

ACCOUNTABILITY IN 21ST CENTURY POLICING

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If you Google police accountability, you will find it has many different meanings. It might mean the ability to fire the Commissioner of the Metropolitan Police. Or to challenge a police decision to drop patrols down your local street. It may be a political or academic treatise on structures and institutions. Most commonly, it is an expression of the feeling that police officers who do bad things – or who are in charge when bad things happen on their watch - should, in some way, be punished for them.

Accountability is, of course, not only, about punishment for misconduct. The police must also be accountable for their key role in protecting the public, in deterring and detecting crime, and of course in their use of public money, accountability for which is shared between a number of bodies. I am intending today to focus on that part of police accountability that involves the Independent Police Complaints Commission.

Police accountability for misconduct in the 21st century is markedly different from what has gone before. To consider the implications we must first look to the past as this provides context for where we are today - and where we are heading.

In the beginning there was nothing – between the establishment of Sir Robert Peel's Metropolitan Police in 1829, until the creation of the Police Complaints Board in 1977. There was no mechanism for independent oversight of the police, in any form. Accountability started, and finished, with the Home Secretary of the day. Nearly a hundred and fifty years which, possibly, many police officers look back to with nostalgia.

But oversight mechanisms never come out of thin air or the random thoughts of politicians. They invariably have their roots in some form of public scandal, to which politicians feel obliged to respond – the familiar refrain, in so many contexts, that “something must be done!”

So the Police Complaints Board had its origins in the police corruption scandals of the 1970's. But in what must rank as the most token of political responses it was given virtually no powers, it could just scrutinise a police report. Fast forward to 1985 and the creation, following the Brixton riots, of the Police Complaints Authority, , This did not fare much better on powers – it could only supervise a police investigation. Again, a fine example of the government of the day paying lip service to the need for independent oversight without giving the body charged with the responsibility the tools to do the job.

So we come to the Macpherson Inquiry, and then 2004, and the replacement of the PCA by the Independent Police Complaints Commission, which for the first time in the history of England and Wales actually has the power to investigate cases involving the police. Our investigators have and use police powers when carrying out criminal investigations – to arrest and search, even to use intrusive surveillance. While there are gaps in our powers we are seeking to fill, we remain one of the most powerful police oversight bodies in the world. Admittedly this is not much of a boast – governments traditionally, everywhere, are closer to the pre-IPCC model and are reluctant to burden their own law enforcement arm with too much independent oversight.

There was just the small problem of resources for the IPCC – although parliamentary debates in 2002 quote Ministers talking about the IPCC doing 1,000 independent investigations in its first year, when the time came for writing out the cheques we got enough money to do 30. And although eight years on we now do about 130 that still leaves a vast gap in public expectations. Not unreasonably, many people think a body called the Independent Police Complaints Commission carries out independent investigations into complaints, of which there are some 30,000 a year.

What we were set up for – and what we do – is to investigate the most serious cases involving the police. Let's look at a few of these over the past few years, during which the image of British policing has taken a bit of a battering – although those with long memories may say it was ever thus.

The case most people remember is the shooting of an innocent Brazilian at Stockwell tube station in 2005. Or the G20 demonstrations of 2009 and the death of

Ian Tomlinson. The theme that year was police handling of public protest. Images of the benign British bobby were replaced by images of perceived police brutality, as clips posted on the internet were broadcast on news channels across the globe.

In 2010 the major theme was the police failure to act – particularly in their response to victims of sexual violence. Failings in rape cases, failure to catch serial sex offenders, failings in the response to domestic violence. These cases presented a worrying pattern of a police that was neither a service nor much of a force when needed.

In 2011 the dominant theme was to be allegations of corrupt relations between the police and the media, and while there is still a month to go in 2012, and scandals seem to pop up these days faster than Usain Bolt out of the blocks, the defining case is likely to be Hillsborough, even though it is 23 years old. And throughout the past few years we have seen growing numbers of allegations against the most senior officers, including Chief Constables, which whether proven or not inevitably have a huge impact on public confidence.

All of these cases have been or are still the subject of IPCC investigations –some have been aired in inquests, criminal courts or both, officers have been convicted, acquitted, dismissed or subject to performance measures. Numerous recommendations have been made for the improvement of operational policing.

Still the headlines continue - have things got worse, or does the public simply know more?

The impact of social media and new technology is a critical component of police accountability today. I'm giving away my age here, but when I started out in my first office job I had to ask someone what a fax was. I have since graduated to a mobile phone and even a Blackberry but none of us can anticipate how technology will change the way we do things in the rest of the first half of the 21st century.

The crucial evidence of a bystander to the G20 protests, captured on video, was instrumental to the prosecution for manslaughter of PC Simon Harwood, who was eventually acquitted after a jury deliberated for many days. He was subsequently dismissed in only the second misconduct hearing in public directed by the IPCC.

There is however an irony here. The footage became public before it was given to us or the police. And because of the huge growth in CCTV, the myth still persists that the police must have known what was going on and but for this video would have covered it up. In fact – and we have thousands of hours of footage to prove this – CCTV cameras on the crucial spot were either not working, or were operating inside shops that were boarded up because of the protests. So while we should be immensely grateful to the bystander for helping to hold the police to account we should not – in this case – blame police leaders for not knowing what the public knew before they did.

Two baton strikes on a young female protestor by a large male police officer were also captured on a phone at G20. Once again the footage found its way onto the internet and, from there into the mainstream media. The officer was interviewed under criminal caution by the IPCC and the CPS decided to charge him with assault. During the trial the complainant declined to give evidence, and the officer was acquitted.

But the wide circulation of the footage, and the officer's subsequent prosecution and acquittal, polarised public opinion. I quote from blog comments following the verdict:

“This guy was doing his job and this case should not even have gone to court!”

“The girl may have been 'gobby' but after having seen the clip of the assault I cannot believe this guy got off!! It looked like sheer thuggery to me! “

“What people are forgetting is that they have only seen a 30second video of the situation.... Ok so it looked wrong what the officer did but I don't see many if at all any armchair critics willing to do that job.”

There are many such examples, and it is indeed the case that many people will judge police actions on the basis of a few seconds of footage, which may not show the incident in context, and the sheer number of cameras everywhere presents a uniquely 21st century challenge. On the one hand, the people themselves are making the police more accountable – on the other, it can lead to snap judgements based on limited information.

As if so often said, Britain has a long tradition of policing by consent. The British police are not routinely armed, and most rarely draw their batons. The model by which police are trained to use force emphasizes “tactical communication” – talking to people – where possible before force is used. The vast majority of police are not corrupt, and while there are rude and lazy police officers as – sadly – in any walk of life or branch of public service – most do a decent job in challenging and often thankless circumstances and some do an outstanding job in the public interest.

But police officers need to know that, although they have special powers, they will be held to account by the same criminal law as anyone else. When allegations surface via mobile phones or other media - loosely called citizen journalism – it can sometimes be the IPCC’s job to do the professional investigation that provides the full picture. But this takes time and painstaking effort, which does not sit well with the demands of the 24 hour news cycle. And sometimes, even where a case has been fully exposed to the rigours of a criminal trial, no-one is happy with the outcome.

So how do you gain informed consent, for example to the way the police use force? It would help if the police talked in a language people understood. Consider the “distraction blow”. To the police, it's a tactic to gain compliance. To the person walking past on the street, armed with a mobile phone, it's a police officer hitting someone. The police need to explain to the public how they do their jobs, and if people can't accept it, reflect on whether the tactic is right. And in the current climate of public sector cuts they need to talk to the public about how cuts impact on resources and priorities. All too often, as we have seen in cases involving the police response to rape or domestic violence, the failings are not the result of individual police misconduct, they stem from systemic problems that the police themselves need to fix.

The image of police accountability is not helped by the lack of openness in the current police misconduct system. It is mostly dealt with behind closed doors, hardly conducive to public confidence. The IPCC has the power to direct the police to hold a hearing in public, which we have only used twice, although we have consulted in a number of other cases. And therein lies the problem – it can only be applied to a few cases, and the effect of the current law is that there must be some exceptional public

interest to overcome the presumption of privacy that applies to these proceedings. Why should this presumption not be reversed, so that hearings were in public unless there was a good reason not to? As it is, I know that in the Metropolitan Police alone, between January and November 45 officers have been dismissed – all held to account for some misdeed - but how many people in London know that?

Public criticism – and we have plenty of experience of this ourselves – can be hard to take, particularly when it is not fair. But the response of the police is often to crawl into a bunker. Even if reporting is not fair, that doesn't always mean the police didn't get it wrong. The better response is to listen, learn and respond, something we ourselves do, for example in the review we are currently doing into how we deal with deaths following police contact. The police still have, all too often, a cultural reluctance to apologise when they get things wrong. There are many times when I have reviewed lengthy investigations, months or sometimes years after the event, when none of the parties is happy with the outcome, and thought: Why didn't they just say sorry right away? It does seem to be the hardest word.

So are the police accountable, in the 21st century? Compared to that historical context the answer must be yes, though not always, and not always with outcomes people want.

Accountability isn't – and shouldn't be – synonymous with punishment. In the case of the most senior officers, for example - when something has gone wrong on their watch (and I am assuming here they don't have their fingerprints on the crime scene) – accountability is taking responsibility for putting something right.

Once again we are seeing change in the system. Just last week police authorities were replaced by Police and Crime Commissioners. Today, accountability is variously shared between the IPCC, chief officers, HMIC, Ministers and now PCCs, with the new College of Policing also having a standard-setting role.

Looking to the past helps us understand how we have arrived at today. But the police themselves – and this will be a challenge for new Police and Crime Commissioners - need to do more to demonstrate their accountability. The IPCC was not established to investigate all complaints, most of which will be investigated or

resolved by the police themselves. Last week the law changed in relation to appeals about police complaints, which no longer will all go to the IPCC. So chief officers will have an even bigger job to do, to ensure that they respond to legitimate grievances in ways that improve, rather than diminish, public confidence. As I say so often to police audiences, think of complaints as public feedback for which you should be grateful, not as a nuisance and a box to be ticked. Apologise where appropriate, explain where necessary, demonstrate that you have learned from your mistakes and above all, engage.

Individual officers also need to do more sometimes to demonstrate they are truly accountable. They are expected to provide a rationale for their decisions and actions when questioned – whether by the IPCC or anyone else investigating them, or before a Coroner's or criminal court. But they are also public servants who should assist an investigation, whether or not they are suspects. All too often, they do not. They give us written statements, but decline to be interviewed. They should reflect, as public servants, on how this impacts on public confidence. We do not yet have the power to compel police officers to attend for interview as witnesses – and it is a poor reflection on the police that we need to ask for it – a power that I hope is being remedied by Parliament as I speak.

Accountability was at the heart of Sir Robert Peel's principles of 1829. The ability of the police to perform their duties is dependent on public approval of their existence, actions and behaviour. Technology and oversight mechanisms have moved on but the principle hasn't. We have come a long way in 200 years on the march to police accountability – but we are not quite there yet.