

Police Integrity Conference 24 September 2014

Understanding and enhancing the role of the IPCC

1. Introduction

This summer my holiday reading was not the latest Bridget Jones, but a history of Scotland Yard, published in 1947.¹ The author, who was secretary to the MPS from 1927 to 1946, describes a crisis in confidence in policing after a series of public scandals; difficulties in recruiting and retaining high calibre officers; concerns over pay and conditions and the need to professionalise policing, all of which sound very familiar despite being written nearly **70** years ago.

Whilst some aspects of the book have not dated well – particularly the author’s views about the role of women in the service – he has this to say about integrity, and its opposite, corruption:

“Corruption is one of the subjects that people are shy of talking about. Why one should be mealy-mouthed about it I have never understood. There never has been, and there never will be, such a thing as a one hundred percent incorrupt police force. So long as human nature remains human nature, if thousands of people are subjected to a certain type of temptation, a number of them will succumb. If human nature ever reaches such a high level that this proposition ceases to be true, there will no longer be any need for police at all, except perhaps to control the angelic traffic.”

This is not to say that this should be accepted with complacency – the author suggests three things that should be done to tackle this problem head on:

¹ “Light and Shade at Scotland Yard” published 1947, author H.M. Howgrave-Graham CBE

“The first is to investigate with scrupulous thoroughness any allegations made. The second is to deal ruthlessly with officers found guilty, and the third is to do everything possible to ensure that those promoted to positions of authority are themselves men of the highest character who make no compromises with honesty and are likely to infect their men with their own high standard.”

I am sure there are other things that we could add to that list, including most obviously the need to have a clear ethical framework, and I look forward to hearing about those today from other speakers. Given the role of the IPCC, the focus of my presentation will be on the first part, which is the investigation of allegations and complaints. I will also talk more broadly about our work to secure and promote public confidence in the police complaints system. Finally I will suggest some ways in which current approaches to complaints handling could be improved, including the appropriate use of local resolution and mediation, and will talk about future changes to the role, resources and powers of the IPCC.

2. The current framework for defining, reporting and investigating wrong doing

So let’s start by looking at the role of the IPCC in relation the investigation of allegations of corruption.

The IPCC became operational ten years ago, following significant public concerns around deaths and alleged police brutality in custody and the policing of black communities. Our investigative resources have as a result largely been focused on independently investigating deaths and serious injuries, reflecting both the serious impact such cases can have on public confidence, and also the

investigative requirements placed on the state under Article 2 of the European Convention on Human Rights.

The great majority of the 32,000 or so complaints against the police every year will be dealt with, quite rightly, by the forces themselves. That is why it is vitally important that professional standards departments are themselves properly resourced and valued. Forces also undertake the majority of investigations into potential corruption of officers. We only come into play in two circumstances; where a matter is referred to us or called in by us, and where complainants appeal to us following initial handling of their complaint by the police.

Forces are required by law to refer deaths and serious injuries to us, and allegations of serious corruption, serious assault, serious sexual offences, and aggravated discrimination.

The IPCC is also a “prescribed person” for the receipt of disclosures under the Public Interest Disclosure Act, and manages a report line for police officers and staff that wish to report concerns about corruption or other matters as “whistle blowers.” Each police force also has its own procedures in relation to whistle-blowing. Reports received through the report line may be passed to the relevant force with the reporter’s consent, and any allegations that may amount to serious corruption will also be assessed by our intelligence unit. We also operate a customer contact centre which advises members of the public wishing to make complaints.

This year, we expect to receive around 3,500 referrals, which is a significant rise from the 2,300 or so we were receiving only around a year ago. From our

experience in previous years we anticipate that at least 10% of these referrals will include allegations of serious corruption.²

The second route to the IPCC is through an appeal. If a complainant is dissatisfied with a force's decision not to record their complaint, or with the outcome of a local investigation, and if the outcome of that investigation could have been either misconduct or criminality, then they can appeal to us. But, since 2012, other appeals on lesser matters are now heard within the force itself – which is in truth not an appeal but an internal review. We argued, and continue to argue, that those appeals that do not come to us should go to another independent body, such as the Police and Crime Commissioner. We have been dealing with around 6,000 appeals a year, though this is now decreasing, as not all appeals now come to us.

In the wake of the phone hacking scandal in 2011 and concerns about the relationship of the police and the media, the Home Secretary commissioned the IPCC to carry out a review of our experience of dealing with corruption cases. We published two reports in 2011 and 2012, which concluded that whilst police corruption is not endemic, where it occurs, it is corrosive of the public trust that is at the heart of policing.

The reports, and a subsequent Learning the Lessons bulletin on corruption published in May 2013³ highlighted the types of cases being dealt with both by forces, and through investigations undertaken or overseen by the IPCC or dealt with by us on appeal. This revealed that “corruption” covers a multitude of sins

² Of the 2,400 referrals received during 2010/11, over 200 were classified as cases of serious corruption. A similar number of corruption referrals were also received in both 2009/10 and 2008/9. IPCC Report on Corruption in the Police Service in England and Wales published 2011.

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and there was a need to ensure greater consistency in the recording and referral of corruption cases to the IPCC.

Our analysis also showed significant variations across police forces, both in the rate of recorded corruption-related complaints and in the rate of serious allegations referred to the IPCC. There was also a need for clearer public information on what constitutes police corruption. We have provided a clear definition of what we define as “serious corruption” in the 2013 IPCC Statutory Guidance.⁴ As part of this work we also established a set of triggers to assist forces in identifying the correct point to make a referral in their investigation (i.e. at the point where the likelihood of corrupt behaviour moves from possible to probable). This has led to a significant increase in the number of corruption referrals.

As you will also be aware, the Home Secretary also announced in her speech in response to the Ellison Review that the Government intends to create a new offence of police corruption.⁵

⁴ The definition for **serious** corruption contained in IPCC Statutory Guidance 2013 refers to conduct that includes: • any attempt to pervert the course of justice or other conduct likely seriously to harm the administration of justice, in particular the criminal justice system; • payments or other benefits or favours received in connection with the performance of duties amounting to an offence for which the individual concerned, if convicted, would be likely to receive a sentence of more than six months; • abuse of authority; • corrupt controller, handler or covert human intelligence source (CHIS) relationships; • provision of confidential information in return for payment or other benefits or favours where the conduct goes beyond a possible prosecution for an offence under Section 55 of the Data Protection Act 1998; • extraction and supply of seized controlled drugs, firearms or other material; or • attempts or conspiracies to do any of the above.

⁵ The new offence, contained in the Criminal Justice and Courts Bill currently before Parliament, will cover cases in which a police officer acts improperly with a view to obtaining an advantage for themselves or someone else – or causing some form of detriment to someone else. It would also be used when an officer “fails to act” for a corrupt purpose, for example if they know a suspect did not commit a particular crime but hide that knowledge because they have a relationship with the guilty party. And it would also apply when an officer threatens to do something, or not do something, for an improper purpose. The offence would carry a maximum sentence of 14 years’ imprisonment.

The nature of matters referred, whilst broadly falling within recognisable themes, continues to reflect the full range of human ingenuity and opportunism.

To give but a few examples these have included:

- The unauthorised sale of items recovered or taken from the public including firearms
- Unauthorised access to police information systems and use of sensitive information for personal or financial gain
- Abuse of corporate credit cards and expenses
- Criminal conspiracies, perverting the course of justice and blackmail

An area of particular concern is the abuse of power by officers by sexual exploitation – often of vulnerable women. In 2012 the IPCC and ACPO jointly produced a report on this. We concluded that although reported cases were rare, when it happens it is corrosive of trust in the police. The report pointed out that this was something which had often been allowed to escalate because obvious signals had been ignored, or because the nature of the victims had meant that they were not believed. Since then, a significant number of the corruption investigations that the IPCC is supervising are into alleged sexual exploitation.

3. Securing and maintaining public confidence in the police complaints system

As I have already stressed, corruption cases, though rare, have a corrosive impact on public confidence in the police complaints system itself. They attract

significant media attention, reflecting the measure of concern evoked when we see police officers behaving in a way that appears to lack integrity.

We give our police considerable coercive powers, including the power at times to use lethal force, but within a tradition of policing by consent. A robust complaints system, with an independent element, is a crucial part of the public accountability of the police for the way they use those powers, and it is also important that its outcomes feed into policing as a whole.

Hillsborough is, of course, only one of the highly publicised cases that have raised serious questions about police integrity. The Ellison inquiry, now extended, has spread beyond allegations of corrupt links to the failed Stephen Lawrence murder investigation, to allegations of corruption and potential miscarriages of justice in many other cases involving undercover officers. These are, of course, historic cases that cast a long shadow. More recently, we have had Plebgate, with one officer convicted of fabricating evidence and others dismissed. Weekly – sometimes it seems almost daily – there are press reports of disciplinary hearings following IPCC and internal police investigations into issues such as deaths and serious injuries, corrupt or even criminal activities and allegations of race discrimination.

However, we need to bear in mind that the focus on integrity, and the creation of more bodies, both independent and internal, to promote, investigate and monitor it, can create the impression that the police service is getting worse, when in fact some endemic and individual issues are being exposed and dealt with. I do not believe that this is because corruption has suddenly become more prevalent – it is because, rightly, it is being more consistently identified, challenged and dealt with.

So we need to be careful that problems of success – robust investigations and a determination to root out unprofessional or even abusive behaviour – do not turn into perceived failures.

Our 2012 report on police corruption found that the public expects serious corruption to be investigated by an organisation independent of the police, and that there needed to be consideration of whether the IPCC could be resourced to carry out more investigations and exercise greater oversight in this area. Since that date, the Home Secretary has announced that our funding would be increased, both to undertake the Hillsborough investigation and also to undertake more independent investigations into serious and sensitive matters.

Our report also highlighted that we needed additional powers to enable the IPCC to conduct the most effective investigations – including powers to investigate contracted out private sector employees, to gain access to data held by third parties and the power to require the police and other responsible bodies to respond formally to IPCC recommendations. These powers have now been legislated for in the Anti-Social Behaviour and Social Responsibility Act, and will come into force next month (October 2014) with the exception of the power to obtain third party data which we now expect to come in early next year.

We have already been able to supervise a greater number of corruption cases in the last couple of years. The additional funding will allow us to undertake more managed and independent investigations in the future, and I will expand on this later. The extension of our powers next month is an important step towards the creation of what we are calling “the new IPCC.” However, doing more independent investigations, using greater powers will not solve the

problem – this is not an issue that can be tackled solely on a case by case basis. Going back to what I said at the start, there is a need to consider broader systemic issues to prevent bad behaviour from occurring, and to ensure it is quickly dealt with when identified.

It is impossible to consider this without also examining the limitations of the current police complaints system, and the way in which many complaints are handled. I think we would all accept that the system is overly complex and bureaucratic. Only the most determined and/or well represented members of the public are able to navigate the torturous route from complaint through – all too often- to appeal, or worse than that where an appeal leads to a further investigation which simply generates a second, or even third appeal, following which complainants may face the daunting prospect of giving evidence at a disciplinary hearing or in court. It is worrying that our latest public confidence survey found that one in three people are not confident that if they complain to the police their complaint will be dealt with fairly. BME groups and young people have even higher levels of distrust, and are accordingly less likely to complain about perceived mistreatment or wrong doing.

Partly, but not solely, because of that, the approach to complaints handling within the police service is too often a defensive one. In a commercial organisation, complaints are gold dust – they tell you what your customers think about you, even when that is perception, rather than reality. In any organisation, they are your early warning signal - they tell you what is starting to go wrong, or may be about to, before that develops into a full-scale scandal or crisis. They allow you to take preventive and advisory action – whether in relation to systemic issues, such as perverse targets or under-resourcing, or to issues of individual or collective behaviour or approach.

But when we examine police complaints handling, that is too often not the case. It is worrying, for example, that we are currently upholding nearly half the appeals that come to us from complainants dissatisfied with how the police have investigated their complaint locally. We need to do more work to analyse this, to identify the issues and themes that lie behind that raw statistic. When we have been able to dig more deeply by random sampling, we have found that, particularly when complaint handling is delegated to local command units, there is a lack of understanding of the system, combined with a defensive and over-legalistic approach – which in fact is liable to make legitimate complainants even less confident about policing than they were.

For example, if an officer disputes a complainant's account, unless a complainant has 'evidence' (for example, mobile phone or CCTV footage) they are likely to be told that their complaint is 'not upheld'. Complainants, understandably, think that they are being accused of lying, when what they want may be an explanation, a discussion of what actually did happen, or an apology. This is particularly problematic in relation to complaints of discrimination, as our recent review of MPS race discrimination complaints has shown – and this seriously affects relationships with communities already disinclined to trust the police. There is in general far too little use of mediation and local resolution, at the very front end, through direct engagement with the complainant. It will not, of course be appropriate to offer local resolution for serious matters that should be referred to the IPCC. But it does have a role in less serious cases and indeed 27% of complaints are resolved in this way. Where it is done well, it can reinforce public confidence in the accountability and the integrity of the service.

I am afraid that we too often encounter a similar defensive reaction – a circling of the wagons – when we are investigating more serious allegations. Last year, we acquired the power to require police officers who had witnessed an incident to attend for interview. That was because of our frustration that, even when something as serious as a death had occurred, in many cases police officer witnesses refused to be interviewed, and instead provided prepared statements, or offered written answers to written questions. At best, this hugely delayed our investigations – and time is of the essence, both for complainants and bereaved families, and for police under investigation. At worst, it stops us getting to the truth. Famously, after the Mark Duggan shooting, it took almost a year, in a process of backwards and forwards written questions and answers, before we got all the police evidence we could, none of it obtained in face to face questioning where we could actually probe the answers.

So, Parliament agreed to give us the power to require attendance at interview. As soon as we began to implement it, the Police Federation advised its members that they did not need to answer questions when interviewed as witnesses in IPCC investigations, but could continue to rely on written statements. In October 2013, the Metropolitan Police Federation issued a circular to members, which advises officers to take this approach, providing a written statement and responding to any further queries with further written statements. It stated in terms: ‘Questions should not be answered and officers should politely decline to be video or audio recorded’. This means that, in spite of a change in the law, nothing has changed in practice. In effect, it undermines not only our independent investigations, but the intent and effect of the legislation passed by Parliament.

We suggest that, given the current state of public confidence in the police – some of it as I have said unjustified – it is at best unhelpful and at worst positively self-destructive for elements in the police service to be, and to be perceived to be, obstructive and unwilling to take part in the processes of accountability and transparency that Parliament has set out and we are trying to operate. We operate policing by consent – we also need consent to proper processes of accountability.

There are other aspects in relation to our investigations that we are seeking to change. Earlier this year we consulted on draft statutory guidance on post-incident procedures, including measures designed to prevent police officers conferring before they provide initial accounts of what happened. This is an issue that has caused concern in many recent inquests, notably that into the death of Mark Duggan. The general public cannot understand why police officers are allowed to confer with one another before providing any proper account of what they saw and did – leaving aside the possibility of collusion, there is also the possibility of individuals' own recollections being affected by a communal view.

There are practical issues about how and when you separate officers, especially when incidents occur in public places and there are a large number of officers involved, but we are clear that we cannot stay where we are – where police evidence, however accurate and honest it is, is distrusted and taken apart at inquest after inquest, and by commentator after commentator.

For the avoidance of any doubt, let me make clear that we are not 'out to get scalps' as one senior police officer has claimed. We are out to get at the truth – and we will be of no use to the police service if the public perceive that we

either don't or can't, for they will not then believe us when we exonerate police officers, or even commend their actions.

I have said something about the complaints system that we oversee and work within. Let me now go on to say something about future expansion of the IPCC.

4. Looking to the future

This year the IPCC's budget has been increased to allow us to start the process of expansion and change that will allow us to increase the number of serious and sensitive cases we investigate and to exercise better oversight of the whole complaints system.

So, what will we be able to deliver and when? That has been a difficult question to answer, because the critical question – the amount of funding available *beyond* this year – is still not known. What we have made clear is that the kind of expansion envisaged by the Home Secretary will involve a three-year change programme to create what we are calling “the new IPCC.” We have also made clear that there are two key parts to expansion. One is to be able to deliver, to quality and in time, a much larger number of independent investigations; but the other is to make sure that our work feeds back into policing, and influences better policing practice and standards across the board. Without that, we will diminish, rather than increase, public confidence in policing.

This year, we are putting in place the foundations – people, offices, training and support systems – that will support a significant expansion of work. We have opened a new office in Birmingham and are planning to open another in the south east, as well as expanding our Wakefield office, so that we will then

have a physical presence in seven different locations. We will be recruiting at least 250 new staff.

But this is emphatically not simply an extension of business as usual; we are re-engineering how we work. For example, we have created a dedicated assessment function. This is the single point of entry into the IPCC and provides a vital triage function for all our operational work. It assesses all referrals, and makes decisions on whether we take the case ourselves. In future it will grade our investigations according to complexity and seriousness and identify the resources, skills and expertise needed for each. There will no longer be a division between casework and investigations staff. Instead, they will come together in one operational function, which will be overseen by our newly appointed Chief Operating Officer. We will need to put in place an extensive programme of training and development, for all our staff, both new and existing, so that this new model, and the quality and performance systems that underpin it, is implemented.

We will be ready to take on the first tranche of additional independent investigations at the end of 2014 and will then continue to gear up to operate at full strength from 2017. That needs to be a gradual process. We have to ensure that we get it right – that we have the space and time to recruit the right staff, and train and support all our staff, existing and new, in the new ways of working and new types of work we will be taking on. Like the police service, we know only too well that mistakes made years ago cast very long shadows. And we know that we need to do the work to better quality than police forces are currently able to – we cannot afford to get it wrong half the time.

So, what new cases will we be taking on? The Home Secretary referred to 'serious and sensitive' cases. Under the first heading, we will be able to take on far more – but by no means all – the cases referred to us, which include serious cases involving use of force, discrimination, alleged corruption and alleged failures to investigate cases where there are vulnerable victims, such as domestic violence, rape or child exploitation. We currently supervise some of those cases, but that is a very unsatisfactory compromise, as we have no powers of direction and control over those investigations or their findings. We will also be able ourselves to investigate some of the appeals we uphold, rather than, as at present, sending them back to the force that got it wrong in the first place – and sometimes getting them back again in a revolving door.

Under the heading of sensitive cases, we include those cases that may not individually be serious, but which collectively can undermine confidence in policing. This might be a national issue, or an issue in a particular area or force, or for a particular community. For example, we know that stop and search can have a damaging effect on relationships between young people and the police. We will want to consult on what those themes might be.

We cannot yet put a number on the cases we will be investigating independently – not least because we do not yet know what our end-state budget will be, and because this year and some of next year we will be focusing on setting up systems and staff. We know that we will be held to account to provide value for money, but we must ensure that we do this without compromising quality.

There is, though, another really important aspect of our expanding work. The IPCC is only part of the wider landscape of confidence-building. Contrary to some popular belief, we are therefore not responsible for everything that does

or does not happen in the whole of the criminal justice system – from police disciplinary processes, to CPS decisions or criminal trials. But we are a vital part of the policing oversight landscape, and we need to ensure that our work feeds into and enhances the role that others play, both within and outside policing. That includes, crucially, the work of professional standards departments within forces.

One of the casualties of our recent budget cuts was a significant diminution of our analytical and research capacity. We have an immense amount of information that no other organisation holds. That includes all the statistics on police complaints handling within forces, as well as our own ten-year experience of dealing with appeals and carrying out investigations.

We must be able to use that information to help improve policing, and drive up standards. We have for some time produced ‘Learning the Lessons’ bulletins, which have been well received. More recently, we have begun to pilot dip sampling of police complaints handling in certain key areas, such as discrimination and local resolution, and to feed back the results to forces – who have asked for, and will now get, more regular and tailored guidance. Our relationship with forces, and now with PCCs, is critical to improving and instilling greater confidence in complaints handling.

But it goes wider than that. In October, we will be given the power to require chief officers to respond formally to our recommendations, and say what action they are proposing to take. We will ensure that PCCs, as well as chief officers and PSDs, are aware of our recommendations, so they can be alert to their effective implementation.

We have also, I am pleased to report, signed an agreement with the College of Policing and HMIC. The agreement, or concordat, formally sets out how we will work together to improve policing and public confidence in the complaints system.

We will be working closely with HMIC so that our work, such as recommendations from investigations, can inform their routine force inspections and vice versa.

As the College of Policing sets standards in authorised professional practice and promulgates a code of ethics, it is important we feed into standard-setting, and that best practice evidence-based standards inform our work.

Closer joint working will ensure that there is virtuous circle; we will share our knowledge and expertise to drive up policing standards to improve police performance and increase public confidence in forces.

I'd like to conclude if I may with a final quote from my holiday reading, which remains as true today as it did 70 years ago:

“Quite rightly of course, we ask a good deal of our policemen. We expect them to have the wisdom of Solomon, the patience of Job and the strength of Samson. To these must be added a profound knowledge of the law, perfect manners, a cool head, a warm heart and a thick skin.”

In these straitened times, the pressures have never been greater and it is vital that we work together to support the police service in being the best it can be.

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