to determine its timeliness, can carry public confidence, especially where its outcome differs significantly from our findings. There is surely a need for a more transparent process and arguably one that has more actual and perceived independence. The police are a professional body; other professional bodies have independence built into their disciplinary processes.

The investigations into the tragic deaths of 96 people in the Hillsborough disaster – a uniquely complex and challenging exercise - will be a real test of more integrated working. There are two separate investigations: one into the 96 deaths themselves, and the other into the aftermath, the allegations of a cover-up. This engages two separate investigation teams, the DPP, and a recently-appointed Coroner. From the beginning, we were all clear that we had to work together in an integrated way to avoid unnecessary overlap and delay, so that the various phases of the work – investigation, prosecution and inquest – can operate concurrently wherever possible, rather than consecutively. For families who have waited 24 years, every additional month is an additional burden. That has meant, and will continue to require, regular contact and liaison between the investigative teams, the CPS and the Coroner's office. It also must involve a continuous process of liaison and information-sharing with the families and survivors themselves. To strengthen that accountability, we have agreed to set up an independent challenge panel of individuals who can satisfy themselves, and the public and families, that the work of the investigation teams and the CPS is integrated, timely and thorough.

Undoubtedly, that will require us all to explain why we have made the decisions that we have, even though we are all very clear that those decisions will be made independently and not overseen by others. It will perhaps model a way of working that has wider application.

Individual culpability, and an assurance that this is robustly examined, is one limb of public confidence and Article 2 compliance. But the other limb is equally important – that remedial action should be taken to avoid future failures. Sometimes it is the system, not the individual, that has gone wrong and should change.

There are some positive examples where we can show that a joined-up approach has worked. There has been a noticeable decrease in deaths in custody since the IPCC began to investigate them independently. In 2004, 36 people died in or immediately following police custody, and the average annual number over the preceding three-year period was 35. Last year, that number was 21 and the average over the last three years has been 18.

That declining curve reflects a greater attention to safer custody procedures as a consequence of IPCC investigations, Recommendations in relation to individual deaths have been made to forces; they have been promulgated in our *Learning the lessons* bulletins that go out to all forces, and importantly they have been reflected in national guidance, issued by the Association of Chief Police Officers in 2006 and revised in 2012, on safer detention and handling of persons in custody. This has covered such issues as cell design and checks, restraint technique, training in positional asphyxia, medical care and proper treatment of those defined as 'drunk and incapable'. Equally importantly, the inspections carried out jointly by the Inspectorates of Prisons and Constabulary have been able to check that these policies are actually

operating on the ground. The combination of investigation, inspection and internal line management is precisely what I mean by joining the dots: and it has saved lives.

There is, however, a continuing concern about deaths following restraint. There is often a mental health or substance abuse issue and many of these deaths are of young black men. While, as will say later, this may reflect failings elsewhere in the system, it also can reflect a literally fatal lack of awareness or training on the part of the police: where challenging or odd behaviour is written off as casual violence or drunkenness.

One of the things that troubles me is the absence, in many forces, of effective monitoring and analysis of occasions where force has been used. When I was inspecting prisons, a key part of the inspection process was asking for the 'use of force book': the ledger in which every single use of force was recorded and justified. That allowed us to examine whether there appeared to be patterns of concern in relation to that institution, particular officers, particular kinds of prisoners or particular kinds of force.

The equivalent does not exist in most police forces or even custody suites. Forces were told some time ago that as part of the drive to reduce bureaucracy they need no longer record and collate this information. Some therefore do not record uses of force at all; a few do still record this and also analyse usage for management or training purposes.

This has two consequences. First, officers do not need on each occasion to demonstrate the necessity and proportionality of the use, and kind, of force. Second, managers cannot identify trends where it seems that force may be being used as a quick route to compliance, or where potentially dangerous

methods are being used, before these escalate into tragedies or abuse. Surprisingly, collating this information is at its weakest in relation to use of force in custody, where it is usually only recorded on individual custody records. It seems to me that oversight here should be strongest, since the threshold for using force should be considerably higher than in a public place, where someone is not in a contained environment and where decisions about safety need to be made quickly. This is now being taken up by the independent Ministerial Panel on deaths in custody, and is one of the areas that the IPCC needs to monitor more closely.

Another area where IPCC investigations have helped improve practice includes the approach to deaths that are the consequence of gender abuse or domestic violence. Too often in the past police failed to respond effectively or swiftly enough to allegations of domestic violence, writing them off as 'domestics' or failing to recognise that the victims were both reluctant to come forward and often under pressure to withdraw allegations. In some cases, connections were not made with previous allegations of violent or even life-threatening behaviour by the perpetrator towards others. This became a priority area for the IPCC, following a number of horrific and violent deaths, and we have worked closely with voluntary sector organisations supporting those at risk of gender or domestic violence. As a result, we have been able to improve our own practices and help improve those of police forces, contributing to the ACPO Guidance issued in 2008 – though there is still much to be done and sadly it is sometimes only after a tragedy that a force recognises the extent of the problem. It also of course replicates work done within the CPS and its own domestic violence guidance, stressing the need to support victims through a difficult and often intimidating process.

There are, however, still some gaps. In general, there is no obligation on police forces even to respond to our recommendations, still less to act on them. As I said earlier, the readiness and capacity of organisations to change is a critical part of accountability. But we have no routine means of knowing whether anything has been done, or even promised, as a result of any systemic or institutional failings we find.

When I was Chief Inspector of Prisons, every prison governor had to provide an action plan within three months of an inspection, stating whether they were going to accept our recommendations and if so what they were going to do and when. We would return, always without warning, to see whether those changes were actual, rather than virtual. We were then able to report on the outcome: so that, for example, in my last annual report I was able to say that there were nearly 2500 recommendations that had been achieved, wholly or in part, within about 18 months of the last inspection – 2500 things that were better in prisons than they had been.

That is why the IPCC is asking for statutory powers to require Chief Constables to respond to recommendations – and crucially the resources to be able to follow this up, for example in meetings with senior officers and with the new Police and Crime Commissioners and in liaison with the Inspectorate of Constabulary. We hope that those powers and resources will be made available soon.

In the same way, Coroners are able to make reports under Rule 43 of the Coroners' Act to any public body with the power to take action to prevent a recurrence of such deaths. Since 2008, there has been a requirement that the bodies to whom those recommendations are directed must respond within 56 days. However, as a report by Inquest clearly showed, there is little consistency

in the use of this power and no monitoring, analysis or follow-up. It is welcome that the proposed regulations under the new coronial legislation will require a response within a month, with a timetable for action, and all rule 43 recommendations will be sent to and collated by the Chief Coroner, who may publish and comment on them.

These two complementary powers – of the Coroner and the IPCC - could indeed join some very important dots, creating a powerful tool for improvement. It is also important to try to ensure that this includes all the agencies and bodies that may have a responsibility and may need to take remedial action.

For example, over half of those who died during or in custody in 2011-12 were recognised as suffering from some form of mental illness, and this must represent a bottom line, not the total picture, since many will have unrecognised or undiagnosed disorders. This represents a failing in the provision of mental health services outside the criminal justice system, as well as, or sometimes rather than, failings in treatment by the police. It is quite wrong, for example, that police stations are designated as 'places of safety' under the Mental Health Act. Police cells are not an appropriate or a safe place in which to place people who are acutely mentally ill. The code of practice under the Mental Health Act says that police cells should be used only on an exceptional basis. Yet in 2006, an IPCC report found that twice as many people were detained in police cells under these provisions as were in a hospital environment. By 2012, that number had decreased to 37% - but that still represents over 8,500 people inappropriately placed in police custody because they are seriously mentally ill.

Too often, the police are called in to deal with acutely mentally ill people who may be a danger to themselves or others, because of failings and gaps in provision. There is a greater understanding of this issue, following Lord Bradley's report in 2009, and good practice is developing in some areas. Nearly £20 million has been made available for liaison and diversion schemes, and there are over 120 such schemes now in operation. But progress is slow, and at a time of huge pressure on public resources, the key question will be whether there are sufficient services to divert people to.

Focusing on individual blame or the role of individual agencies can exacerbate rather than solve problems. It encourages what I have referred to as the Garden of Eden defence: where everyone points at everyone else, and in the end the snake just sneaks off into the undergrowth. It allows each agency to see its task as avoiding risk, becoming risk-averse or deflecting blame. Joining the dots between agencies allows for and indeed demands a holistic approach designed to solve problems not displace them to someone else.

Once again, I see the Hillsborough investigations as a marker for that approach. The investigation into the deaths will need to consider the actions of a large number of agencies and individuals – including dare I say lawyers. We are managing only that part of that investigation that deals with the police, but it will be essential to place their role within that wider picture.

Deaths, as I have said, are only one of the serious matters that police must refer to us so we can decide whether to independently investigate them. This year, we are likely to have around 2,500 such referrals. Once a case is referred, we need to make a decision on how, and by whom, it will be investigated. We have four options: we can investigate them independently ourselves; we can manage a police investigation (which means that we must

agree the terms of reference and exercise direction and control over the investigation); we can supervise a police investigation (which is in most situations a lighter touch oversight); or we can return the case to the local force for it to investigate itself.

Over the last few years, we have increased the number of independent investigations and reduced the number of those we manage. Last year, that meant that we took on 126 independent investigations and managed 28 others. In addition, we supervised 171 police investigations, usually because we wanted to see how they dealt with specific themes, in particular allegations of racism in the Metropolitan Police.

Both the Home Affairs Select Committee and the Home Secretary have made it clear that the small number of independent investigations, alongside the limited oversight of appeals returned to forces, is insufficient to develop and maintain public confidence - hence the proposal that we should have more resources so that we can investigate serious and sensitive cases. The second limb of that definition is as important as the first: we need to be able to grip cases and issues which have a particular impact on public and community confidence in policing, as well as cases that are individually serious.

That leads me to my second theme: the resolution of complaints. The great majority of the 30,000 complaints received from the public about the behaviour of the police are, and should be, dealt with by the police themselves. That is how all complaints systems are meant to operate in order to provide complainants with a swift and effective resolution. However, the IPCC is charged with having oversight that system. That operates in two ways: first, an appellate function, in relation to a failure to record a complaint or to properly investigate complaints where there could be criminality or

misconduct, or which breach fundamental human rights. Last year, around 6,500 dissatisfied complainants appealed to us. Second, we have a more general oversight rule, under which we issue statutory guidance to police forces, receive statistical information about forces' own complaints performance, and engage in dialogue with those responsible for complaints handling or public confidence.

Those complaints and appeals are by definition categorised as less serious than the matters that have to be referred to us, or that will be the subject of inquests or prosecutions. However, that can be misleading. Each individual incident may be less serious, but together these allegations involve many thousands of people, and reflect the problems that arise in their day to day experiences of interaction with the police service. For example, they will include complaints about the use and approach of stop and search activity, one of the major rubbing points between young people, and particularly black and minority ethnic young people, and the police. They will include occasions when people feel they have been let down by the police's response to their needs, as well as claims of racist behaviour or language, inappropriate and unnecessary use of force, or over-zealous responses in public order situations.

Equally importantly, they can be early indicators of something that is beginning to go wrong in relation to culture, practice or individual behaviour, which, if not caught early, can escalate into something serious. A police force that does not take seriously apparently minor incidents reported by one partner against another may well find that it has failed to protect a woman against serious abuse or death; inappropriate of oppressive use of stop and search can alienate communities and at worst fuel civil disorder. Complaints are like the

canary in the mine: an early warning of something that may not yet in itself be serious or widespread, but which if left unattended may become so.

It must be right that the first port of call for most complainants, except in the most serious cases, is the police service itself. All organisations need to own their complaints and to work to resolve them as speedily and effectively as possible. Our statutory guidance to police forces emphasises that, like any other business, the police should see complaints as important customer feedback. Even if what is fed back is irritating rather than important, or perception rather than reality, it reflects the complainant's views and needs to be engaged with. Too often, though, a complaint is seen as something that will lead to blame, or, as one force made clear to us, as a slur on their reputation.

I realised how difficult it can be for services that operate hierarchically to value independent complaints when I first inspected the military detention and training centre in Colchester in 2002. There had been two recent suicides there, and we pointed to the need to ensure that there was a confidential complaints system that could flush out any issues there might be in relation, for example, to bullying or intimidation. We were told there was one – detainees were marched into the central square where the sergeant major asked anyone with a complaint to step forward. It was said to be confidential because no one knew what the complaint was. It was said to be necessary because to have any other system might bypass the chain of command on which military discipline depends. There is now a properly confidential system – and there have till now been no more suicides. That is an extreme example, but one that has resonance for any service that thinks that it should minimise rather than learn from its complaints.

Every year, we gather statistics about our own, and police forces', performance in relation to complaints and appeals. The overall statistics are not reassuring. Year on year, we have been receiving more appeals, though this has started to level out more recently. More worryingly, we are upholding a higher proportion of appeals every year. Last year, for example, we upheld over 60% of appeals from people whose complaints had not been recorded by their local force: not even recognised, let alone dealt with. We also upheld nearly a third of appeals from complainants who were dissatisfied with the way the force had investigated their complaint. That is in spite of the considerable work we have done with forces and their own professional standards departments to try to ensure that they get it 'Right First Time'.

At present, the statistics from our own work, and that of forces dealing with complaints, also show considerable, and unexplained, discrepancies in the number of complaints recorded and the way in which they are dealt with. There were three police forces, for example, in 2011-12 whose own complaints investigations we found to be defective in over 40% of those appealed to us; by contrast, in eight other forces, the proportion was less than 20%. There were six that had failed to record over three-quarters of the cases appealed to us.

Those statistics are crying out for more detailed and granular analysis – what kind of complaints are particularly problematic, from what kind of people and in which forces? Why do some forces seem reluctant, or unable, to deal with complaints effectively? The number of complaints recorded per force does not itself indicate anything: forces that record fewer complaints could be either discouraging or suppressing them, or else sorting things out swiftly and well;

forces that record more could be those where there is better access and a better appreciation of the need to respond effectively. We do not know.

What we do know, though, is that certain sections of the population are much more reluctant to complain: young people and some of those from black and minority ethnic communities. A recent survey found that 40% of black and minority ethnic people surveyed said that they would not want to complain for fear of future harassment.

The system that has been created and developed, in a process of accretion over many years, is extremely complex and difficult to administer and access. The IPCC believes that the time is ripe to look at a root and branch reform of the system, starting from the first principles of good complaints handling. This is a process which would take some time and a great deal of consultation, but which could fundamentally enhance public confidence in the police, the system and the IPCC.

Equally, understanding and learning from complaints is crucial to public confidence – and the new policing landscape provides a range of opportunities for action. The IPCC already has links, through its casework managers and Commissioners, with professional standards departments in individual forces, and the chief officer and senior officers ultimately responsible, and those links, and the capacity of forces to act on our findings, are crucial. In addition, there are statutory arrangements for cooperation between the IPCC and the Inspectorate of Constabulary, which is required to keep itself informed about complaints and the other matters we investigate. More recently, many of the new Police and Crime Commissioners are showing a lively interest in complaints and their resolution, since they represent the dissatisfaction of some of their constituents. Some are considering setting up their own units to

oversee and scrutinise complaints, particularly now that appeals against lower level complaints will be dealt with in-force. We need to be able to use all these avenues to provide important interaction and leverage and to ensure that patterns are identified and acted on.

That leverage would be enormously increased if we had a greater capacity to analyse the detailed and comprehensive statistics we hold, together with our own experience, and to exercise more effective oversight over the way in which forces deal with complaints. At present, we lack the research and analytical capacity to be able to draw out the messages buried in the detailed statistics that we hold about our own work and about the police's own handling of complaints. Nor do we have the capacity to dig into the way that forces themselves handle complaints, even where we know they have got it wrong initially. If we uphold an appeal, in the great majority of cases we return it to the same force that dealt with it inadequately in the first place. The Home Affairs Select Committee referred to this as a 'complaints roundabout'.

We need to strengthen our oversight function: to be able to follow up and follow through cases of concern, or cases that demonstrate a theme, and to be able to call in specific kinds of complaint that raise important issues either within a force or nationally, both to identify good practice and to see what is going wrong and why. Then we can feed that information to people and institutions that can do something about it.

That, then, is how we need to join the dots: triangulating oversight, complaints handling and better practice. All the points of that triangle are important. Individual failings should lead to better complaints handling, a less complex system and action to remedy any underlying causes. Independent findings and

recommendations should feed into practice and preventive work so that lessons are learnt when things go wrong.

My third theme is police integrity, central to the Home Secretary's statement to Parliament last month, and clearly fundamental to public confidence in policing. This was not originally one of the focuses of IPCC activity, nor was it planned to be. But it has assumed greater prominence and importance as a result of some high profile cases, including the phone hacking scandal. Over the last three years, the IPCC has assumed a more active role in such cases, including investigating or overseeing some of the most serious allegations, and we have published two thematic reports on corruption.

Corruption covers a wide spectrum of activity, some of it instantly recognisable and criminal - taking bribes or 'fitting people up' (for example the case of Ali Dizaei, imprisoned for perverting the course of justice by arresting someone with whom he had had a personal dispute and making false statements about the arrest). But it also includes action, or inaction, that is an abuse of power, an abuse of position for personal gain, or the first step on a slippery slope.

At the most serious end, we produced a report, based on our own and police investigations, into police officers who abuse their powers for the purpose of sexual exploitation – often homing in on vulnerable or less credible women and men, with mental health difficulties, problems of alcohol or drug dependence, or experience of domestic abuse. These cases are mercifully rare, but where they occur they are corrosive of public trust and confidence. They also usually reveal systemic failings. First, there were weaknesses in vetting, with information not being passed on between forces or from previous employment. Second, there was often inadequate of supervision or monitoring: colleagues had often harboured suspicions (for example 'I would

not have wanted to be in a lift with him'), but warning signs had not been picked up or acted on early enough. Finally, because of the nature of the victims, they were not always believed, or did not think they would be believed: people did not see through the complainant to the complaint. There are, of course, echoes here both of the HMIC's Savile report and of the DPP's recent statement about the right approach to credibility in relation to children and young people who report sexual abuse. All point to the need not just to join up the dots but also to recognise a dot when it is staring you in the face.

We have also carried out investigations into different kinds of abuse in relation to a number of very senior police officers, including two Chief Constables who tried to circumvent recruitment procedures in order to assist friends or relatives of friends into jobs within their forces. In one of those cases, the Chief Constable had not only lied to the IPCC, but had also directed a member of his staff to do so. He was dismissed. In another case, a Deputy Chief Constable had received more than £30,000 from his police authority without any explanation or audit. Indeed, the whole issue of the pay and perks of very senior officers, particularly Chief Constables, has until now been less than transparent: and it is good for public confidence that this is being addressed.

Allegations about senior officers are particularly damaging, even when they show only poor judgment, rather than actual misconduct. All the evidence about integrity in institutions shows that it needs to be led from the top. If this is not present, or is nuanced in relation to the exercise of power and authority, this clearly affects the behaviour of those in more junior positions. Sometimes our investigations into senior officers have revealed a mindset that the normal rules don't apply once you reach a certain status or rank: precisely the same mindset that meant that MPs' expenses practices were never exposed to the

acid test of 'what would others think of this?' It also highlights the need for proper whistle-blowing procedures – in a service where it can be highly career-limiting to sneak on your boss, or indeed the colleagues on whom you will need to rely in a crisis.

More generally, our work on corruption has identified the need to be very conscious of the slippery slope – the development of practices or behaviour that can lead to more serious issues of integrity. Hospitality – from free boxes at important matches, to free drinks at a pub – can create privileged relationships and dependencies, unless they are recognised as creating potential vulnerabilities and monitored carefully. It is, once again, the pattern of behaviour, once the dots are joined up, that is key.

As with complaints in general, there is a wide divergence in the number of cases of alleged corruption referred to us. Five forces recorded more than 50 allegations per 1,000 police personnel; one force recorded only 10. There were the same discrepancies in relation to those serious allegations that were referred to us: with three forces referring seven or more per thousand personnel, fourteen reporting fewer than two, and one making no referrals at all. This has partly been because of the absence of a clear definition, and we have helped to develop one and have provided guidance to forces; but, as with complaints, we need the capacity to be able to dig further into those figures to find out what is being recorded or referred and why.

Our activity and work with forces will almost inevitably result in a higher number of referrals and investigations of corruption – as it should. But we need to be very careful about how we interpret that. Reports from both the IPCC and the Inspectorate of Constabulary refute the notion that there is endemic corruption in the police service. Where it does occur, it is serious,

because it undermines public trust in the integrity of the service as a whole. But, compared to other countries, and indeed to other times, we have a police service relatively free of corruption. I am old enough to remember the activities of the Vice Squad in the MPS and the Serious Crime Squad in the West Midlands – both aptly named. They belonged in a culture of back-handers, closed eyes and so-called 'noble cause corruption' that dogged some of our largest forces in the mid-twentieth century. We now have a much more professional and professionally led police service.

Last month, Sir Christopher Kelly launched his last report as Chair of the Committee on Standards in Public Life. It reviewed the key lessons learnt since Lord Nolan published his first report in 1995 on improving ethical standards in public life. Among other things, it pointed to a paradox. The more we focus on integrity, set up regulatory bodies to monitor and sanction breaches, and in effect demand higher standards of our public servants and institutions, the more is revealed and the more public trust in integrity can be undermined rather than assured. In other words, simply doing the job (and perhaps doing it better) can create the impression that things are getting worse, rather than that there is a proper and robust approach to standards.

That is why it is so necessary to create the virtuous circles that I referred to earlier. I have mentioned the role of chief officers and Police and Crime Commissioners as essential allies in the process of converting failings, or perceived failings, into stronger, better and more trusted policing – and how important it is to strengthen our ability to inform and work alongside them. Good liaison is also needed between the IPCC and the Inspectorate of Constabulary, to ensure the linkage between our reactive, case-based work and their preventive and more systemic role.

There is another very important new player, which will be crucial in joining up the activities of regulators, oversight bodies and the service itself. That is the newly-created College of Policing. The Committee on Public Standards' report pointed to two key factors for implementing integrity. The first is that organisations need to embed ethical principles, and to reinforce them in induction and training, appraisal and rewards and sanctions. The second is that they need robust and effective leadership, exemplifying the high standards expected of others.

Those are some of the core tasks of the College of Policing, set up as the professional body for policing. The Home Secretary's recent statement puts the College, alongside an expanded IPCC, at the heart of improving public confidence in police integrity. The College will produce a single set of professional standards, based upon best practice, and will carry responsibility for training and professional development, particularly in relation to senior leadership. Its role will also include publishing a code of ethics. Such a code was an integral part of the transition from the RUC to the Police Service of Northern Ireland, as a vehicle to reinforce and develop the right culture. The Chief Executive of the College, Alex Marshall, has already said that he will be a 'demanding customer' of ours: expecting and being eager to use the findings of our investigations and complaints oversight to feed into the standards, training and expectation of a professional police force.

I believe that is the right approach. Independent bodies should not set standards; that must be the role of the service itself. Indeed, independent oversight bodies need to be free to challenge accepted standards and ways of working, otherwise they lose a great deal of their value as an external reference point. For example, our recent investigation into the Southwark

Sapphire Unit challenged and helped change standards which had created perverse targets whereby women were discouraged from reporting rape allegations.

We ask a great deal of our police service and those who lead it. We require it to deal effectively, fairly and sensitively with issues that range from preventing terrorism and cyber-crime to acting as a proto-social service for the seriously disturbed. It operates in increasingly diverse and disparate communities, many of them facing profound social and economic change; it has access to sophisticated technological tools that may be more effective, but can distance the service from the people it serves and polices. The IPCC's work is important because it throws light on those issues that can arise in the interaction between the police and the public.

I believe that we now have real opportunities to enhance and feed into public confidence, learning from the experience of the last nine years. That will require five important elements. First nothing must compromise our independence – both perceived and actual. That is the foundation for the way we work, the people we employ and the values and culture we need to demonstrate. From that basis we can engage positively with others, not work in our own silo. Second, we need the capacity and the powers not just to investigate independently, swiftly and robustly, but also to exercise effective oversight over a system that affects tens of thousands of people a year. Third, individual police forces must have and retain the capacity and capability to respond to what we find, monitor and act on issues of integrity within the force and assure quality in complaints handing. Fourth, we need to work with other agencies and bodies, such as PCCs, the Inspectorate and the College, to ensure that our findings feed into improved standards, training and actions.

Fifth, there is a need to look more radically at the effectiveness of the complaints system as a whole, rather than continuing with a process of incremental change.

That is quite a task, especially at a time of limited resources. But I am clear that we must join those dots, or else we, the services we oversee and the people we serve will fall through the gaps.

Dame Anne Owers

Chair

Independent Police Complaints Commission

21 March 2013