



House of Commons
Home Affairs Committee

The work of the Independent Police Complaints Commission

Eleventh Report of Session 2009–10



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*Report, together with formal minutes, oral and
written evidence*

*Ordered by the House of Commons
to be printed 23 March 2010*

The Home Affairs Committee

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1 Introduction

1. The Independent Police Complaints Commission (IPCC) was established by the Police Reform Act 2002, and became operational in April 2004. Its primary statutory purpose is to increase public confidence in the police complaints system in England and Wales. The IPCC investigates the most serious complaints and allegations of misconduct against the police in England and Wales, and handles appeals from people who are not satisfied with the way police have dealt with their complaints.

2. We originally planned to take evidence from Nick Hardwick, Chairman of the IPCC, on 23 February 2010 to examine the performance of the IPCC in the period 2008–09, and more widely, to investigate how the organisation has developed in the six years since its inception. This session was pre-empted by media stories, most notably BBC Radio Four's *File on Four* programme of 19 January 2010,¹ which alleged that many complainants to the IPCC were subsequently dissatisfied with its performance, and that the IPCC was increasingly perceived to be siding with the police.

3. Following these Reports we decided to expand our inquiry to take evidence from those who have been critical of the performance of the IPCC: Marcia Rigg, whose brother Sean died in police custody in August 2008 and whose case was subsequently investigated by the Commission; Deborah Coles from the charity, INQUEST; and Mr John Crawley, a Commissioner of the IPCC between 2004 and 2008. Following this session we took further written evidence from groups such as the Police Federation and the Police Action Lawyers Group. This evidence is published with this Report. We thank all those people who have helped us in our inquiry.

1 A transcript of this programme can be found at: http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/19_01_10_fo4_ipcc.pdf

2 The Performance of the IPCC

4. In order to achieve its statutory aim of increasing public confidence in the police complaints system, the IPCC is responsible for handling two types of case. Its work is split into the handling of “Complaints” against police conduct, and “Appeals” against the police’s handling of a complaint. Both areas of the Commission’s work have come under criticism.

Complaints and Investigations

5. Complaints against police conduct can be made either to the Professional Standards Department (PSD) of the force concerned or directly to the IPCC. In the period 2008–09, some 31,259 complaints were made against the police. According to Nick Hardwick, half of these were about “incivility or other neglect of duty—in plain language, rude, late and poor service” and the biggest category of complainants are white men, over 35, in non-manual occupations, who “generally have a good opinion of the police”.² Of these 31,000 complaints against police behaviour, 2,445 were serious enough to be referred to the IPCC for investigation, an increase of 11% on the previous year, and of around two-thirds since the IPCC came into operation in 2004–05.³

6. Depending on the seriousness of the complaint, the IPCC has the option of one of four processes, so-called “Modes of Investigation”:

- *Independent Investigations*, which are carried out by the IPCC’s own investigators and overseen by an IPCC Commissioner. The use of Independent Investigations is reserved for the most high-profile cases such as those involving a death after police contact. In 2008–09, 106 Independent Investigations were started and on average they took 195 working days to complete;
- *Managed Investigations* are carried out by the PSD of the force against which the complaint was made, “under the direction and control” of an IPCC Investigator. In 2008–09, 117 Managed Investigations were started and on average they took 269 working days to complete;
- In *Supervised Investigations* the IPCC sets the terms of reference for an inquiry conducted by the PSD of the force concerned. The results of such investigations can be appealed to the IPCC; and
- *Local Investigations* are reserved for the most low profile of cases and are carried out entirely by police PSDs. These investigations also carry a right of appeal.

Local Investigations also allow the use of the “Local Resolution” (LR) procedure—with the consent of the complainant, the case can be resolved at a local level with the involvement of

2 Q 69

3 Unless otherwise cited, statistical information on the performance of the IPCC is taken from the *IPCC Annual Report and statement of accounts 2008/09*. http://www.ipcc.gov.uk/ipcc_annual_report_2008-09_-_full.pdf

a police inspector and does not involve the disciplinary process. In 2008/09 41% of all complaint allegations were resolved by this method.

7. In 2008–09 only 59% of the complaints made against the police were deemed serious enough to allow the possibility of any disciplinary action. Of these 18,000 cases only 14% were then considered serious enough to be referred to the IPCC and of these, the IPCC themselves felt that only a further 223 cases justified a more labour and resource intensive Independent or Managed Investigation. **In 2008–09, less than 1% of all complaints made against the Police were directly investigated by IPCC staff and just 10% of “serious” cases referred to the IPCC were subsequently managed by the IPCC’s own staff. It is true to say that, 99 times out of 100 and despite the existence of the IPCC, the complaints procedure remains the “police investigating the police”.**

8. Nick Hardwick has cited the steady increase in the number of people making complaints against police conduct to the Commission as proof of public confidence in the complaints system.⁴ Mr John Crawley disagreed that this was an adequate measure of the IPCC’s success. He suggested that this may have been a valid argument in the early years after the IPCC’s formation as it would be a sign of the public placing trust in a new, reformed complaints system, but he contrasted a definition of success as measured by inputs which seems to be the IPCC’s preferred method, with success measured by outcomes:

Six years into the system, to continue to say the increasing number of complaints and formal investigations of complaints against a background of a very, very low percentage of such complaints being substantiated ... [is] a little bit of an ‘Alice in Wonderland’ argument.⁵

Mr Crawley maintained that a better measure of the IPCC’s success in increasing public confidence would be through measuring the number of complaints against police conduct which were upheld, not merely made. He contrasted the increase in the number of complaints made to the IPCC with the steady proportion of claims which were subsequently upheld. He told us that “in 2008–09 just 1 in 10 complaints formally investigated [i.e. not resolved through LR Procedure] were substantiated ... a pattern that exists year after year, unaltered by the arrival of the IPCC”.⁶ The Police Action Lawyers Group went further and told us that while “a greater number of complaints are now made against the police ... fewer of these complaints are upheld in real terms”.⁷

9. We have been provided with statistical information on the proportion of complaints which were ultimately substantiated by the IPCC or the force’s PSD. The 10% “substantiation rate” was maintained despite large regional variations: for example in Northamptonshire 23% of complaints were upheld,⁸ while of the 3,807 investigated complaints made against the Metropolitan Police, only 152 were substantiated. Mr Crawley did not believe these figures to be credible as it suggested that “virtually all of those

4 Q 71, and, See: *The Independent Police Complaints Commission*, “File on 4”, BBC Radio 4, 19 January 2010

5 Q 31

6 Ev 17

7 Ev 32

8 *Ibid.*

complainants' complaints had no merit".⁹ Both John Crawley and the Police Action Lawyers Group (PALG) suggested that these figures highlighted inconsistencies in the standard of police investigation and that the IPCC should be remedying this as part of its statutory remit. John Crawley argued that this proved the need for a "much more robust intervention at police force level to ensure that complaints are thoroughly investigated" while the PALG called for "urgent research and investigation to ascertain why ... a post-code lottery" seems to exist.¹⁰

10. Mr Crawley further suggested that not only was the Commission having no meaningful effect on the number of complaints against officers which were ultimately substantiated by the IPCC, or the PSD of the force concerned, it had made no attempt to discover why this was the case:

The IPCC has not (to the best of my knowledge) undertaken any significant analytic or other research or investigate [sic] work to ascertain why the patterns and problems continue ... Despite having an Intelligence Unit the IPCC appears to undertake no useful analytical work on the ... wider complaints system, being content to simply publish the annual statistics which show the same dismal pattern and trends year in, year out.¹¹

Furthermore, the Commission had not tried to "engage with and change the culture of police complaints management and its reluctance to embrace an objective and rigorous approach to the fair resolution of complaints".¹² The implication was that the IPCC either did not see its role as driving up the standards of police standards departments or had singularly failed in this task.

11. Nick Hardwick suggested that the continually low number of complaints against police officers which were upheld by the IPCC could be traced back to the Commission's role, which did not place the complainant at the heart of the process:

Unlike any other complaint system the question that Parliament asks us to answer is not, "Has this member of the public received a proper service and, if not, how can we put things right?" The question you ask me to answer is, "Has this officer committed misconduct and, if so, how should they be punished?" The system is all about the officer, it is not about the complainant.¹³

As such there is a distinction between what the public view as worthy of complaint and the behaviour against which the IPCC can act; while the public complain about matters of service—for example incivility and neglect of duty—the IPCC is empowered to act only against misconduct. As Nick Hardwick told us:

for the lower level complaints what people want is an apology, an explanation or a reassurance the same thing will not happen again; only a minority are looking for an

9 Q 35

10 Ev 32

11 Ev 17

12 Ev 27

13 Q 68

officer to be sanctioned. The problem is that the only legislative tool in the box is a decision about whether an officer should be sanctioned.¹⁴

12. A relatively simple means of mitigating this situation would be to remove the “opt-out” clause that exists in the resolution of cases by the Local Resolution procedure. According to John Crawley: “where there is a local resolution of a complaint, the current system does not require the individual officer to get involved or to apologise if they have done something inappropriate”.¹⁵ The most that can be achieved is for the Force to apologise on his behalf.¹⁶

13. There is currently a disconnect between what the public complain about, and the strictly limited task given to the IPCC in statute. That gap should be filled by a force’s Professional Standards Department. Ultimately, Nick Hardwick is correct; most complainants, whose concerns arise from poor service, would just like an apology. The IPCC should act to ensure this is forthcoming more often by impressing upon police PSDs the need to investigate all complaints in a clear, open manner and from the position of remedying poor public service. We are surprised that the IPCC has apparently not taken a greater interest in this area and call on them to do so. While we do not believe that legislation should be introduced to remove the so-called “opt-out clause” which does not require individual officers to proffer an apology for their behaviour, the IPCC should also play a stronger role in ensuring this good practice is adopted by forces.

The Investigations Process

14. Of the approximately 2,500 cases which are serious enough to be referred to the IPCC each year, only around 10% are defined by the IPCC as appropriate for an investigation handled directly by the IPCC’s own staff. Often these cases are related to an individual’s right to life and are started after a death following police contact. John Crawley questioned the value of some of these investigations, which he said dominated the workload of the IPCC but provided no great insight into the complaints system:

Some cases, such as deaths in custody or a failure to prevent homicidal violence against women, rightly, attract great public concern. But others involve no significant issues about police handling or conduct. The problem is that the IPCC has become absorbed by too many such investigations ... this was not what it was created to do, and does not improve public confidence in the police or the complaints system.¹⁷

15. As well as stating that the IPCC is too focused on the investigation process and does not attempt to link the investigation to wider issues in police behaviour, John Crawley also raised concerns over the extent to which the investigation process fails to impress upon the complainant the “independence” of the Commission:

14 Q 75

15 Q 45

16 Ev 17

17 *Ibid.*

The IPCC relies upon the *police* description and assessment of the incident leading to a complaint in the referral form, ... it relies entirely upon and makes contact with the police; complainants are never invited to meet the IPCC to give their side of an incident. The IPCC thus often presents an impression to the public of being an arms length police investigation unit rather than a public complaints/ombudsman service.¹⁸

Mr Crawley's statement that families and complainants are somewhat marginalised in the investigation process was substantiated by Deborah Coles of INQUEST who told us that:

There have been concerns about disclosure of information to families during the course of the investigation and not taking onboard families' concerns about questions that they quite rightly have ...¹⁹

16. According to its Annual Report, the IPCC possesses the capacity for 70 Independent Investigations per year, yet for the past two years the Commission has been operating at around 50% over capacity and the number of Investigations started in 2008/09 is double that of 2005/06. We asked Mr Hardwick what impact this had on the quality of investigations. While he was adamant that the quality of investigations would not be affected, as the Commission was more efficient than previously, he did state that the main effect of this increase of workload was that the work would take longer to do.²⁰

17. The increased workload of the IPCC may explain why the Investigation process can take around 269 working days to complete. Mr Hardwick suggested that the delay was often caused by a shortage of expert advice rather than a too-lengthy process by the IPCC:

An investigation will normally begin when the matter is referred to us by the force concerned, so they have to do that immediately and that will normally take place within hours of the incident occurring ... Normally what we will then do—we will send a small number of investigators to assess the situation, decide whether it is something we need to take, what resources we need and bring those in, and control the initial police handling of the scene and those sorts of issues. Then normally if we decide to investigate it the investigation process will take place. Often for us with critical issues, one of the reasons for delay is that you are waiting for critical expert advice on cause of death, medical issues or expert forensic analysis where we have to wait on other people to provide information to us before we can come to a conclusion.²¹

Deborah Coles was more willing to attribute blame for the somewhat lengthy process to the IPCC's mindset at the outset of a case hindering the investigation:

18 Ev 17

19 Q 28

20 Q 80

21 Q 81

... one of the ongoing concerns of families in these kinds of cases is the failure to treat deaths in custody or following police contact as potential crimes and do important evidence-gathering at the beginning of the investigation.²²

And in turn, this lengthy process reduces families' confidence in the results:

You want to have confidence that the death is being treated seriously ... the delay in getting the reports finished needs to be looked at ... I do think we have examples of investigations which have taken place in a timely, prompt fashion that have inspired confidence in those families concerned.²³

Ms Rigg's experience corroborated this statement. She professed disbelief at the length of time the investigation into her brother's death had taken, and could not understand why, since the case was relatively simple, it had taken seven months to interview the officers involved in the incident, nine months to interview call handlers and 18 months to complete the investigation.²⁴ Ms Rigg pointed out that if the roles were reversed, and a police officer had died after contact with her brother, then Sean would have been interviewed that night.²⁵

18. We put this specific example to Mr Hardwick. Mr Hardwick stated that the IPCC decides:

when to interview someone on whether we are going to treat them as a witness or a suspect, and sometimes we need to interview someone very quickly to get urgent information from them but on other occasions, we will want to do that at the end of the process when we have gathered in all the other evidence and information from everybody that we then want to put to the officer at the end of the process, as happened here²⁶ ... there will be occasions when the best way of getting the officers' explanation of what they have done and why is to put the evidence that we have collected in its entirety to them at the end of the process.²⁷

19. The Police Federation have criticised this process, stating that the legal status of officers under investigation is not clear, and suggesting that deciding to deem an officer a suspect late in an investigation is unhelpful, often leaving the officer in question in limbo:

If they [the officer] are deemed to be a subject then they have a right to legal advice. But all too often there is a delay in that decision being taken by the IPCC. It is not unheard of for officers who have been told that they are not under investigation to later have that decision reversed which can adversely affect the officer as a result of something that may have been stated as a witness.²⁸

22 Q 27

23 Q 28

24 Q 13

25 Q 16

26 Q 85

27 Q 88

28 Ev 30

The Federation also believed that the investigation itself takes much too long, certainly when compared with an “internal” investigation by a force’s PSD,²⁹ suggesting that they also did not approve of the standard process adopted by the IPCC and described to us by Mr Hardwick.

20. The specifics of exactly why investigations take so long is largely beyond our remit. We will therefore restrict our comments to stating that a process lasting up to 269 working days is unsatisfactory to all concerned and does nothing to increase anybody’s confidence in it. All of the evidence we have received suggests that an investigation taking this long reduces trust in the process. While we are unable to comment on exactly how to reduce the length of investigations and so prevent this problem occurring, we can recommend that the IPCC should do more to mitigate its effects. While the investigation itself may be a complex process, this does not prevent the disclosure of information to interested parties. We strongly feel that a more open process involving, for example, the sharing of proposed timetables of work and completion dates, a greater explanation of how the investigation is developing and where possible, the sharing of initial evidence such as CCTV recordings, would increase the confidence of those using the system and remove the doubt and uncertainty which has been reported to us far too often.

Appeals

21. In addition to handling complaints against police performance and misconduct, the IPCC can also be appealed to over the way a local force handled a complaint, the outcome of a supervised or local investigation or the use of the Local Resolution procedure. In 2008/09 the IPCC handled 4,634 of these cases, an increase of 12% on the previous year and a 4.5-fold increase since 2004/05. According to Nick Hardwick, 33% of these appeals were upheld³⁰ and referred back to the police force or a disciplinary tribunal for further action. In subsequent written evidence to us,³¹ Mr Crawley disputed both the headline figure of 33% and criticised the actions of the IPCC after an appeal has been upheld. He stated that:

When a complainant’s appeal is upheld because the police investigation was inadequate the IPCC has the power to intervene directly by managing any necessary re-investigation itself, or even independently investigating where desirable ... [but] for 2008/09 out of 158 appeals where re-investigation was required *not once* did it use this power.

He suggested that “this sends quite the wrong message to the police that the appeals system will never ‘bite’ so far as seriously inadequate investigations are concerned and it is not designed to increase public confidence in its appeal role.”

22. More generally, John Crawley characterised the appeals function of the IPCC as a “Cinderella service”, stating that the culture of the IPCC is dominated by its high profile

29 Ev 30

30 Q 68

31 Ev 23

investigations function. Despite the appeals system being the main source of IPCC contact with the public, there is no “effective championing of the appeals system within the IPCC” and no “fostering of the complainant perspective generally within the organisation”.³² In his view, the end result of this subordination of the appeals function is that:

where you are getting complaints concerning local policing... where the sort of confidence in the police really rubs, because that is what gets networked around neighbourhoods in that area—the IPCC is not accessible. I do not think it is responsive.³³

As proof of his belief that the IPCC contains an “institutional bias against complainants” he cited the fact that determining appeals, a crucial statutory function, is left to the most junior decision-makers in the organisation, Casework Managers, some of whom will be “short-term contract-workers brought in to clear up the backlog of appeals”.³⁴ The result of this delegation of responsibility is that relatively inexperienced and junior staff are left dealing with senior police officers in a Professional Standards Department of a force, and “the Casework Manager is likely to settle for the easier option, disappointing the complainant rather than upsetting the force”.³⁵

23. John Crawley made several detailed recommendations to improve the perception and the performance of the appeals function within the IPCC. In order to ensure that adequate resources and attention is given to the appeals function, he proposed making users’ confidence in the quality of the appeals service a clearly-defined performance target. This would focus management attention on to that function. Mr Crawley also argued that the IPCC needed to be much more selective in when and where it operated, subjecting forces to a risk-assessment and targeting resources on “potentially worrying patterns of complaint within a force”, while diverting resources away from those forces deemed to be performing adequately:

It [The IPCC] needs a much more structured regular system of knowing what the local concerns of people are about their local force. That then informs, if you like, an intelligence-based approach where they call in complaints, and say, “We need to take a closer look at this force, but over here we are pretty satisfied that that force is doing a good job”.³⁶

He suggested that this approach would allow the IPCC to meet much more closely the needs and expectations of the public.

24. The IPCC is not an insubstantial organisation—it has a staff of around 400 people³⁷ and a budget of £35 million per annum.³⁸ Despite this, it is lacking clear benchmarks for success. We would like to know what the Home Secretary considers an appropriate

32 Ev 17

33 Q 40

34 Ev 17

35 Q 34

36 Q 41

37 IPCC Website: http://www.ipcc.gov.uk/index/about_ipcc/who_runs.htm

38 IPCC Annual Report and statement of accounts 2008/09

measure of the IPCC's performance. Broadly, is the success of the Commission to be measured in inputs or outcomes? We also ask him to introduce clear, statistical targets, based on, for example, complainant satisfaction, to set an easily understandable measure of the IPCC's performance.

3 The Management Structure and Independence of the IPCC

25. The Chairman and Commissioners of the IPCC are currently appointed by the Home Secretary for a fixed five-year term, with the option of re-appointment to a second term if this is mutually agreed. Since the IPCC became operational in 2004, Commissioners have reduced the role they play in the day-to-day organisation of the Commission. For example, they have attracted controversy over the decision to allow managers, rather than the Commissioners, to decide whether the IPCC should get involved in a complaint investigation.³⁹ This change has led John Crawley to question the role that Commissioners actually play, stating that even though they are full-time appointments and “a very expensive way for the taxpayer to oversee an organisation” they “do not engage with sufficient detail in the oversight of the complaints system”.⁴⁰

26. Mr Crawley criticised the present, largely full-time, management structure of the IPCC as “almost without precedence in the public sector” and a source of “poor and weak governance”.⁴¹ To remedy these problems, he proposed two main reforms to the IPCC Commission which he believed would increase its independence and oversight capability. He suggested that the Chairman should cease to be a full-time employee and become “a part-time non-executive position” since currently the Chairman:

gets too involved in the executive issues of the organisation and, in my view the Chair ends up arguing those executive positions at the Commission rather than empowering the Commission as a non-executive oversight body.⁴²

As well as re-designating the role of Chairman, Mr Crawley also proposed that Commissioners be appointed for a single term only. He suggested that worries over reappointment to what is a full-time, well-paid job might hinder the independence of Commissioners. While there is no evidence that Commissioners have been induced to act in a particular fashion, he suggested that the desire to retain their post would influence Commissioners and possibly curb their willingness to “rock the boat” on difficult decisions. Mr Crawley himself freely admitted that giving up a well-paid, pensioned job was a difficult choice.⁴³ The IPCC doubted whether Commissioners are “influenced in their work by their desire to be reappointed”.⁴⁴

27. Mr Crawley also criticised the fact that some Commissioners are not “rotated” regularly to supervise other forces. This inhibits independent scrutiny as, “inevitably if you have been overseeing a force and its complaints system for six-plus years you become part of the

39 See: “John Crawley on the effectiveness of the IPCC”, *The Guardian*, 8 April 2009

40 Q 35

41 Ev 17

42 Q 40

43 Ev 17, Qq 40 and 57–58

44 Ev 24

story if it is not performing well”⁴⁵ and therefore have a vested interest in playing down criticism.

28. If what Mr Crawley told us is correct, and some Commissioners’ independence may be compromised by the desire to be re-appointed, that would be troubling and reform of the appointment system would be necessary. We agree with his more general position that a single, longer term of appointment would be more beneficial to independent oversight. We note that the Police Ombudsman of Northern Ireland is appointed for a single seven-year term, and consider this to be better practice. We therefore recommend that the Government amend the relevant legislation⁴⁶ to allow the adoption of this practice to future Commission appointments and appointments in the wider police complaints sector generally, to remove any hint of impropriety or lack of independence.

29. Mr Crawley also stated that as well as the possibility of individual Commissioners being “captured” by those they are meant to oversee, there are no formal rules regarding where ex-police officers working for the IPCC can be based; “senior investigators or deputy investigators who have joined the IPCC from a police force are not mandated to be operating in a different region and to have nothing to do with their ex-police force”.⁴⁷ He gave us an example from his time serving on the Commission, “in the East Midlands, a whole group of officers from one of the local forces had been appointed to the regional investigative and management team and I thought that was quite inappropriate”.⁴⁸ According to Mr Crawley, the immediate practical effect of this reliance on ex-police officers serving in investigative positions has been an emulation of police investigative models and practices, which in turn reproduces a “policing culture not a public facing, complainant-oriented ombudsman service”.⁴⁹ Deborah Coles of INQUEST was clear that the employment of ex-police officers by the IPCC was an issue for the families they work with.⁵⁰

30. The IPCC responded that the use of former police officers with their “wealth of professional investigative expertise” is required for the IPCC to carry out “competent, robust and successful investigations” and confirmed the proportion of ex-police officers working for the IPCC to be 11% of the IPCC’s total staff (approximately 40 individuals) and 30% of investigators. The IPCC further suggested that as it trains its own investigators this number will remain steady, or decrease. While explaining declaration of interest procedures, and assuring us that investigators with a personal link to the police officers or staff involved in an investigation would not be deployed in that investigation, the IPCC neither confirmed nor denied that IPCC investigators with a police background may end up investigating their previous force.⁵¹

45 Q 50

46 Schedule 2 of the Police Reform Act 2002

47 Q 51

48 Q 52

49 Ev 17

50 Q 28

51 Ev 24

31. While not willing to cast aspersions against individual officers who undoubtedly bring many valuable skills to the process, the state of affairs described by our witnesses is clearly inappropriate—ex-police officers should not end up investigating possible ex-colleagues in their former force. Public confidence in the impartiality of the IPCC is bound to be damaged by these practices. We are shocked that this situation has been allowed to develop and recommend that steps are taken to prevent this occurring and to remove any hint of impropriety.

4 Are Complainants at the heart of the process?

32. Marcia Rigg’s brother, Sean, died in police custody in August 2008. Such cases are automatically referred to the IPCC for investigation. The evidence she gave to us suggests that the IPCC has not become sufficiently “public-facing” and, despite the IPCC’s statutory aim to improve confidence in the system, it does not adequately put those using the IPCC at the heart of its investigations. She had a litany of complaints against the Commission’s operating practices:

- The IPCC were not particularly pro-active in explaining their role and powers. Ms Rigg first heard of the Commission through the organisation INQUEST, rather than, for example, an IPCC Family Liaison Officer. According to Deborah Coles of INQUEST, “the family were not given any information, on first contact [with the IPCC] about their rights to have an independent post-mortem” and the investigative process was not explained thoroughly to the family upon first contact with the IPCC. Ms Rigg stated that it was not until “some time in September” that the family were told of the full powers of the IPCC.⁵²
- Ms Rigg told us that the IPCC was rarely forthcoming with answers or updates as the investigation was progressing, “as a family we felt that we personally had to push and push and push the IPCC for the most minute sort of question to be answered”.⁵³ Her impression was that “had the family not pushed and pushed for there to be a reasonably fair investigation it would never have happened ... otherwise it would be put under the shelf, on the bottom shelf, and it would all have gone away”.⁵⁴
- Partly as a result of this experience and the IPCC’s lack of focus on her wellbeing, she feels that the “IPCC are very heavily biased towards the police. We found them insensitive at certain points.” In her opinion, “the whole thing is in defence of the police”.⁵⁵
- She no longer has any confidence in the police force⁵⁶ and there was never an impression that the IPCC was ever “on her side”.⁵⁷

Any suggestion of bias is, of course, Marcia Rigg’s perception; we have received no firm evidence that the results of IPCC investigations are biased. We also note that since officers involved in an IPCC investigation can rely on the Police Federation who act as the point of contact for officers who are the subject of investigations and provide a network of Discipline Liaison Officers, police officers, quite naturally, possess greater expertise and

52 Qq 1–4

53 Q 13

54 Q 29

55 Q 14

56 Q 20

57 Q 15

experience of the Police complaints system and may therefore appear to be unduly favoured by the system.⁵⁸

33. Ms Rigg told us that she was convinced that the IPCC sided wholly with the police in their investigations. Whilst it would not be appropriate for us to comment on individual cases, it does concern us greatly that her comments chime with other evidence we have received. Whether or not the IPCC is failing in its duty of objectivity and impartiality, it is clearly failing to convey such qualities to many of its users.

34. Deborah Coles told us that she worked “with families on a daily basis and we have many, many complaints about the inconsistency of approach to investigations at the IPCC, insensitive communication and contact with families”.⁵⁹ Ms Coles also spoke of a disconnect between the public statements of senior managers in the IPCC and the actions of those working with families, a complaint which has been echoed by the Police Federation. Ms Coles also suggested that the IPCC was not open and transparent when answering questions from concerned families and delays in interviewing police officers after a fatal incident (as occurred in the case of Sean Rigg) brought “a lot of mistrust and suspicion”.⁶⁰

35. Police officers agreed that the IPCC was deficient in communication and empathy with those under investigation. The Police Federation told us that:

There is a feeling amongst our representatives that the IPCC investigators appear not to understand that officers are under an investigation with all the stress and uncertainty that entails when faced with the prospect of an outcome that may well affect an officer’s career, future livelihoods, personal relationships and self-esteem.⁶¹

For example, while officers under investigation “are supposed to be contacted every 28 days ... this rarely appears to happen in reality and it is often left to Federation representatives to chase up information”.⁶² **From the evidence we have received it is clear that individual police officers possess similar concerns to Ms Rigg, and are equally unsure of the merits of the Commission’s methods. It is disappointing that both complainants and individual police officers feel so alienated by the investigations process.**

36. Nick Hardwick was adamant that the IPCC stresses the need to place those involved in an investigation at the centre of the process, but conceded that this aim is tempered by the desire to find an objective, legally sound truth. He personally spoke to every new member of staff who joined the IPCC:

what I try to explain to them is this: what we deal with in these cases is the very worst thing that has ever happened to somebody ... I do not think that there are some easy things that we can say and do that will reassure families in those situations ... The

58 Ev 30

59 Q 28

60 *Ibid.*

61 Ev 30

62 *Ibid.*

critical thing for you to do is find out the truth and put that truth in front of the appropriate authorities ...⁶³

He was confident that Marcia Rigg's views were not representative of the wider population and "People are more confident in the complaints system than they have ever been before".⁶⁴ An IPCC-commissioned survey provides statistical background to this claim: 88% of the general public thought that the IPCC would treat their case fairly and 68% of respondents considered the IPCC independent of the police.⁶⁵ However, another study by the NAO in 2008 highlighted that 80% of those who had used the IPCC were "dissatisfied" or "very dissatisfied with the manner in which their claim had been handled."⁶⁶

37. The IPCC's statutory remit is to "increase public confidence in the police complaints system". While certain statistics indicate that the IPCC has been successful in respect of the general public, it is also clear that the Commission has not inspired confidence and trust in those it has dealt with. We have received complaints of insensitive communication, inconsistency of approach and a lack of empathy with those involved with the investigation. We believe that Mr Hardwick is wrong to suggest that the IPCC is purely concerned with discovering the "truth". The Commission must remember that it is handling stressful, controversial cases, and to do so in a distant and non-empathetic manner only harms the reputation of the wider complaints system and does not satisfy anyone involved that justice has been done. If the IPCC is to achieve its aim of increasing confidence in the police complaints system a much more complainant-centred approach is needed. This will require a radical change of mindset within the organisation.

63 Q 63

64 Q 66

65 IPCC Annual Report and statement of accounts 2008/09

66 Ev 32

5 Reform of the IPCC

38. Both Nick Hardwick and John Crawley agreed that ultimately it should be the police's responsibility to handle complaints adequately from the public and more complaints should be investigated and resolved satisfactorily at a local level. Nick Hardwick told us that the ideal scenario would be for the police to provide better service in the first instance, negating the need for complaints, and ultimately, appeals to the IPCC.⁶⁷ However, he doubted the value of the IPCC acting to improve the standard of police service, suggesting that this role would be best performed by devolving power and responsibility to individual forces:

The most effective way to deal with a PC or PCO who has provided a poor service is their supervisor, their sergeant or their inspector saying to them, "This is not an acceptable performance or standard of conduct for people who work for me." ... If you can get that happening; if you could hold the supervisors and inspectors accountable for delivering that, accountable for the performance of the people they are responsible for managing then that is the way to get the kind of cultural changes we have talked about ... A critical responsibility of supervisors and managers, inspectors and sergeants, should be precisely to get that conduct correct.⁶⁸

Mr Hardwick suggested that up to a point the IPCC had been successful in persuading the police to prioritise the complaints process but the IPCC is best suited to a persuasive role, rather than directly attempting to improve forces' systems itself.⁶⁹

39. John Crawley suggested it was in the IPCC's interest to improve the performance of forces' complaints systems, saying that the workload faced by the IPCC was hindering efforts to improve its handling of complainants' concerns:

There should be a progressive reduction in the number of appeals to the IPCC so that it is not handling such a huge volume of appeals. The way to achieve that is for police officers to do better investigations and for more complaints to be upheld by police officers ... the appeal system, with the pressure of volume of it, can then become a better quality system that will meet complainant concerns more effectively.⁷⁰

40. Mr Crawley doubted that the "persuasive" role the IPCC had adopted would be wholly effective without reform to the complaints system. He pointed out that forces have no incentives to improve their handling of complaints, as the appeal system is a "no-cost option" for the police: "first, the chances are that it will not be upheld by the IPCC in any substantive way, and secondly it does not cost them anything financially". He contrasted this "no-cost option" with the workings of the Financial Ombudsman who has the power

67 Q 68

68 Q 69

69 Qq 67-71

70 Q 41

to fine financial organisations for inadequate complaint resolution and suggested a similar system for the police.⁷¹

41. John Crawley suggested fining forces for poor performance in this area. While we believe that this would be inappropriate, his overall premise is correct—efforts must be made to incentivise forces to improve their performance. We recommend that Her Majesty’s Inspectorate of Constabulary (HMIC) place a stronger emphasis on complaints resolution and the performance of the PSD in their inspections of forces. This would provide a direct incentive for forces to improve their performance in this area. The police’s main target is improved public confidence in their performance; it therefore seems misguided that greater emphasis is not put on an area of police activity which plays a major role in shaping public perceptions of the police.

42. We have also received interesting suggestions for longer-term reforms to the Commission which may help tackle some of the inherent structural problems of the organisation. We have heard repeated evidence that the IPCC is too close to the police and has not yet established an independent, corporate identity separate from the police complaints service. John Crawley believed that the reason for this could partly be traced to the “positioning” of the IPCC within the Home Office’s sphere:

The proximity of the IPCC to the Home Office and its nexus of police bodies is not just a matter of perceived lack of independence and objective distance from the management of policing but of the context within which a civilian oversight body has developed and determined its priorities. It has led to the IPCC becoming far too closely integrated into the wider policing sector rather than the (alternative of the) wider complaints ombudsman “sector”.⁷²

To solve this problem of the IPCC’s “integration” into the policing sector, Mr Crawley proposed moving the IPCC away from the Home Office “sphere” and into the remit of the Ministry of Justice. He cited the presence of two other relevant bodies, HM Chief Inspector of Prisons and the Prisons and Probation Ombudsman within the remit of that Ministry. He believed that this action, “could help create a nexus of ... bodies concerned with individual rights within and across the criminal justice system”.⁷³

43. More generally, John Crawley doubted that combining the investigation of high-profile incidents with the handling of basic complaints was a model that was necessarily working. While he stopped short of recommending such an approach at present, he suggested that if more incremental reforms did not improve the performance of the Commission then policy-makers should consider reforming the structure of the IPCC. One option would be to split the IPCC into two distinct sections, forming a separate agency, perhaps as “a special wing of HMIC”, focused entirely on conducting full criminal investigations into allegations of serious police misconduct or corruption, while a “beefed-up and separate Police

71 Q 43

72 Ev 17

73 *Ibid.*

Ombudsman Service”, would work closely with forces’ PSDs to drive reform of the basic complaint system.⁷⁴

44. Both of these suggestions—the transfer of the IPCC to the remit of the Ministry of Justice, and the separation of the IPCC’s current functions into two distinct bodies—may have their merits. However, we believe that the problems which exist in the IPCC are not so endemic as to require such radical structural changes. We draw the House’s attention to these proposals as a point of debate and for future reference if the IPCC’s performance continues to disappoint its users.

74 Qq 35 and 56

6 Conclusion

45. The evidence we have received suggests that while the IPCC has had some tangible and high-profile successes overall, it remains over-worked, particularly in its appeal function. We are inclined to believe that this is the source of the poor service that the IPCC is providing to those who rely on the Commission. To solve this problem, the police should be placing greater onus on resolving complaints in an open, transparent and satisfactory matter. This in turn would reduce the workload of the IPCC. We see the IPCC playing a key role in driving this cultural change, rather than acting as a somewhat passive “backstop”, which seems currently to be the case. We would like to see a detailed plan of how the IPCC, working with bodies such as HMIC and NPIA, will improve police forces’ complaints services and hence reduce the number of appeals against police decisions, in order to bring the IPCC’s workload down to more manageable levels, improve the service provided to those using the Commission and increase confidence in the complaints system.

46. It is clear to us that the IPCC requires reform of some kind. If the IPCC continues to fail to put complainants at the heart of the process we do not consider it can achieve its statutory duty of increasing public confidence in the police complaints system in England and Wales. The witnesses who gave evidence to us provided examples of potentially beneficial reforms, both large and small, and to both the culture and structure of the Commission. We have addressed some of these suggestions above.⁷⁵ We regret that a lack of Parliamentary time prevents us examining these proposals in greater depth. We hope that by producing this Report, and presenting the accompanying evidence, to the House, our successors will be able to examine these issues in the detail they deserve.

75 Paras 38–44

Conclusions and recommendations

1. In 2008–09, less than 1% of all complaints made against the Police were directly investigated by IPCC staff and just 10% of “serious” cases referred to the IPCC were subsequently managed by the IPCC’s own staff. It is true to say that, 99 times out of 100 and despite the existence of the IPCC, the complaints procedure remains the “police investigating the police”. (Paragraph 7)
2. There is currently a disconnect between what the public complain about, and the strictly limited task given to the IPCC in statute. That gap should be filled by a force’s Professional Standards Department (PSD). Ultimately, most complainants, whose concerns arise from poor service, would just like an apology. The IPCC should act to ensure this is forthcoming more often by impressing upon police PSDs the need to investigate all complaints in a clear, open manner and from the position of remedying poor public service. We are surprised that the IPCC has apparently not taken a greater interest in this area and call on them to do so. While we do not believe that legislation should be introduced to remove the so-called “opt-out clause” which does not require individual officers to proffer an apology for their behaviour, the IPCC should also play a stronger role in ensuring this good practice is adopted by forces. (Paragraph 13)
3. The specifics of exactly why investigations take so long is largely beyond our remit. We will therefore restrict our comments to stating that a process lasting up to 269 working days is unsatisfactory to all concerned and does nothing to increase anybody’s confidence in it. All of the evidence we have received suggests that an investigation taking this long reduces trust in the process. While we are unable to comment on exactly how to reduce the length of investigations and so prevent this problem occurring, we can recommend that the IPCC should do more to mitigate its effects. While the investigation itself may be a complex process, this does not prevent the disclosure of information to interested parties. We strongly feel that a more open process involving, for example, the sharing of proposed timetables of work and completion dates, a greater explanation of how the investigation is developing and where possible, the sharing of initial evidence such as CCTV recordings, would increase the confidence of those using the system and remove the doubt and uncertainty which has been reported to us far too often. (Paragraph 20)
4. The IPCC is not an insubstantial organisation—it has a staff of around 400 people and a budget of £35 million per annum. Despite this, it is lacking clear benchmarks for success. We would like to know what the Home Secretary considers an appropriate measure of the IPCC’s performance. Broadly, is the success of the Commission to be measured in inputs or outcomes? We also ask him to introduce clear, statistical targets, based on, for example, complainant satisfaction, to set an easily understandable measure of the IPCC’s performance. (Paragraph 24)
5. If some Commissioners’ independence may be compromised by the desire to be re-appointed, that would be troubling and reform of the appointment system would be necessary. A single, longer term of appointment would be more beneficial to independent oversight. We note that the Police Ombudsman of Northern Ireland is

appointed for a single 7-year term, and consider this to be better practice. The appointment of Commissioners and Chairman is subject to schedule 2 of the Police Reform Act 2002. We therefore recommend that the Government amend the legislation to allow the adoption of this practice to future Commission appointments, and appointments in the wider police complaints sector generally to remove any hint of impropriety or lack of independence. (Paragraph 28)

6. While not willing to cast aspersions against individual officers who undoubtedly bring many valuable skills to the process, the state of affairs described by our witnesses is clearly inappropriate—ex-police officers should not end up investigating possible ex-colleagues in their former force. Public confidence in the impartiality of the IPCC is bound to be damaged by these practices. We are shocked that this situation has been allowed to develop and recommend that steps are taken to prevent this occurring and to remove any hint of impropriety. (Paragraph 31)
7. Some complainants were convinced that the IPCC sided wholly with the police in their investigations. Individual police officers are equally unsure of the merits of the Commission’s methods. It is disappointing that both complainants and individual police officers feel so alienated by the investigations process. Whether or not the IPCC is failing in its duty of objectivity and impartiality, it is clearly failing to convey such qualities to many of its users. (Paragraphs 33 and 35)
8. The IPCC’s statutory remit is to “increase public confidence in the police complaints system”. While certain statistics indicate that the IPCC has been successful in respect of the general public, it is also clear that the Commission has not inspired confidence and trust in those it has dealt with. We have received complaints of insensitive communication, inconsistency of approach and a lack of empathy with those involved with the investigation. The Commission must remember that it is handling stressful, controversial cases, and to do so in a distant and non-empathetic manner only harms the reputation of the wider complaints system and does not satisfy anyone involved that justice has been done. If the IPCC is to achieve its aim of increasing confidence in the police complaints system a much more complainant-centred approach is needed. This will require a radical change of mindset within the organisation. (Paragraph 37)
9. John Crawley suggested fining forces for poor performance in the area of complaint resolution. While we believe that this would be an inappropriate measure, his overall premise is correct—efforts must be made to incentivise forces to improve their performance. We recommend that HMIC incentivise forces by placing a stronger emphasis on complaints resolution and the performance of the PSD in their inspections of forces. This would provide a direct incentive for forces to improve their performance in this area. The police’s main target is improved public confidence in their performance; it therefore seems misguided that greater emphasis is not put on an area of police activity which plays a major role in shaping public perceptions of the police. (Paragraph 41)
10. Both of these suggestions—the transfer of the IPCC to the remit of the Ministry of Justice, and the separation of the IPCC’s current functions into two distinct bodies—may have their merits. However, we believe that the problems which exist in the

IPCC are not so endemic as to require such radical structural changes. We draw the House's attention to these proposals as a point of debate and for future reference if the IPCC's performance continues to disappoint its users. (Paragraph 44)

11. While the IPCC has had some tangible and high-profile successes overall, it remains over-worked, particularly in its appeal function. We are inclined to believe that this is the source of the poor service that the IPCC is providing to those who rely on the Commission. To solve this problem, the police should be placing greater onus on resolving complaints in an open, transparent and satisfactory manner. This in turn would reduce the workload of the IPCC. We see the IPCC playing a key role in driving this cultural change, rather than acting as a somewhat passive "backstop", which seems currently to be the case. We would like to see a detailed plan of how the IPCC, working with bodies such as HMIC and NPIA, will improve police forces' complaints services and hence reduce the number of appeals against police decisions, in order to bring the IPCC's workload down to more manageable levels, improve the service provided to those using the Commission and increase confidence in the complaints system. (Paragraph 45)
12. It is clear to us that the IPCC requires reform of some kind. If the IPCC continues to fail to put complainants at the heart of the process we do not consider it can achieve its statutory duty of increasing public confidence in the police complaints system in England and Wales. The witnesses who gave evidence to us provided examples of potentially beneficial reforms, both large and small, and to both the culture and structure of the Commission. We have addressed some of these suggestions above. We regret that a lack of Parliamentary time prevents us examining these proposals in greater depth. We hope that by producing this Report, and presenting the accompanying evidence, to the House, our successors will be able to examine these issues in the detail they deserve. (Paragraph 46)

Formal Minutes

Tuesday 23 March 2010

Members present:

Rt Hon Keith Vaz, in the Chair

Mrs Ann Cryer
David TC Davies
Mrs Janet Dean
Gwyn Prosser

Bob Russell
Martin Salter
Mr David Winnick

Draft Report (*The work of the Independent Police Complaints Commission*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 46 read and agreed to.

Resolved, That the Report be the Eleventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[The Committee adjourned

Witnesses

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| Ms Marcia Rigg, and Ms Deborah Coles | Ev 1 |
| Mr John Crawley , Former Commissioner, IPCC | Ev 5 |
| Mr Nick Hardwick , Chairman, IPCC | Ev 11 |

List of written evidence

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| 1 | John Crawley | Ev 17: Ev 23 |
| 2 | The Independent Police Complaints Commission | Ev 24 |
| 3 | Police Federation of England and Wales | Ev 30 |
| 4 | The Police Action Lawyers Group | Ev 32 |
| 5 | Letter from the Chair, IPCC, to Lynne Jones MP | Ev 36 |

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| Seventh Report | The Cocaine Trade | HC 74 |
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| Eighth Report | Policing of the G20 Protests | HC 418 (HC 201) |
| Ninth Report | Project CONTEST: The Government's Counter-Terrorism Strategy | HC 212 |
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| Fourteenth Report | The work of the Serious Organised Crime Agency | HC 730 |

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| Third Report | Draft Sentencing Guidelines— <i>Overarching Principles: Domestic Violence and Breach of a Protective Order</i> | HC 1231 |
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