



House of Commons  
Home Affairs Committee

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# The work of the Independent Police Complaints Commission

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**Eleventh Report of Session 2009–10**

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

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## The Home Affairs Committee

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# 1 Introduction

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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,<sup>1</sup> 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.

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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](http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/19_01_10_fo4_ipcc.pdf)

## 2 The Performance of the IPCC

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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”.<sup>2</sup> 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.<sup>3</sup>

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

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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](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.<sup>4</sup> 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.<sup>5</sup>

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”.<sup>6</sup> 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”.<sup>7</sup>

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,<sup>8</sup> 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

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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".<sup>9</sup> 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.<sup>10</sup>

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.<sup>11</sup>

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".<sup>12</sup> 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.<sup>13</sup>

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

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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.<sup>14</sup>

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”.<sup>15</sup> The most that can be achieved is for the Force to apologise on his behalf.<sup>16</sup>

**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.<sup>17</sup>

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:

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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.<sup>18</sup>

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 ...<sup>19</sup>

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.<sup>20</sup>

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.<sup>21</sup>

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:

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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.<sup>22</sup>

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.<sup>23</sup>

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.<sup>24</sup> 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.<sup>25</sup>

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 here<sup>26</sup> ... 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.<sup>27</sup>

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.<sup>28</sup>

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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,<sup>29</sup> 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 upheld<sup>30</sup> and referred back to the police force or a disciplinary tribunal for further action. In subsequent written evidence to us,<sup>31</sup> 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

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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”.<sup>32</sup> 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.<sup>33</sup>

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”.<sup>34</sup> 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”.<sup>35</sup>

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”.<sup>36</sup>

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 people<sup>37</sup> and a budget of £35 million per annum.<sup>38</sup> 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](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

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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.<sup>39</sup> 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”.<sup>40</sup>

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”.<sup>41</sup> 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.<sup>42</sup>

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.<sup>43</sup> The IPCC doubted whether Commissioners are “influenced in their work by their desire to be reappointed”.<sup>44</sup>

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

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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”<sup>45</sup> 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 legislation<sup>46</sup> 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”.<sup>47</sup> 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”.<sup>48</sup> 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”.<sup>49</sup> 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.<sup>50</sup>

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.<sup>51</sup>

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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?

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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.<sup>52</sup>
- 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".<sup>53</sup> 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".<sup>54</sup>
- 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".<sup>55</sup>
- She no longer has any confidence in the police force<sup>56</sup> and there was never an impression that the IPCC was ever "on her side".<sup>57</sup>

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

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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.<sup>58</sup>

**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”.<sup>59</sup> 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”.<sup>60</sup>

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.<sup>61</sup>

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”.<sup>62</sup> **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

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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 ...<sup>63</sup>

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".<sup>64</sup> 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.<sup>65</sup> 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."<sup>66</sup>

**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.**

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63 Q 63

64 Q 66

65 IPCC Annual Report and statement of accounts 2008/09

66 Ev 32

## 5 Reform of the IPCC

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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.<sup>67</sup> 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.<sup>68</sup>

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.<sup>69</sup>

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.<sup>70</sup>

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

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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.<sup>71</sup>

**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”.<sup>72</sup>

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”.<sup>73</sup>

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

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71 Q 43

72 Ev 17

73 *Ibid.*

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

**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.**

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74 Qq 35 and 56

## 6 Conclusion

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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.<sup>75</sup> 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.

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75 Paras 38–44

## Conclusions and recommendations

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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

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**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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<b>Ms Marcia Rigg, and Ms Deborah Coles</b>	Ev 1
<b>Mr John Crawley</b> , Former Commissioner, IPCC	Ev 5
<b>Mr Nick Hardwick</b> , 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

## List of Reports from the Committee during the current Parliament

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

### Session 2009–10

First Report	The Detention of Children in the Immigration System	HC 73 ( <i>Cm 7795</i> )
Second Report	The work of the UK Border Agency	HC 105 ( <i>HC 370</i> )
Third Report	The E-Borders Programme	HC 170
Fourth Report	Work of the Committee in 2008–09	HC 265
Fifth Report	Police Service Strength	HC 50 ( <i>HC 511</i> )
Sixth Report	The Home Office's Response to Terrorist Attacks	HC 117 ( <i>Cm 7788</i> )
Seventh Report	The Cocaine Trade	HC 74
Eighth Report	The National DNA Database	HC 222
Ninth Report	Counter-Terrorism Measures in British Airports	HC 311
Tenth Report	The Government's Approach to Crime Prevention	HC 242-I

### Session 2008–09

First Report	Monitoring of the UK Border Agency	HC 77 ( <i>HC 381</i> )
Second Report	The Police and the Media	HC 75
Third Report	The Work of the Committee 2007–08	HC 76
Fourth Report	Policing Process of Home Office Leaks Inquiry	HC 157 ( <i>HC 1026</i> )
Fifth Report	Borders, Immigration and Citizenship Bill [HL]	HC 425
Sixth Report	Human Trafficking	HC 23–I
Seventh Report	Knife Crime	HC 217
Eighth Report	Policing of the G20 Protests	HC 418 ( <i>HC 201</i> )
Ninth Report	Project CONTEST: The Government's Counter-Terrorism Strategy	HC 212
Tenth Report	The cost of policing football matches	HC 676 ( <i>HC 339</i> )
Eleventh Report	Bogus Colleges	HC 595 ( <i>Cm 7766</i> )
Twelfth Report	Macpherson Report—Ten Years On	HC 427
Thirteenth Report	Managing Migration: Points-Based System	HC 217 ( <i>Cm 7767</i> )
Fourteenth Report	The work of the Serious Organised Crime Agency	HC 730

**Session 2007–08**

First Report	The Government's Counter-Terrorism Proposals	HC 43
Second Report	Bulgarian and Romanian Accession to the EU: Twelve months on	HC 59
Third Report	Security Industry Authority	HC 144
Fourth Report	Work of the Committee in 2007	HC 226
Fifth Report	A Surveillance Society?	HC 58 (HC 1124)
Sixth Report	Domestic Violence, Forced Marriage and "Honour"-Based Violence	HC 263 (HC 1165)
Seventh Report	Policing in the 21 <sup>st</sup> Century	HC 364
Special Report	Unauthorised Disclosure of Draft Report	HC 196

**Session 2006–07**

First Report	Work of the Committee in 2005–06	HC 296
Second Report	Young Black People and the Criminal Justice System	HC 181 (Cm 7217)
Third Report	Justice and Home Affairs Issues at European Union Level	HC 76 (HC 1021)
Fourth Report	Police Funding	HC 553 (HC 1092)

**Session 2005–06**

First Report	Draft Corporate Manslaughter Bill (First Joint Report with Work and Pensions Committee)	HC 540 (Cm 6755)
Second Report	Draft Sentencing Guideline: Robbery	HC 947
Third Report	Draft Sentencing Guidelines— <i>Overarching Principles: Domestic Violence and Breach of a Protective Order</i>	HC 1231
Fourth Report	Terrorism Detention Powers	HC 910 (Cm 6906)
Fifth Report	Immigration Control	HC 947 (Cm 6910)
Sixth Report	Draft Sentencing Guideline: Sexual Offences Act 2003	HC 1582

# Oral evidence

## Taken before the Home Affairs Committee on Tuesday 23 February 2010

Members present  
Keith Vaz, in the Chair

Mr James Clappison  
Mrs Ann Cryer  
David T C Davies  
Mrs Janet Dean

Gwyn Prosser  
Martin Salter  
Mr Gary Streeter  
Mr David Winnick

*Witnesses:* Ms Marcia Rigg and Ms Deborah Coles, gave evidence.

**Q1 Chairman:** Good morning. This is a one-off session into the work of the Independent Police Complaints Commission. I would refer all those present to the Register of Members' Interests where the interests of Members of this Committee are noted. We will begin our session with evidence from those who have had contact with the IPCC. We are concerned not about individual cases; we are concerned about process. The aim of this Committee is to try to get a very brief report together before the recess at the end of March. We want to look at the way in which complaints are made and dealt with, therefore, rather than the events that have led up to the particular complaint. We are very pleased to have Marcia Rigg here today and Deborah Coles. Ms Rigg, a member of your family was the subject of a complaint made to the IPCC. Did you contact the IPCC after the event occurred, or did they contact you? How did you know that they were there?

**Ms Rigg:** Basically, on the night that my brother died, at about 2.30 or so in the morning of 22 August—my brother died on 21 August, the evening before—two police officers came to the house to tell us that our brother had died. During that time, they handed a bundle of leaflets to my sister, Samantha—I was not there at the time—and in those leaflets there was information about INQUEST. At about 6.00 am that morning, we made a phone call to INQUEST. They spoke to us on 22 August and we got information about the IPCC, I believe, from them.<sup>1</sup>

**Q2 Chairman:** The police themselves, when they came to tell you of the news, informed you that there was a way of dealing with your concerns about your brother's death?

**Ms Rigg:** Basically, they just told us the information that they had at the time of how my brother died. They did not have much information. They just said

that they would drip feed us with information within the next number of days. In fact, that was the last time we heard from them. It was ourselves, by making phone calls with INQUEST and such, that we got to know about the IPCC.<sup>2</sup>

**Q3 Chairman:** Ms Coles, you are free to chip in if you want rather than waiting for us to ask you. Do you have something to add?

**Ms Coles:** The family were not given any information, on first contact, about their rights to have an independent post-mortem. That is extremely important in the context of an unexplained sudden death in police custody. Quite clearly the family's rights are paramount at such a traumatic time, and the importance of access to information about what is going to happen to them and the investigation process, of course, should be given to them at the first instance.

**Q4 Chairman:** Were you told about the powers of the IPCC at all?

**Ms Rigg:** We were not told about the full powers, I do not think, until we had a meeting with them, which was some time in September. He had already had an autopsy. We had to fight tooth and nail as a family in order to get to identify our brother, and he had already had an autopsy. He may not have been our brother. We were very distraught about that. That was at the very early stages. We were distraught. We met the FLOs from the IPCC at the mortuary, which was on the Saturday when we saw our brother, and we later had a meeting with them. They came to our house on that date. I think that was Saturday 23 August. They came to our house and they explained some of the procedures then, but the first time we met the FLOs from the IPCC was at the mortuary when we went to identify our brother.

**Q5 Chairman:** Would you give us the year that this happened?

**Ms Rigg:** 2008.

<sup>1</sup> **Note by witness:** Ms Rigg's solicitor Anna Mazzola subsequently clarified that: Although the PLO's attending Ms Rigg and her sister Ms Samantha Rigg on 22 August 2008 told them that the IPCC was investigating the incident, they did not explain the role of the IPCC or the nature of the investigation. The Riggs were handed a number of leaflets, one of which contained this information, however in light of the traumatic events of that morning, they were not able to review or take in the information in the leaflets until a later time.

<sup>2</sup> **Note by witness:** Ms Rigg's solicitor adds: The Riggs were not told the name of the IPCC FLO or the name of the senior investigator by the PLO's attending them on 22 August 2008. The Rigg's family friend, Paul Rhys Taylor, found out the relevant information after making a series of phone calls the following day, 23 August 2008.

**Q6 Mrs Cryer:** On that small amount of information I have from you now, who identified your brother following his death?

**Ms Rigg:** As far as we understand, the police officers who came to the house on the night had identified our brother. When they came to say that our brother had died, my sister said, "Well, we need to identify him," and they said, "You can't." When my sister said, "Why?" they said, "Because he's in a body bag. He's been sealed off and his body belongs to the state". They offered his passport to my sister for us to identify him from that.

**Q7 Mrs Cryer:** If I might say so, there is something a bit wrong here. My husband was sitting next to me when he was killed in a car accident, so I knew it was him, and I knew he was dead, but he still had to be identified.

**Ms Rigg:** That is right.

**Q8 Mrs Cryer:** And because I was very shaken they asked my daughter to identify him, but at least that was what was done.

**Ms Rigg:** Exactly.

**Q9 Mrs Cryer:** I cannot understand. In a situation like mine, where it was quite clear at the hospital, to the police and to everybody, he had to be identified, yet with your brother, in these very difficult circumstances you were not asked to do that straight away after his death.

**Ms Rigg:** No. We saw him on the Saturday morning and he had already had an autopsy, so he was covered from here to there.

**Q10 Mrs Cryer:** I know.

**Ms Rigg:** We were very much encouraged not to look at the rest of Sean's body and the reason given was to respect Sean's dignity. He was behind a locked glass door—which was devastating—and the family had to insist that we went inside. When we eventually did get inside, there were wounds to, well, I cannot really discuss the case, but there were wounds on my brother, on his head.

**Q11 Mrs Cryer:** How many days was it after his death that you were notified about the existence of and the duties of the IPCC? Was it within a very short time?

**Ms Rigg:** We were a very proactive family. From the very beginning, when the police officers came and told us what had happened to Sean, we found things just did not add up at the time. We made phone calls ourselves and looked on the internet. We were doing our own research, basically. INQUEST were very helpful and that is how we know about the IPCC. We got hold of the investigator at the time, which was Mr Christopher Patridge, who was the original investigator at the time, and we were speaking to him on the telephone by the Friday evening, trying to get to identify our brother, to see our brother. We found him on the telephone.

**Q12 Mrs Cryer:** As soon as you knew of the IPCC's existence and they started to work on this case, how long did it take and what did they do?

**Ms Rigg:** How long did it take to?

**Chairman:** To complete the investigation.

**Q13 Mrs Cryer:** To complete the investigation, but, also, what did they do in the initial stages?

**Ms Rigg:** First of all, the investigation was completed this month, so that is at least 18 months since the death of my brother for the report to be done. In the meantime, as a family we felt that we personally have had to push and push and push the IPCC for the most minute sort of question to be answered. Initially they contacted us on a weekly basis. Sometimes it was not, it was like every two weeks, but when they did contact us on a weekly basis there was nothing to report. Officers were not interviewed until seven months after the incident. Call handlers were not interviewed until nine months at least after the incident. On the morning of the next day when my brother died, on the Friday morning, the IPCC were at the hostel taking vigorous statements from hostel staff for nine hours, yet the police officers who were there on the night with my brother when he died had not been interviewed by the IPCC. For families there is no confidence in that. That is why it was, after two months, that we decided to make a complaint to the IPCC, because officers had not been interviewed. We contacted Sadiq Khan, our MP, who had also got involved at the very early stages and had written letters to the IPCC himself asking why officers had not been interviewed. Also, the IPCC did not cordon off the arresting scene on the night.

**Chairman:** Thank you. We will come to some of these other points as well.

**Q14 Mr Winnick:** One has the greatest sympathy, it goes without saying, about the terrible incident which occurred. It was expressed on numerous occasions in the House of Commons and I repeat it. That feeling was shared by all of us. It was a very, very tense time when it occurred. We are all deeply sad, genuinely sad, and it is an event that is not likely to be forgotten. You have made clear to my colleague, Mrs Cryer, that you are far from happy over the way the IPCC acted. Do you think they were insensitive or indifferent?

**Ms Rigg:** From my perspective and from meeting other families that have been in the same position as myself, losing someone in such horrendous circumstances, in suspicious circumstances, we feel that the IPCC are very much heavily biased towards the police. We found them insensitive at certain points. To them it was just another job, but for us it is losing a loved one. If we cannot get answers that make sense, just basic simple answers to questions like what happened on the night—it is horrendous how families are failed—we feel that the whole thing is out of our hands, totally out of our hands. Once your loved one dies in custody and is in the hands of the state, the body belongs to the state, and then families are literally left with nothing. That is how it feels because you are just constantly stopped at every

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door that is opened because there is nothing you can do. There are long, drawn-out investigations which should only take a matter of months if all the evidence is there on the night. He was in the authorities' hands from start to finish. Everything is there. Why has it taken over 18 months to complete an investigation? In our opinion the whole thing is in defence of the police. The police did no wrong.

**Q15 Mr Winnick:** You did not get in any way the impression that they were on your side?

**Ms Rigg:** No. Never.

**Mr Winnick:** Thank you.

**Q16 Mr Streeter:** You have already said it has taken 18 months to produce this report and you feel, and I agree with you, that is far too long. What kind of timescale do you think would have been reasonable to inquire into this complex matter?

**Ms Rigg:** Whilst the matter is complex, all the evidence was there. It was not as if my brother was murdered by an ordinary civilian and we did not know who the murderer was or where he was murdered, so therefore you have to investigate that. In this particular case everything was there. If it was the other way round and my brother had kidnapped a member of the police and put them in the back of the police van, transported them somewhere, he would have been interviewed immediately on the night. All the information was there. It is sad that when your brother dies in the hands of the state the situation is completely reversed. This is the problem that families have, whereby it is all taken out of your hands and it is long and drawn out and you do not get proper answers. In the beginning, the investigation is flawed—from the very outset.

**Q17 Mr Streeter:** Do you think three to six months would have been an acceptable length of time?

**Ms Rigg:** Yes, because I think that, in other cases, cases are done and dusted within six months, the court hearing and everything has happened.

**Q18 Mr Streeter:** Having seen the report, which obviously I have not seen, and I do not know if any Member of the Committee has seen it, what do you make of the outcome? I think you have hinted that you are not happy about it, but has it satisfied you?

**Ms Rigg:** In no way, shape or form. It has not satisfied me because I believe that the investigation has been flawed from the very outset. The report appears to be very biased towards the police. Obviously, I cannot discuss the report because it is not a public document at the moment.

**Q19 Mr Streeter:** What has this done to your confidence in the police force and the establishment that is supposed to be there to protect you from any wrongdoing by the police force?

**Ms Rigg:** I had every confidence in the police prior to my brother dying. We are a family who has never had contact with the police. We were saddened by the fact that, when you lose a loved one—I am sorry, I have forgotten the question.

**Q20 Mr Streeter:** Do you have confidence in the police force and their guardianship?

**Ms Rigg:** I have no confidence in them now after what happened to my brother and the events that happened after that. Speaking with other families myself, I personally have met the Jean-Charles de Menezes family, the Ian Tomlinson family, the Roger Sylvester family, other high profile cases, and we all feel very much the same way, that we do not have any confidence in the police.

**Mr Streeter:** Thank you very much.

**Q21 Gwyn Prosser:** Ms Rigg, when people are tragically killed in road accidents and come to grief in other ways, police forces set up a police liaison officer. My experience in Kent is that when a family is terribly distraught and grieving, as you are, they speak so highly of the service they get from this individual police liaison officer, someone who comes along to the house, meets the family, engages with them, talks them through the process, et cetera. Apart from your formal contacts with the IPCC and the police, was there anything approaching that sort of service for you?

**Ms Rigg:** Where we felt that they were being nice to us?

**Q22 Gwyn Prosser:** Where someone had been designated as the police liaison officer.

**Ms Rigg:** Yes, somebody was designated as the IPCC family liaison officer, Mr Richard Omitosho. Initially, there was another lady who was involved [Maneesha Doig]—I cannot remember her name—but she very quickly came off the scene, for reasons unknown to ourselves. He was fairly helpful with us and quite nice with us, but the information that he was given from higher people in the IPCC was that there was no information to give us at the time. In the situation you have just explained, where a civilian was killed, the difference here is that my brother died in the hands of the state, it is quite different circumstances. Families do not feel the same caring effect when it happens when your brother dies.<sup>3</sup>

**Q23 Gwyn Prosser:** I was going to ask you whether you would recommend others to use the service of the IPCC, but your view is pretty obvious from the service you received. Is it not the fact that most of us do not have any alternative, there is nowhere else to go, is there?

**Ms Rigg:** There is nowhere else to go. That is why we need another service. Some of the people who work for the IPCC are ex-police officers. For families, where is the independence in that? It does not give confidence for the family. Whilst I appreciate that officers may have the experience and so forth, why

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<sup>3</sup> **Note by witness:** Ms Rigg's solicitor added: Mr Richard Omitosho, the Rigg's IPCC FLO, spoke to Samantha Rigg on the telephone on 22 August 2008 and was not able to provide the family with any further information about the IPCC investigation. This telephone call is referred to in the recorded conversation with Chief SI Suzanne Wallis of 23 August 2008. This is the only conversation with the police or the IPCC that either Ms Rigg, Samantha Rigg or Paul Rhys Taylor have any recollection of on that date.

can a normal layperson not do a course whereby they can learn the skills that an officer would? Families have no confidence when there are ex-police officers involved in the IPCC. When matters of CCTV, for instance, are sent to an expert, it is an ex-police officer. Everything is sent out to ex-police, and families have no confidence in this.

**Q24 Gwyn Prosser:** We will be talking to the Chairman of the IPCC after you have given your evidence. Will you have the opportunity to sit down with them and go through the report and discuss the report? This is a difficult one, but which one question would you like this Committee to put to the Chairman?

**Ms Rigg:** Mr Nick Hardwick has announced on the radio that he has a clear picture of what happened to my brother on the night. I would like Mr Hardwick to tell me today what happened. If he has got a clear picture, then at least he can tell the family because we do not know.

**Gwyn Prosser:** Thank you.

**Chairman:** Ann Cryer has a quick supplementary before Janet Dean.

**Q25 Mrs Cryer:** I have a very quick question. I am sorry to burden you with this, but presumably there was a coroner's inquest into the cause of death.

**Ms Rigg:** There was an inquest that was opened on 28 August and has since been adjourned. Nothing else has happened. There has not been an inquest. There probably will not be an inquest until 2011, which is three years after my brother died, for us to find out how he died. There is no grieving process here. I cannot grieve because of the long drawn out case. The state drags out the whole investigation process. For grieving families, it is not nice.

**Q26 Chairman:** Deborah Coles.

**Ms Coles:** I think the question there was perhaps relating to post-mortem reports, because clearly after Sean died there have been a number. There was the initial post-mortem, which was carried out without the family's knowledge, and there have then been supplementary reports commissioned. There is conflicting evidence there that will obviously be tested and examined at the inquest, which, as Marcia has said, is not now going to take place until some time at the end of this year or next year.

**Q27 Mrs Cryer:** Normally a coroner's inquest is opened and then closed awaiting evidence. Usually it is reconvened within six months.

**Ms Coles:** Sadly, it is an important point for the Committee here, the delay both in the IPCC investigation and then, once the report is finished, the coroner can set the inquest date. One of the big problems at the moment in these kinds of cases—because they are Article 2 jury inquests—is that there is serious delay in these inquests taking place. It is not uncommon for families to wait two or three years before that inquest takes place which, as Marcia has said, adds to the grieving process. Importantly, in terms of the quality of the IPCC investigation, it will be at the inquest where the evidence that has been

gathered as part of the investigation will be tested. As Marcia has explained, 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 that important evidence-gathering at the beginning of the investigation. Certainly in terms of the death of Sean Rigg, the lawyers involved have made a number of complaints to the IPCC about what they believe are failings in securing crucial forensic evidence.

**Chairman:** Thank you. A final question from Janet Dean.

**Q28 Mrs Dean:** Perhaps I could ask Deborah Coles what more the IPCC can do to improve its performance in cases like this.

**Ms Coles:** From the initial point of contact with families it is absolutely crucial that they are given information about where to go for independent advice and support. We work 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. We very much argued for an independent police complaints system because of the mistrust and the damage that had been done to the whole issue about confidence in the police following the Police Complaints Authority, and we have been disappointed that the culture of the previous system has penetrated into the new system. From the perspective of families, the fact that there are a high number of police appointments within the IPCC is an issue. Sometimes the statements of those at the top of the organisation about what they believe to be good treatment of families does not penetrate down to those who are working on the ground with families. The other issue, I would say, is 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 when a healthy young man, like Sean Rigg, dies unexpectedly in custody. You want to know, you want to have information, and you want the confidence that that death is being treated seriously. The delays in interviewing those people who had contact with the deceased do bring a lot of mistrust and suspicion. Marcia and I were talking earlier on about the initial way in which she was informed about the death and the lack of access to Sean's body. That started the damaging relationship from the outset. If you do not get things right at the beginning then the chance of a family having confidence in the system is unlikely. The other thing I would add is that the delay in getting the reports finished needs to be looked at. Quite clearly some of these cases are very complex, so I would not like to put an absolute timeframe on it, but 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.

**Q29 Chairman:** How much of this do you think can be dealt with by more effective communication and customer service by the police when they originally come to see the victims? We have dealt with, in

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particular, this case, but there are many routine cases that never get into the public domain. I have found, as a constituency MP, when I write to the police that if the reply comes back quickly and is a full reply constituents are satisfied that something is done. I know it is totally different in your case because it is a very high profile, obviously hugely upsetting case for you and your family, but could we cut down on the number of complaints if we had better customer service on the part of the police? Maybe not in your particular case, but I am talking about generally.

**Ms Rigg:** The only reason why my case is high profile is because the family has had to push and bring it out there otherwise it would be put under the shelf, on the bottom shelf, and it would all have gone away. The report would have been done in six months with a Mickey Mouse investigation, as far as we are concerned. Had the family not pushed and pushed for there to be a reasonably fair investigation it would never have happened and, therefore, there are ongoing complaints and ongoing complaints and arguments. Nothing has changed. The IPCC has been there for almost six years in April, and, as far

as other people are concerned and from what I have read on the internet and meeting other families, nothing has changed. Zero.

**Q30 Chairman:** Marcia Rigg, Deborah Coles, first of all I would like to reiterate the comments of Members. Our sympathy, of course, is with your family. It is a terrible tragedy that you have had to encounter. Second, thank you both very much for coming in here. If there is anything you think about after you have finished giving evidence to us that you think would be helpful in our very short inquiry, please write to us as soon as possible so that we can include that material in our final report. Thank you very much for coming.

**Ms Rigg:** Thank you all for listening to me.

**Ms Coles:** INQUEST will submit a short paper on some of the experiences, but I would also urge you to take some evidence from some of the lawyers who represent police complainants because we are looking at the system as a whole. I will certainly feedback to them that you are willing to take some short evidence.

**Chairman:** Indeed. Thank you so much.

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*Witness:* **Mr John Crawley**, Former Commissioner, IPCC, gave evidence.

**Q31 Chairman:** Mr Crawley, thank you very much for being present today to be part of our very short inquiry into the work of the IPCC. The Committee was very keen to do this before Parliament rose, as this is one of the inquiries that we have been hoping to have over a number of years. You served as Commissioner on the IPCC for a number of years. Nick Hardwick, the Chairman, has suggested that one of the indicators of the success of the IPCC has been the increase in the number of complaints that have been made to the IPCC. Do you think that is a valid benchmark, a valid measure of success?

**Mr Crawley:** In the early stages, I think it was. There was a new system. There was a lot of publicity about a new, reformed complaint system. Clearly, that was going to invite people to complain who perhaps had not considered doing so before and to have greater confidence to do so. 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—which are the statistics I have put before you in my written evidence—I have described in my written evidence as a little bit of an ‘Alice in Wonderland’ argument.

**Chairman:** Thank you.

**Q32 David Davies:** Mr Crawley, do you think your lack of confidence in the IPCC could stem from the fact that you obviously felt, rightly or wrongly, that it should have a different agenda from the one that it has? For example, looking at the paper you submitted to us, you obviously have concerns about the use of stop and search powers under section 60, in particular. Whether you like it or not, whether we like it or not, that is a lawful power which Parliament

has conferred upon the police and allowed them to use in certain areas. Who are you to demand that that be something that be investigated by the IPCC, when we as parliamentarians have already given the police the ability to use that power?

**Mr Crawley:** I am not questioning the powers. The examples I gave were where those powers are being seriously abused. I gave three examples: one of potential abuse, which has been reported in the media fairly recently; a very detailed and extensive set of investigations I conducted in the West Midlands which demonstrated, I think, to all involved that a particularly intrusive power, Section 60, was being widely misused; and I also gave the example, in 2008 I think it was, of the climate camp in Kent and the need eventually for complainants there to bring judicial review proceedings before the Kent Police accepted that they had misused, again very extensively misused, their PACE powers. My point in my paper is that stop and search has always been, and I think always will be, a very sensitive touchstone between the public and the police. It is where you are stopped in public view. It is where it can be very embarrassing, very humiliating. That is a very important example where the current IPCC complaints oversight does not bite adequately.

**Q33 David Davies:** I would agree with you that there are issues around the use of some of these powers in some circumstances, but where I would differ is that I would not have thought this was a matter for you to take upon yourself given that the IPCC was set up to look at specific complaints about police officers. Given your obvious concern about the way that policing is carried out in this country, fair concerns

though they may be, has that perhaps clouded your whole perception about whether the IPCC is a good or a bad thing?

**Mr Crawley:** No. All the cases I dealt with were based upon actual complaint cases that have been investigated and upheld. I made it clear in upholding those complaints (West Midlands but also the Metropolitan Police) that it was not the IPCC's role to reach a finding in law; in other words, that the actual detention was unlawful. It was its role, clearly, to get to the bottom of why these powers were being inappropriately used, and complainants would expect such an investigation.

**Q34 Mr Clappison:** Can I take it that the job of the Commissioner is a full-time job?

**Mr Crawley:** Yes.

**Q35 Mr Clappison:** You say in your evidence to us that there have been changes in the organisation of it with some of the roles being taken away from the Commissioners, greater delegation to managers, and the Commissioners no longer deciding the seriousness of the complaint and the role the IPCC should play in investigation. You have used the word "ornamental" for them. What do they do now?

**Mr Crawley:** That is what I am questioning. I am saying that the Commission, as a body corporate, is a very expensive way for the taxpayer to oversee an organisation—almost uniquely so. My criticism is that Commissioners, although full-timers, do not engage with sufficient detail in the oversight of the complaints system. I give a specific example of the appeal system where I think 99 times out of 100 it is delegated too far down the system, but also I have set out in my written evidence the need for a much more robust approach to reforming how the police investigate complaints. That must be the fundamental reform. I give the figures in here for the Metropolitan Police, which in many ways are the most astonishing: 152 complaints out of 3,807 they investigated were found to be substantiated. I do not believe that is credible. That was the last year statistics were published. It is not credible that virtually all of those complainants' complaints had no merit. Fundamental to this issue is how to reform the way in which the police themselves deal with complaints, including, as the Chairman suggested earlier, obviously pre-empting the need for complaints. When there is a complaint, when a complaint arises, it has to be dealt with by the organisation. That is a good bit of my argument. I have gone on to consider the kind of very difficult, Article 2 type investigation, of which you have been hearing an example earlier today. Culturally it seems to me that dominates and organisationally it dominates the IPCC, it dominates its public profile. I have broadly concluded that to have a more robust Police Ombudsman system, which really drives reform of the basic complaint system, needs reconsidering. One option I have outlined—the only model I am aware of where this applies in a broadly similar way at the moment—is in Australia, New South Wales. I have argued that there is a case for having, if you like, a Commission that would handle

serious corruption and criminal allegations against the police, which would be geared up to conduct full criminal investigations and so on, but with a beefed-up and separate Police Ombudsman Service to oversee the ordinary complaint system and make sure that it gets properly reformed. One option for that might be to have a regional approach to such an Ombudsman Service, rather than there being just one national service. I mean genuinely regional in terms of all the English regions. The IPCC has regional offices, but in the last two years it has moved to being a centralised national organisation, so it is not really, in my view, operating any more in any sense as a regional organisation.

**Q36 Mr Winnick:** Mr Crawley, you were four years a Commissioner. During that time you have said that you have managed to bring about some changes in investigations, including, as previously referred to, stop and search by the West Midland Police. In carrying out your duties during those four years, were you in any way obstructed by the more senior people, the Chair or the Chief Executive?

**Mr Crawley:** No. I would not say I was obstructed in terms of my individual activities, no.

**Q37 Mr Winnick:** During those four years did you make your views known about how the organisation could change, as you are now doing?

**Mr Crawley:** Yes. I argued, for example, quite frequently for the importance of elevating the significance of the appeal system. I was the only Commissioner who ever issued press statements, for example, about more significant appeal cases, because only if the public are aware of how the IPCC has a responsibility to handle and oversee appeals against police investigations will they gain confidence in the system. Clearly, I was a minority voice—I do not pretend otherwise—in terms of arguing for it.

**Q38 Mr Winnick:** Being in a minority did not in any way lead to you being undermined or told to take a different view, if you were allowed to carry on in the usual way as a Commissioner, would that be correct?

**Mr Crawley:** Obviously I had to work within the system broadly as it was. I sought to stretch the boundaries, I think it is true to say. I probably, for example—and I think this is statistically true—had more independent investigations that I undertook when I thought it was necessary into complaint cases as opposed to the Article 2 type statutory duty cases, if I can put it like that, than other Commissioners. I sought to stretch the system, but I was not in a position obviously to reform it.

**Q39 Mr Winnick:** The point I am trying to make, Mr Crawley, and trying to find out from you is in your day-to-day work as a Commissioner in taking a view which you were obviously entitled to hold whether you were in any way obstructed or told to toe the line or anything like that. It is a yes or no, really.

**Mr Crawley:** I am not claiming that I was in some way interfered with, no.

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**Q40 Mr Winnick:** That is a very interesting answer. It obviously comes from, without wishing to be patronising, a person of integrity. You are not trying to create a situation which did not exist. On the substance of your views, Mr Crawley, do you feel that the weakness of the IPCC has, in a way, to use a phrase, “gone native”? Is it too near the police, is it not sufficiently independent? Would that sum up your general view?

**Mr Crawley:** In some ways, yes. This is a complex issue and I am not going to sit here today and make a simplistic argument that the IPCC is simply there to defend the police or something. It is a complex issue. There are certainly cultural issues, as I said earlier, around the real corporate priorities and concerns of the organisation which I think focus rightly or wrongly on that very small number of high profile, independent investigations. That dominates its agenda. There are other areas where I have been specifically critical. For example, I think the IPCC spends the great bulk of its time networking in the policing sector rather than more widely. I do not think it has effective networking at all. In the Ombudsman world, there is a Commissioner who is meant to liaise with the Ombudsman body, but that was never something of any substance at the Commission. There is a range of ways in which the organisation fails to be fair to complainants, and I have described it as an institutional bias. In my evidence to you I have set out some specific arguments as to how I think that adversely affects the appeal system, for example. In all those ways I think the end result is that for complainants, particularly complainants, as I say, in a situation where you are getting complaints concerning local policing—and in my view that is primarily 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. I do not think there is a culture of understanding the complainant perspective. That is why I have said that I think there is an institutional bias against it. I have given a great deal of thought to this, both when I was at the IPCC and, indeed, since. My decision to leave and not seek a second term was personally a very painful one. There are institutional reforms that are required. I have suggested, for example, that the Chair position should be a part-time non-executive position. It 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. I have argued—which I do think is important—that the Commission appointment should be for a single term, so that there is no question of people looking over their shoulders as to whether they are going to get a reappointment to what is a very highly paid position, but I have also argued that there is a case for moving the IPCC outwith the Home Office sphere. I think it is far too much in this family of policing organisations. I think it should be an office reporting to Parliament. I have suggested, as I have said today,

that there is a case for splitting off the special investigation, the criminal investigation side, from the complaints oversight.

**Chairman:** We are coming to explore some of those ideas with Janet Dean.

**Q41 Mrs Dean:** Thank you, Chairman. You have suggested that the IPCC has not “produced any significant change that anyone could point to in the fairness and the rigour of the police complaints system”. How should the IPCC be operating? Can it be reformed to meet what you think it should do to operate properly?

**Mr Crawley:** Given the kinds of pressures on it that I have described, whether the current institutional set-up can be reformed I think is an open question. In terms of what needs to be done, I think there needs to be much more robust intervention at police force level to ensure that complaints are thoroughly investigated, and I have said in my recommendations that there should be 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 current levels are risible, as I have already touched upon. The appeal system, with the pressure of volume off it, can then become a better quality system that will meet complainant concerns more effectively, including the concerns of the lawyers who often represent them, in terms of how it works. In terms of how to reform the way the police handle complaints, I think the IPCC needs to revisit the question of its inspection powers. Early on in the history of the organisation it was agreed that effectively this power would be subcontracted to HMIC, Her Majesty’s Inspectorate. I do not think that works really because they do not have a very close interest in the complaint system, as such. They do pick up aspects of it from their inspection programme, but I think that needs to be revisited. At page ten, I have touched on how the current system of referrals to the IPCC works. This seems to me a fairly pointless paper chase. Some 2,000 plus pieces of paper are filled in by the police and sent to the IPCC, and at the end of the day only one in ten of those are engaged in by the IPCC. It is really not clear, as a reactive system, what is achieved by that. I have suggested bearing down on those cases where the IPCC goes too far with an investigation that it could hand back to the police, so it does less of those independent investigations, or rather terminates them much faster where it can. Second, it does more complaint investigations of conventional complaints against the police rather than Article 2 type investigations. Third, in subparagraph four on page ten I have suggested ways in which it needs to risk assess each force. How well is this force doing in handling complaints? It then needs to consult much more with the public about their views, both locally and nationally. The way in which HMIC has recently undertaken its public engagement—it is going through a major exercise of changing from being a backroom organisation to being one that is public

facing and very much saying, “What is it the public want the police to do and deliver?”—there are lessons for the IPCC to learn from the way in which HMIC has gone about ascertaining what the views of the public are, I think. It 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.”

**Q42 Mrs Dean:** Would the changes that you suggest help to speed up the process so that investigations do not take as long as they currently do?

**Mr Crawley:** Clearly in some cases that is the case. There are a significant number of investigations that the IPCC currently starts and it does not need to continue them in the level of detail that it does at the moment, but there are other cases where the original police investigation is too skimpy, so I do not think this is a simple question again. Even with skimpy investigations I have seen amazing examples over the years of how the police have managed to string out a relatively simple police investigation over many months. There is certainly a case for putting much more pressure on the police for performance there but, at the same time, sometimes doing a much more thorough investigation; for example, interviewing the officers to find out just what their account of the incident was, how much they know about the law, rather than simply relying on a statement put in. Again, quite a complex question.

**Q43 Mr Streeter:** You are making the case for more police forces to deal better with complaints at local level. Do you not think that will require a change in culture of a fairly mammoth proportion? I have never known an organisation like the police, which I greatly admire, for closing ranks when a complaint has been made. In 17 years of doing this job, I do not think I can recall one single time when they have said, “Sorry, we got that wrong”. Is that your experience? Will it not require a massive culture change?

**Mr Crawley:** There are occasions when they say that. Coming back to my point that the Commissioners at the IPCC should be engaging much more regularly and fully with their forces, I think there is too much left to the too junior people in the IPCC. I also think there is a need for some incentives in the system. Let us look at some of the private complaints systems. If you are a financial organisation and you do not resolve your complaint and it goes to the Financial Services Ombudsman, you pay a fee. The appeal system here 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. I think part of this will be to incentivise the police financially to get (a) the number of complaints down, (b) more credible investigations and (c) less appeals going to the IPCC.

**Q44 Chairman:** The point that Mr Streeter makes is that sometimes you have to say sorry.

**Mr Crawley:** Yes.

**Q45 Chairman:** I am not talking about the Rigg case. People can say sorry about that as well, but it is a much, much bigger case. A much more thorough investigation is required in a case where somebody dies than in the average case that Mr Streeter and I and other Members of this Committee have to deal with where we write a letter and we would really like a reply. Constituents who come back and then end up making an application to the IPCC only do so because there is no reply. Do you think part of the role is to educate the police, and chief constables in particular, to tell them that if they were to provide better leadership they just would not get the complaints in the first place?

**Mr Crawley:** Yes, I think that is one element. A second element, as you will see in the paper, is that of the individual police officer. Where there is 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. I think that is wrong. The police are a public service, like others. There is no reason why individual officers should have that opt-out clause.

**Q46 Mrs Cryer:** Mr Crawley, the structure of the Commission is such that none of the Commissioners is allowed ever to have had any contact with the police. Retired police officers cannot be recruited on to the Commission. One can understand why that should be the case. I think I am right in saying that once the Commission starts an inquiry the spadework carried out in unearthing what happened in a particular circumstance is not done by Commissioners but is left to others to do. Am I right in saying that spadework of finding out what happened in a certain situation is carried out by either police officers from another force or police officers who are retired or people who do have connections to that particular police officer? Therefore, although we start off from a high position in not allowing Commissioners to have any connection, it looks to me as if, once their investigation starts, frequently people are conducting those investigations who may have sympathy with the police.

**Mr Crawley:** There are certainly ex police officers—there used to be seconded police officers but I think there are very few if any of those now—there are certainly retired police officers and, as I say in my paper, people from other agencies who are overseen by the IPCC, like the HMRC. They are mostly in the senior positions. I do not think it would be appropriate to say that that should never be the case—it would be unrealistic in terms of the skill set that you would be excluding; I also do not think it is necessary. What it does emphasise, in my view, is the need for the stronger, more independent role of commissioners, I think that is what they should be playing. I think they should be more engaged than the approach that you describe, which is pretty accurate, and that was one of the discussions that I

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did not really carry my colleagues with when I was at the Commission. I think the commissioner overseeing a case should be hands-on. I do not mean going out and doing the interviews, but keeping a very close brief on it, that is what the families and complainants expect. That was certainly the style I adopted. Where I think it is more problematic is how far the investigative aspect comes to dominate the recruitment criteria. If you take the example of the recent appointment that the IPCC has made as a Director of Investigations—I have no information whatsoever on the gentleman; I have never met him and I am not making a personal comment here at all—I simply observe that the former head of the Professional Standards Department of the Metropolitan Police, a department which in my view has presided over a very poor complaints service generally in terms of the statistics, is now heading up the investigation function of the IPCC. I am sure he is doing that as an expert, probably a very, very good expert in criminal investigations but it does not seem to me that he is likely to be proved to be—he may prove to be but I rather doubt that—somebody who is going to change the culture of the complainant perspective that I have said is what is needed.

**Q47 Mrs Cryer:** When you were a commissioner did you ever feel as if your independence was compromised or under pressure?

**Mr Crawley:** It was certainly under pressure; that was one of the points about the job, that it comes under pressure because if you do the job properly from time to time you will seriously upset very senior police officers and they have ways of making their displeasure known, so obviously you are under considerable pressure.

**Q48 Chairman:** I am sorry, Mr Crawley, in what ways do they make your life difficult?

**Mr Crawley:** Nothing improper at all; I just mean that they are robust in getting their perspective across, hence the need for senior people in the Commission to be more protective of some of the junior staff who are not going to be able to persuade the police to change their perspective.

**Q49 Mr Clappison:** Just following on from that, would the senior police officers you are referring to have direct contact with the people carrying out the investigation of former police officers?

**Mr Crawley:** No, I am not referring to them trying to nobble an investigator at all.

**Q50 Mr Clappison:** I found it slightly worrying because it begged the question that the Chairman put to you actually.

**Mr Crawley:** No. Let me be clear, there are two other things I think I would want to say on this score. One is that I think commissioners should be rotated but they are not; some of them move forces but too many of them now, six-odd years into the system, are still overseeing the same force as when they went there and I think that is inappropriate. Inevitably if you have been overseeing a force and its complaints system for six-plus years you become part of the

story really if it is not performing very well. I think they should be rotated—and I have suggested perhaps every two years. The other aspect where I think there are not formal rules is ex police officers working in a region where their ex force is. I do not think that is permissible; I do not think they should have any dealings with their ex force, which they do. Those are two suggestions I would make to make the system more transparently independent.

**Q51 Mr Clappison:** So who is dealing with their ex forces exactly?

**Mr Crawley:** Senior investigators, for example, 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.

**Q52 Mr Clappison:** If you take the example, say, of my area—and I am not saying this is the case, I have no idea—Hertfordshire, which is a relatively small police force or smallish establishment, that could have somebody who is the senior investigator of the police who could have been with the Hertfordshire Police?

**Mr Crawley:** Yes. In one sense this has become less significant as time has gone on, but I raised within the IPCC when I was there my concerns. For example, 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. It created—again, coming back to this culture issue which is intangible but it is really, really important in organisations to get a hold of it—a culture which one or two newcomers to the office said, “This place is like a police station.”

**Q53 Mr Clappison:** No doubt they perform their jobs properly.

**Mr Crawley:** Yes, it is not about the individuals.

**Q54 Mr Clappison:** As far as the appearance is concerned, do you think that it gave the necessary appearance of independence when that occurred?

**Mr Crawley:** No, I do not think so. I do not think that the public has a detailed understanding of all these intricacies of the role of an investigator or a commissioner. I think they would be bound to have some concerns.

**Q55 Martin Salter:** Mr Crawley, according to an IPCC commissioned survey—perhaps it would say this, would it not; I do not know—88% of people think that the IPCC would treat their case fairly and consider it independent of the police. This begs a series of questions. Is this a triumph of spin over reality; is it the fact that the word “independent” appears in the title or in reality should we perhaps put that to one side and perhaps ask people like you with direct experience of this issue, is the current system for all its flaws a damn sight better than the previous system where cops investigated cops?

**Mr Crawley:** I do not think you can say that it is an unalloyed improvement. What happened under the old system in terms of what are now IPCC independent investigations is that generally they would have been handled by what is called an external force, a police force investigation from a team drawn from a different force. I do not think that did inspire public confidence—I think that is right—and I do not have any general argument with the value of what the IPCC has achieved in independent investigations. What I am suggesting to you is that the confidence in the complaints system is a much bigger question than that, and I think in 99.9 times out of 100 it is still the police investigating the police and, as I said in my paper, finding themselves doing a rather good job too often.

**Q56 Martin Salter:** It is a particular bugbear of mine—lawyers, barristers, take your pick—it is the greatest closed shop in the country and breaking that open is difficult. Are you saying that the model that we have is basically improvable if we were to adopt measures like a greater rotation of commissioners and more clarity in the separation of roles and a less cosy relationship at regional level? You are not arguing for a root and branch ripping up of the IPCC, are you?

**Mr Crawley:** I am arguing that there are a number of major reforms of the IPCC which I think would improve it. The institutional ones are part of that but I think of equal importance is what I have said in the paper about refocusing it on getting changed performance by the police and how they investigate complaints and how they resolve them. I am also saying that I now have more doubts about whether the current framework where you put together both these high profile and often complex criminal standard investigations of a very small number of high profile incidents—police fatal shootings, deaths in custody and such like—whether putting that together in the same organisation as one that is meant to be overseeing the more humdrum business of police complaints, I am not convinced now that that model works and I would say that at the very least the jury is out and that it should be reviewed following the kind of incremental reforms I have talked about. If it is not working then my view it is not beyond the wit of policy makers and implementers to look at other models. I have suggested that New South Wales is one possible one where you move the complaints system under an ombudsman. Personally I am not going to go into broader things but I think there is an interesting case, for example, for setting up regional ombudsmen whose job is to oversee a range of public service complaints, not just police; but that is a slightly broader issue. You move the complaints system into an ombudsman service and you move the more complex criminal investigations into a commission or special arm of HMIC or whatever it might be which would handle that.

**Q57 Martin Salter:** One last brief question, Chairman. A very obvious issue occurs to me. Looking at the briefings we have, these are

reasonably fat salaries that are being paid to the members of the IPCC—they are all on considerably more than MPs and the Chair is on a substantial salary. I do not begrudge that but does there not become a situation that if these are full-time posts that it becomes difficult to rock the boat if 100% of your salary, your income, your mortgage is dependent on your role in this body? Is there perhaps not an argument for more people being engaged or members of the IPCC or the commissioners but on a part-time basis so that they are not so financially dependent on retaining what is a rather juicy appointment?

**Mr Crawley:** I think you have touched on a very good issue. I said earlier that I agonised over what I should do and, to be quite candid, not least of that was whether I should give up a full-time pensioned position at an age when I knew I was not going to get another one.

**Q58 Martin Salter:** It cost you a few bob to give it up.

**Mr Crawley:** It has indeed. I think that is one way of addressing it. Another aspect, as I say, would be to say that the people you appoint are there for one term and therefore they are not looking over their shoulder to think, “If I do not get reappointment I am suddenly out on the street”, with very little notice inevitably. I think probably a combination of those two, but I think you touch on a very important point.

**Q59 David Davies:** Going back to some of your earlier criticisms, would you say that most police officers, average serving police constables, have a favourable view about their local standards department and view them as a sort of an ally?

**Mr Crawley:** As a sort of ally?

**Q60 David Davies:** As a sort of ally of theirs, yes.

**Mr Crawley:** I doubt whether they have that view.

**Q61 David Davies:** I spoke to the head of one standards department who told me that he thought that 1% of his officers were either corrupt or inefficient and should not be in the job, and he saw it as part of his role to go after them proactively. I have spoken to numerous police constables who shudder at the mere mention of standards departments, so I am not sure that I entirely recognise your suggestion that local standards departments are always on the side of the police; it is not how the police see it.

**Mr Crawley:** There are two aspects of a local standards department: one is the internal conduct side and the other one is the public complaints side. If you look at the statistics you will see that the proportion of police officers who end up either losing their jobs or being given a serious disciplinary warning following a disciplinary panel resulting from a public complaint is a lot, lot less than those arising from their own internal investigations, which I guess is a way of saying that the police have the view that it is they rather than the public who know which officers they do not want to have in their ranks.

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**Q62 David Davies:** Is there not a more straightforward reason for that, which is that when the police are investigating proactively they are able to garner the evidence that they need, whereas all too often in these situations that you were dealing with it was one person's word against another. As we know in any court of law, if you or I get attacked in the street by someone tomorrow, it is our word against theirs and it is going to be difficult to bring a case because unfortunately one person's word against another is a very difficult case to prove.

**Mr Crawley:** There is certainly an element of that but a good, proactive department, as you suggest, will be able to accumulate the evidence over a considerable period before they move. I am not decrying that at all. I think where I would part company with the way that the police organise their professional standards operation is on two things.

One is that that side tends to actually take a greater status and position in terms of what they are looking for in skills, and the people who work in and oversee the standards departments tend to be rotated in there and out on to other policing duties, it is just part of a policing career. I think the size and complexity of the public service role of police these days suggests that there ought to be a more professional complaint resolution and complaint investigation skill set that they should be seeking, for which you do not need to be a police officer; you do not need to hold the commission to do that.

**Chairman:** Thank you, Mr Crawley. We are most grateful to you for coming here and thank you for your paper. If there is anything else that you want to add to what you have written or said today please let us have it by Friday as this is going to be a very short inquiry. Thank you very much.

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*Witness:* **Mr Nick Hardwick**, Chairman, IPCC, gave evidence.

**Q63 Chairman:** Mr Hardwick, thank you very much for coming to give evidence to us. It is, of course, your second appearance in recent months. You were appointed in December 2002 to your post and you have been there for eight years, which is quite a considerable time so you must have a lot of expertise in this area. According to a survey that was recently conducted 80% of the people who had contact with the IPCC were actually dissatisfied with the operation of the IPCC, not the nitty-gritty but presumably some aspect of the way in which it impacted on their lives. How do you explain this?

**Mr Hardwick:** Can I just say first of all, Chairman, that I am grateful for the opportunity to be here. As you know, last time I appeared I asked for an opportunity to come back and answer precisely these questions, so I am pleased to have the opportunity to deal with that. I think the survey you report to was a survey that was done for the National Audit Office. It was a self-selecting response and I do not think that the National Audit Office included that in their findings. Let me deal with the point this made, which relates to what we have heard very movingly today from the family of Mr Rigg. About that I would say to you that I speak to every new member of staff who joins the IPCC and what I try to explain to them is this: what we deal with in these cases is the worst thing that has ever happened to somebody. They have had a loved one die, often in very violent, horrific circumstances, often after contact with an agency they trusted where personal details about their loved one that are distressing have come out into the public domain, and all of that is resolved in a highly adversarial and public forum. I do not think that there are some easy things that we can say and do that will reassure families in those situations. What I say to our staff is this: "The critical thing you have to do is not be swayed; you are not on anybody's side."—it is quite right, we are not on anybody's side—"Do not be swayed by the pressure groups; do not be swayed by what the headlines might say tomorrow. The critical thing for

you to do is to find out the truth and put that truth in front of the appropriate authorities, be that an inquest, be that a court, be that the disciplinary authorities." When we have done that, on each occasion we have done that, when the evidence has been tested in legal forums the conclusions of our investigations have been supported and the consequence of that, what that then achieves may not help things for those particular families but what it does do is make it less likely that those things will happen again. When I started at the IPCC—

**Q64 Chairman:** Can you—

**Mr Hardwick:** We have heard from—

**Q65 Chairman:** With the greatest of respect, we will hear your case. You should not take this personally; this is a Parliamentary Committee; you have appeared before it before and many colleagues will have questions for you, so do not worry as we will cover everything. Can I ask a specific question about the Public Accounts Committee recommendation to you in March 2009, when it said that your organisation did not possess the mechanisms to monitor how its recommendations were implemented and to measure its wider impact in police work. Can you assure this Committee that those mechanisms are now in place?

**Mr Hardwick:** That is a very difficult thing to do, Chairman. I can certainly assure the Committee that we have made considerable progress in that. Of course, part of what John was saying is that it is a complex business working out the effectiveness of the complaints system and you have to be very careful you do not have unintended consequences in what you do; so it is a complex business to do that. What we have tried to do is identify, both at an independent force level for the IPCC and nationally, a consistent, rounded set of measures that give us a complete picture of how things are working. That

includes the views of complainants, that includes the views of police officers and it also looks at the hard evidence of the outcomes of complaints.

**Q66 Chairman:** Irrespective of the detail of the particular issues, which we will explore now, when you came to the job in 2002 you came with a very high reputation, having led the Refugee Council. It must be a bit of a concern to you that the very people who were praising the appointment of Nick Hardwick to this post are now possibly not lamenting it but disappointed that maybe it did not meet the expectations that were required. Does that concern you?

**Mr Hardwick:** As I recall, some of those people were not overjoyed by what I did at the Refugee Council, so you get used to it. What I would say is that I have done what Parliament asked me to do. People are more confident in the complaints system than they have ever been before. There is greater access to the system than ever before. It is more transparent. We have cut the numbers of deaths in custody. Of course there is more to do, but I am very proud of what we have achieved; I am very proud of the people who work for it. I am not complacent, there is more to do but I am happy to come here and defend that.

**Q67 Gwyn Prosser:** Mr Hardwick, it must have been very hard, I would think—even though, as the Chairman said, these are not personal remarks—to sit through the evidence from Ms Rigg and from Mr Crawley. You have given a defence that the structure was what Parliament wanted and you were doing the best that could be done with it, but surely amongst the almost catalogue, I would say, of criticisms coming from John Crawley, there must be some of those which chime. Do you have any view of going back to ministers and saying, “Look, there is a better way to do this”?

**Mr Hardwick:** Of course. I feel the same now about John as I did when he worked for us. I agree—and I think he said that I enjoyed discussing these issues with him and I never tried to stop him—with some of what he said; I disagree with other bits of what he said. On the whole his broad conclusions were not supported by his colleagues and he left two years ago and things have moved on a lot since then.

**Q68 Chairman:** For the better?

**Mr Hardwick:** Absolutely. Let me give you a couple of examples where things have changed, and these are areas where I agree with John. One of the problems—and this is what you were saying, Chairman, and I agree with this—with the police complaints system is that a complaint is defined in terms of the conduct of an individual officer. 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. One of the things that we are doing that we persuaded—it has not been an easy

thing to do—the police service to accept, we persuaded the Home Office to accept, is that now what this will do is to say, first of all, not is the allegation against the individual officer substantiated but is the complaint upheld? Is this a justified complaint? Does this member of the public have cause for concern? Then go on to look at whether there is an individual officer at fault. At the moment, as John said, if you are substantiating only 10% of allegations against individuals people will interpret that as, “We do not believe you, we do not accept it is a problem.” What we want to do is acknowledge better, apologise—particularly on these low level things—when something has gone wrong and then say, as you said, “Is there a case to answer against an individual officer and how should that be dealt with?” I think that would be a big improvement. We have introduced a system now of doing detailed hands-on assessments before we decide to take a case. Of course deaths are important but we try to be more sophisticated about how we use our resources. The numbers of appeals we uphold is 33% now. I went back to look at some of John’s figures, I have not seen his submission, I have to say; we were not given an opportunity to do that so I am at a bit of a disadvantage here. If you look at John’s cases and his substantiation rates and his appeal rates, they were no different from his colleagues, and he is not, as you have heard, easily put upon. It is a problem that we all have to address over time: shifting a system, shifting a culture is not a straightforward thing to do. It needs determined effort over a period of time and I think we have made improvements.

**Q69 Mr Streeter:** We were talking earlier about one of the roles of the IPCC possibly is to persuade and encourage police forces to be better at handling their own complaints so that there are fewer complaints rising to your august level. What are you doing about that?

**Mr Hardwick:** Absolutely that is right. Half of all complaints are about what is called in the jargon incivility or other neglect of duty—in plain language, rude, late and poor service. We know a lot about who makes complaints; the biggest categories of complainants are white men over 35 in non-manual occupations who have a good opinion of the police. So I say to police audiences—I have been this week—“Look, these are your friends telling you that the service they are getting is not good enough.” The way to deal with that—and this is where I may disagree with John—is not some outside body from London coming in and sorting it out. 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.” That is not some great boss sitting outside here—“You work for me; what you have done is not acceptable, I expect that to improve.” 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

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managing then that is the way to get the kind of cultural changes we have talked about. John said we spend a lot of time talking to the police; I do spend a lot of time talking to the police, trying to persuade them exactly that. A critical responsibility of supervisors and managers, inspectors and sergeants, should be precisely to get that conduct correct. Not to go into defence mode but to say, "Yes, there is a problem here; how do we put it right?"

**Q70 Mr Streeter:** You are talking as though you have just taken over the job but you have been at it for eight years and it has been in existence for six years—I do not quite understand that, but never mind. Why has this not improved? Who are you saying these things to? Are you speaking to the Home Secretary? Are you speaking to ACPO?

**Mr Hardwick:** Yes, yes, yes.

**Q71 Mr Streeter:** Why is it not changing?

**Mr Hardwick:** It has changed. I do think that the increase in complaints is a sign of people's greater confidence on the ground about the system; you can see that in the MORI opinion polls about people's view of us. I do think that has changed.

**Q72 Chairman:** Mr Hardwick, do you think it would be better if, for example, the NPIA was to be involved in this process—the police improvement organisation? Do you meet with Peter Neyroud?

**Mr Hardwick:** Yes, I do.

**Q73 Chairman:** Is this something that he could be involved in because you cannot spend your time telling the police how to get their complaints system working.

**Mr Hardwick:** Part of our duty, the duty that Parliament gave us, is to increase public confidence as a whole in the complaints system; not just those bits we deal with directly but the system as a whole.

**Q74 Chairman:** But the trouble is the survey says—to quote the game show—80% who deal with you are dissatisfied.

**Mr Hardwick:** That is of the most serious cases that were dealt with by us. Those are not typical. John is right, I think, to make a distinction between the most serious cases that involve death and all the emotion and awfulness that we heard about.

**Q75 Chairman:** And all the others.

**Mr Hardwick:** We know, for instance, one of the things that people say to us—we have done a lot of work on this—that 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 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. Partly what we try to do is to force the system a bit in a different direction so that the system focuses on saying, "Look, if you are not happy what can we do to put this right?"

**Chairman:** I know you are very keen to get your arguments across but all my colleagues have these points in mind. Martin Salter.

**Q76 Martin Salter:** Mr Hardwick, I am looking at—I do not know if you have seen it—the spread of regional variation in complaints and it really is quite marked. It goes from Staffordshire where there was a percentage change of complainants by force between 2007–08 and 2008–09 at minus 24% to a plus 46% in Lincolnshire. This is quite a staggering range. Can you give us an idea as to what factors might be in play here, as to why we are looking at those figures?

**Mr Hardwick:** As I have said, I am at a disadvantage in that I have not seen this paper and was not told about its existence and so have not seen the figures in it.

**Q77 Martin Salter:** Hang on, this is not John Crawley's paper; this is a briefing to the Committee. For goodness sake, you must know the ratio.

**Mr Hardwick:** Obviously I do not know the precise figures to which you refer—that is what I am saying. I can answer your point about variation.

**Q78 Martin Salter:** These are your figures.

**Mr Hardwick:** If I could just have a copy then I would know what you are looking at and would be able to answer you.

**Martin Salter:** Here you are; they are your figures.

**Chairman:** They are your figures.

**Q79 Martin Salter:** You are not at a disadvantage.

**Mr Hardwick:** I was not quite sure to what you were referring, but now I have it. Of course, yes, I can explain, if you are talking about the numbers of complaints that will reflect changes we are trying to get them to make to a recording system. So part of the reasons for the numbers of complaints will be that forces are responsible for recording complaints. One of the things that we have tried to get them to do is to improve their recording systems so that complaints are recorded on a consistent basis, and as forces do that and comply with our request on that and the system becomes more accessible you will get variations in figures like that. I think that is one of the reasons; that is partly what accounts for the difference. Also, you will get differences because there will be differences between the big urban forces and between the rural forces; there will be differences between how proactive forces are about trying to nip things in the bud and sort them out before they become a formal complaint. Some of these things would be about the system settling down as we shift it, to try and make it more accessible and that is that process going on.

**Q80 Mrs Cryer:** Mr Hardwick, according to your Annual Report, you have capacity for around 70 independent investigations per year, yet for the last two years you have been 50% over capacity. What impact has this had on the quality of investigations? How large an increase in funding would you require to increase capacity to around 100 independent investigations per year?

**Mr Hardwick:** Since we have been operational our income has gone up by 20% and our outputs on investigations and appeals have gone up by 100%. We are able to do some of that as the system settles down and becomes more efficient. We will not relent on the quality issue. The primary problem, if we get more and more work coming in, will be that it will take longer to do and that is the big problem we have to deal with now. What I would say is this—again I would agree with what John Crawley says—we have made the system more efficient within the legislative frameworks we have. If I had a shopping list the start of my shopping list would be to the legislative changes necessary to take some of the bureaucracy out of the system so that I could use the resources I have more efficiently than simply giving me more resources. I am not going to say that more resources would not be useful but I could provide a good if not better service to families, complainants and police officers with the resources I have if there was a change in some of the bureaucratic rules that were put in place that I think time has shown we do not now need until we can prove it. So that would be the top of my list.

**Q81 Mrs Cryer:** Can you take us through the independent investigation process and why does it take between 167 and 195 days to complete an investigation? You have just mentioned bureaucracy; is that one of the reasons?

**Mr Hardwick:** No, that would be more on the appeal side. Let me be clear. 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. There are statutory requirements that forces have to abide by in terms of what they require. This is a simplified version. Normally what we will then do—now, which has changed since John Crawley's days—is 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. A point that has previously been well made is that we will then conclude our investigation and there is then a sequential process, that is not the end of it. Our investigation is only part of a process. What will then take place will be a trial, if there is going to be a trial or a disciplinary hearing but, critically, as you said, the inquest. The inquest is a crucial—I understand this more now than when I started—bit of the process where we will disclose all the information we have collected and our report to all the parties involved, and that then can be cross-examined in open court with everybody represented in an inquest, and that is where the family do that. So people who have concerns at this point of the

investigation will say, “There are concerns.” I would say to them, “You will have your opportunity in court, represented to cross-examine the way we conducted our investigation and all the evidence that we have collected,” and my experience has been up to now that when we have done that that people have got the answers and when they have seen it that is the answer they want.

**Q82 Mrs Cryer:** Can I just mention that the first witnesses did say that their coroner's inquest has still not been concluded.

**Mr Hardwick:** Obviously there are two things I could just say, just to be absolutely clear so that there is no misunderstanding. The issue in the early stages of the Rigg case, about their access to their loved one, that was a matter for the coroner's officers, and we actually spent that weekend trying to get the coroner to take a more reasonable approach to that and I sympathised with them in that particular matter. Let us be clear that that was not our decision at all. On the point about the inquest, the delays in inquest are a real problem—obviously they are outside their control—and that does mean that the whole thing drags on and then of course we are the visible face of the system so people have seen the process going on for years but we have often wrapped up our bit—Rigg was particularly complex—in a short time, and then there is a long tail while you wait for the other bits of the legal process to kick in, and I think if you could fix that then that is very important.

**Chairman:** Mr Hardwick, it would help us enormously if you would make your answers briefer because we are going to cover all these points and you do have the opportunity, if you wish to submit written evidence to do so. I want you to feel that you have had your say, but also it is very important that we get through the business.

**Q83 Mr Streeter:** Mr Hardwick, you have just mentioned the Rigg case; why did your staff not interview police officers in that case for seven months?

**Mr Hardwick:** There are a number of reasons. This is complex. There are a number of reasons.

**Q84 Chairman:** Just give us the reasons.

**Mr Hardwick:** I will give you the reasons. There is a limit to what I can say about the Rigg case, precisely because this is part of the evidence that relates to the evidence that we heard at the inquest that we had been asked by the coroner not to disclose. I can give you two general points.

**Q85 Chairman:** Give us the facts.

**Mr Hardwick:** I am giving you the facts, Chairman. The first point is that we will decide when to interview someone on whether we are going to treat them as a witness or a suspect, and the second issue is of course sometimes we need to interview someone very quickly to get urgent information from them but on other occasions, like your questions of me, we will want to do that at the end of the process when we have gathered in all the other evidence and

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information from everybody that we then want to put to the officer at the end of the process, as happened here.

**Q86 Mr Streeter:** Seven months—I cannot remember what I did last week. The sooner you get to people to ask them what happened the better evidence you will get.

**Mr Hardwick:** No. Officers have to make an initial statement but if we are questioning people we need to know whether we are questioning them as a witness or as a suspect and that will often depend on the medical reports we get back, and we have to wait for those.

**Q87 Mr Clappison:** You say that officers give a statement but there will not be questioning as part of that statement; you will not ask them questions as either a witness or a suspect until months later. Whether you are doing one or the other is it not equally the case for both of them that people will just turn round and say, “I cannot remember that detail after this length of time”?

**Mr Hardwick:** People manage. There will be occasions when what we need to do is put to the officers in its entirety the evidence we have that might be about our concerns or about what has happened, and it would not get at the truth or provide us with the answers if we were to do that piecemeal. Sometimes you want to do that at an early stage; on other occasions you want to put the case and concerns to the officer at the end of the process.

**Q88 Mr Clappison:** If somebody knows what they know you can ask them to determine what they know and if later facts contradict what they say that they know you can put those facts to them and ask them again.

**Mr Hardwick:** There are problems about going backwards and forwards to officers if new facts emerge. Obviously I am not a professional interviewer, but I have talked a lot to our investigators about this precisely because in relation to this case—and precisely because this is a question that is put to us—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.

**Q89 Chairman:** The Committee understands that. You have mentioned sometimes that the police are in a position where it is better for them to just say sorry and to move on and to learn from their mistakes—people are not after scalps particularly, they are after a change in the system. Are you in a position to tell us how many times the IPCC may have said, “I am sorry; we have got this wrong”?

**Mr Hardwick:** I cannot give you a detailed answer but I certainly would say that.

**Q90 Chairman:** You have said it in the past?

**Mr Hardwick:** I can certainly say that. I was quoted the other day in the paper where I do think we made a mistake, in the case of Shauna Bailey I think we made a mistake in that case and I said it then.

**Q91 Mr Winnick:** Mr Hardwick, do you feel that the police are very concerned about your organisation, or do they see it as a safety valve; that if people are not satisfied then they say “Go and see the IPCC”?

**Mr Hardwick:** As Mr Davies was saying, if you look at some of the comments that are made, people do not see us as a safety valve. Different police officers will take a different view; some police officers and some senior staff will see us as an important and productive part of the process and welcome our presence, others will be hostile. It depends a bit about how we might be dealing with them at particular times and I think there would be different views about that.

**Q92 Mr Winnick:** How many recommendations were made for instance last year that officers should be disciplined?

**Mr Hardwick:** I cannot give you the figures.

**Q93 Mr Winnick:** If you are writing to us—which I am sure the Chairman would like you to do—could you give us for the last five years? Also how many of those recommendations were accepted by the tribunal?

**Mr Hardwick:** On officers, we do not make recommendations about the discipline of those precise recommendations; what we will do is we will say that there is a case to answer that on some occasion needs to be heard by a tribunal. But we are not judge and jury; we do not say what we think a sentence should be.

**Chairman:** If you could write to the Committee by noon on Thursday with the figures for the last five years.

**Mr Winnick:** And what was the outcome of those cases by the tribunal.

**Chairman:** That would be very helpful.

**Q94 Mrs Dean:** I presume you cannot answer to say how many recommendations were made to suspend officers either. Could you also let us know any details about that, please?

**Mr Hardwick:** We do not make recommendations to suspend officers; that is a job for the management of the force. We have to be consulted about the suspension of an officer but we do not make recommendations as such.

**Q95 Mrs Dean:** Would you know, following your investigations, how many officers were suspended? Would you have that information?

**Mr Hardwick:** We could probably find some information. I do not know whether we collect that information centrally about officers that are suspended, I would have to go and find out.

**Chairman:** I am sure that would be of great interest to the Committee if you could add to that to the shopping list we have given you because obviously

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when we are producing a report we need facts and figures and you are the organisation that would, in principle, have those facts and figures.

**Q96 David Davies:** Mr Hardwick, a lot of the questioning has been from the point of view of complainants who feel that the IPCC has not done a good job, but you must be aware that actually a lot of police officers are similarly critical of the IPCC and the complaints are along the same lines as the complainants, that it takes months and months, if not years sometimes, to sort out what appear to be fairly straightforward allegations about police officers whose careers are put on hold and who are unable to transfer into other forces while they are waiting for the IPCC to solve those problems. What would you say to the police officers who are also equally if not more critical about the IPCC than members of the public complaining about the police?

**Mr Hardwick:** Of course, most complaints are dealt with by forces themselves, as we have heard. We would certainly recognise that when we are investigating an officer it is a stressful matter for them. Sometimes the delays occur because we have taken time to get the cooperation we need from the officers and so they have to share some responsibility for that. What I say is that however you cook the system, whatever you do with the system or however you organise it, this is going to be a very difficult experience for the families; it is going to be a very difficult experience for the officers involved. I do not envisage a system where people are going to be hanging out the flags saying what a great job the IPCC has done in these situations. It is not going to be like that.

**Q97 Chairman:** Final question from me. On Radio 4 on 19 January 2010 you told the BBC—and I quote—“I would say that we have cut the numbers of deaths in police custody by half.” What is the proof that there is a direct link between the existence of the IPCC and the number of reductions of the deaths in police custody?

**Mr Hardwick:** It is certainly the case that since the IPCC has been in existence the numbers of deaths in police custody has reduced from 36 to 15 and it has

reduced each year. Certainly the feedback we get from the police themselves is that our work on that has been a major contribution to that.

**Q98 Chairman:** How do you know that it is the IPCC that has cut deaths?

**Mr Hardwick:** Of course, that was an edited version; I think what I said was—

**Q99 Chairman:** That was a direct quote, Mr Hardwick.

**Mr Hardwick:** What I said in the course of a longer discussion with the interviewer was that I thought that we had made a significant contribution to the reduction in deaths in police custody.

**Q100 Chairman:** What is the linkage? We have had a Labour Government for eight years, the Home Secretary has not jumped up and said that as a result of him being the Home Secretary and having a Labour Government there has been a reduction.

**Mr Hardwick:** We are doing some further research, to try and answer that precise point. The reason for my saying that is because the feedback we have had from the police is that it is the recommendations that we have made that have gradually led to the small change, partly, of course not just us; I am not saying that, that would be a silly thing to say, of course it is the officers on the ground. We have made a significant contribution to some of the small improvements in the care of often very vulnerable people that in the end has reduced the numbers of deaths.

**Q101 Chairman:** Have you had feedback from the police either oral in writing to say that it is the existence of the IPCC that has led the police to reduce the numbers of deaths in custody?

**Mr Hardwick:** We have had feedback that we have made a significant contribution to that.

**Chairman:** Mr Hardwick, thank you very much for giving evidence today. We are most grateful. As you said, it was your suggestion that we should look at this particular subject and you have offered to come and give evidence and we are extremely grateful to you. We would be most grateful to have that letter by noon on Thursday.

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## Memorandum submitted by John Crawley

### SUMMARY

This paper outlines current problems with the police complaints system from a public/complainant perspective. It includes proposals intended to ensure the IPCC becomes much more a complainant focused quality-assured ombudsman service with effective performance management of the police complaints system, encouraged to move away from its technocratic absorption in the detail of policing operations. The paper proposes constitutional changes to the IPCC to ensure it meets adequate standards of institutional and functional independence, and to encourage and be accompanied by changes to its corporate priorities and ways of working. The need for tougher oversight of the police management of the complaints system should be shared with police authorities.

### INTRODUCTION

John Crawley was a Commissioner of the IPCC, serving from 2004 to 2008. In addition to a regional portfolio of forces and police authorities he had policy responsibility for policing and mental health and, in November 2007, directed the first ever police discipline hearing to be held in public. He is currently undertaking expert advisory work for the UN Development Programme in Turkey on assisting the Turkish Government to improve and reform civilian oversight of its internal security services. He is deputy chair of the newly established Restraint Accreditation Board for the Youth Justice sector.

### EVIDENCE

#### 1. *Structure of this evidence*

This paper explains the weaknesses at each level of the police complaints system from a complainant perspective; it then illustrates the analysis with a short “case example” of stop and search powers; it examines the defects in the constitution and structure of the IPCC, its culture and how it works. The paper concludes with clear recommendations for the Committee to consider under each of these headings.

#### 2. *Local Resolution of complaints*

Local resolution is the procedure the police use to resolve the less serious complaints they receive; in 2008–09 41% of complaint allegations were dealt with by way of local resolution. The idea is that an “action plan” is agreed with the complainant as to how their complaint is to be resolved; they can refuse LR and insist upon a formal investigation.

The major defect has always been that the rules governing the procedure allow the police officer complained of to opt out of the process if s/he chooses to; this is despite the fact that s/he is already assured that no disciplinary action or sanction can be initiated where LR is involved. Specifically, the officer cannot be required to proffer an apology to the complainant for his/her behaviour or actions as an outcome of LR. The most that can be achieved is for the Force to apologise on his behalf. Unsurprisingly this too often leaves the complainant frustrated that this simple remedy, and IPCC research has shown a high level of dissatisfaction with the outcome of LR. This “opt out” clause is inappropriate at a time when public policy promotes a much more citizen focused approach to policing; it is a privilege not enjoyed by other public servants

#### 3. *Police investigations of complaints*

The great bulk of complaints that require formal investigation of some kind are left with the local police force concerned, undertaken by (or overseen by) its Professional Standards Unit. The proportion of the more serious complaint allegations—that are subject to formal police investigations—that are substantiated is very low. In 2008–09 just one in 10 complaints formally investigated were substantiated,<sup>1</sup> 1,810 out of 18,137—a pattern that persists year after year, unaltered by the arrival of the IPCC. Further, there are significant variations between forces—if you complain about the MPS or West Yorkshire Police you are very unlikely to see your complaint upheld, whereas if your complaint is against a Cleveland or Avon & Somerset officer the odds shorten significantly.

#### % of complaint investigations that were substantiated by force

<i>Force:</i>	<i>08/09</i>	<i>07/08</i>	<i>06/07</i>	<i>05/06</i>	<i>04/05</i>
MPS	6	5	6	8	13
Avon & S	17	12	12	20	16
Cleveland	17	17	23	16	26
Humberside	9	4	6	11	12
Lincolnshire	5	9	12	4	16
West Yorks	6	4	6	4	10

<sup>1</sup> Just 5% of allegations of serious assault; 4% of allegations of assault; 3% of allegations of discriminatory behaviour

This discrepancy looks even starker when actual numbers are considered—in 2008–09 91 out of 533 complaints were upheld in Avon & Somerset, whereas in the MPS a mere 152 were upheld—out of seven times as many complaints, 3,807.

The IPCC has failed 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. The IPCC has not (to the best of my knowledge) undertaken any significant analytic or other research or investigative work to ascertain why the patterns and problems cited above and in the table below continue. It has failed to deploy its considerable statutory powers to inspect and call to account the quality of complaint work undertaken by forces.

<i>Year</i>	<i>Complaint cases</i>	<i>Allegations therein</i>	<i>Investigations (%)</i>	<i>% upheld</i>	<i>Appeals (% upheld)</i>
2004–05	22,898	27,909	5,585 (20)	13	269 (20)
2005–06	26,268	38,199	10,552 (28)	12	1,241 (11)
2006–07	28,998	41,584	12,683 (30)	11	1,838 (17)
2007–08	28,963	45,524	14,558 (32)	11	2,260 (19)
2008–09	31,259	50,369	18,137 (36)	10	2,385 (22)

In the face of these trends the IPCC persists with its slightly “Alice in Wonderland” explanation that more complaints means more public confidence in the complaints system. Despite having an Intelligence Unit the IPCC appears to undertake no useful analytical work on the appeals and wider complaints system, being content to simply publish the annual statistics which show the same dismal pattern and trends year in year out.

Police Authorities are the local “civilian oversight” bodies and they should also take a close interest in how their forces handle complaints. However the emphasis of the Police Reform Act (with one exception) is to treat forces and Authorities as separate “appropriate authorities” acting in parallel, with the Chief Constable responsible for all statutory functions for officers up to the rank of chief superintendent, and Police Authorities responsible for the same functions where a case involves an “ACPO rank” officer. The only exception is that a Police Authority can intervene and refer a matter to the IPCC if its Force fails to do so; in practice this a little used sanction. Authorities do have a general oversight duty as they do for all of the functions of their force; this is fulfilled by scrutiny of individual complaint files by individual members of the Authority, and general reports to a relevant committee. Authorities have failed to ask searching questions of the Force management—they do not bother to get the kind of simple data even cited in this report—and have failed to commission or use independent sources of information and intelligence about the “complainant experience” in using the Force complaints system. The IPCC has worked with the Association of Police Authorities on standards in this area but neither has shown any real leadership in getting Authorities to scrutinise vigorously and push up performance standards.

#### 4. *Appeals against police investigations*

The IPCC appeals system has largely failed to remedy this situation and the IPCC remains almost entirely in reactive mode, still struggling to get on top of the backlog of appeal cases nearly six years into the system, rather than seeking to stem the flow. The culture of the IPCC is dominated by its high profile investigations function, the valued and prestigious part of its business, and the technical policing/organisational issues that the IPCC largely focuses upon arising out of such investigations. The appeals system—where the vast bulk of IPCC contact with the public and their complaints against their local police arises—is the Cinderella service. There is no effective championing of the appeals function<sup>2</sup> and no promotion of the appeals system within the IPCC and more widely; for example, the IPCC never issues press releases on any significant appeal successes despite issuing voluminous releases on its own investigation cases, to strengthen the credibility of the system. There is no fostering of the complainant perspective generally within the organisation.

The determining of appeals, a crucial statutory function, is left to the most junior decision-makers in the organisation, Casework Managers; whilst some have worked for the IPCC for several years, others are short term contract workers brought in to clear up the backlog of appeals, particularly those arising in the MPS which are now dispersed around the country. Caseworkers are trained to decide each point of appeal in an essentially mechanistic way. They operate according to often undocumented but rigidly applied rules that consistently disadvantage complainants and are applied mechanically and regardless of the circumstances of each case. This amounts to an institutional bias against complainants. Three examples

- (1) When a complainant at appeal asks for access to relevant evidence considered by an investigation, such as CCTV footage, they will often be told that that is a matter for the police to decide and not a matter where the IPCC will require disclosure even though it clearly may assist a complainant in identifying relevant evidence for their appeal. The IPCC can give the clear impression of seeing its role as assisting the police in defending themselves against civil claims rather than independently

<sup>2</sup> Most importantly appeals against police investigations; appeals against the local resolution procedure, and against the failure to record a complaint, are the other two, much less significant forms of appeal.

- ensuring that both parties have access to core material, thus allowing a re-balancing of the power relationship and proper representations based on the evidence to be put forward by the complainant.
- (2) Casework Managers are rightly advised to apply the “balance of probability”—more likely than not to be the case—as the appropriate standard of proof in determining an appeal. Yet appeal decisions reveal that they are not trained to apply it appropriately, in what is essentially a quasi judicial system. Where (as is often the case in any complaint system) there are conflicting accounts of what happened as between the complainant and the police and no conveniently available and definitive independent witness or CCTV evidence etc, the IPCC typically concludes that it cannot find against the police and that the police decision not to uphold the complaint must stand. What the IPCC should be doing as a competent and confident appellate authority is to decide in each case where the merit lies: given all of the circumstances of the individual incident and the evidence in the case, which “account” is more plausible, which explanation of what happened is more likely than not to be the case? This approach is the essence of fairness in any complaint system if it is not to be institutionally biased against the complainant. When it comes to the police they are of course exercising unique powers over people, including use of physical force and the deprivation of liberty; the failure by IPCC to exercise robust judgement in examining allegations of wrong doing is not what was envisaged when the organisation was established by the 2002 Police Reform Act.
  - (3) The IPCC, as do the police, often hides behind the jargon of “a proportionate investigation” to justify whatever it has decided to accept as an adequate police investigation of a complaint. For example, a crucial decision is whether the officer(s) involved are going to be interviewed or simply allowed to submit a statement, ie their version of what happened. Sometimes a statement *is* adequate and appropriate given the nature of the matter complained of. But often it is not: only by interviewing officers can the basis of their accounts—and where relevant the consistency of explanations from several officers involved in an incident—be tested and, often relevant in cases such as stop and search, the accuracy of their understanding of the law and its application in the incident be established.

The IPCC very rarely uses its powers to take the bolder step of requiring an inadequate investigation to be re-investigated, let alone involving itself in such a re-investigation; it has the powers to do so. The structure and culture does not support Casework Managers in considering the need for such an approach; indeed the IPCC system tends to work the other way around—senior people (Commissioners and their support managers) taking an interest in a case when a significant issue on appeal is likely to be upheld against the police. But the Commissioner is more likely to be anticipating the reaction of the police, and to be demanding an explanation for the proposed decision from the Casework Manager, than they are to be demanding that the Force changes its practice and conducts more effective investigations. Often relatively inexperienced and junior staff are left dealing with (relatively senior) police officers<sup>3</sup> in a Professional Standards Department (PSD) of a Force. The obvious danger is that the Casework Manager is likely to settle for the easier option, disappointing the complainant rather than upsetting the Force.

It is the police, not complainants that the IPCC is exposed to in face to face meetings and at the regular annual round of policing events it attends. There is no incentive in the system for the police to improve their investigations and to successfully resolve complaints.

##### 5. IPCC Independent and Managed Investigations

The majority of cases where the IPCC investigates independently or manages a police investigation—around 250 cases a year—are where article 2<sup>4</sup> of the Human Rights Act may be involved. Such incidents may require independent investigation to comply with the Human Rights Act depending on the detailed circumstances. Some cases, such as some 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, churning out lengthy and often long delayed reports with often fussy recommendations to micro manage the police service. This was not what it was created to do, and does not improve public confidence in the police or the complaints system.

Under its guidelines for mandatory referrals from police forces the IPCC each year receives details of around 2500 policing incidents and complaint cases; it ends up becoming involved in a mere 10% of such cases, defined (by the IPCC) as “serious”. The procedure for assessing such referrals—known as the Mode of Investigation (MoI) determination—is rather superficial and mechanistic<sup>5</sup> and is by definition purely reactive. It assesses the public confidence dimension largely by reference to whether there has been any immediate press coverage to decide whether issues of public confidence are at stake. Rarely would any

<sup>3</sup> Up to Superintendent or Chief Superintendent in the provincial forces with smaller PSDs; senior officers will deliberately engage to “persuade” the IPCC of their point of view; the amount of such informal (and inappropriate) contact between the IPCC and forces in this way in the appeal system is significant.

<sup>4</sup> The state’s duty to protect life; cases where article 3 is engaged—concerning inhuman or degrading treatment—may also require independent investigation

<sup>5</sup> Points are “awarded” on a scoring sheet in relation to the nature of the incident but the descriptions and calibration are crude and rather meaningless

strategic considerations (such as the example given below for stop and search) be applied to individual MoIs in determining IPCC involvement. In summary, very little purpose is currently served by this vast paper chase; it creates a largely misleading illusion of accountability.

Crucially, the IPCC relies upon the *police* description and assessment of the incident leading to a complaint in the referral form, and may well talk to the Force concerned to get more detail but virtually never contacts a complainant for their view ahead of a decision. For a small number of more serious incidents the IPCC sends an investigator to the Force to get fuller information and in some cases examine evidence such as CCTV footage. Again however 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.

#### 6. *Discipline v Learning from a complaint—a false dichotomy*

Even where a complaint is substantiated by a police investigation and the findings indicate misconduct by one or more officers, the likelihood of the complainant seeing an officer held properly to account in a discipline hearing is remote. The IPCC has failed to address this legitimate public concern; in its current reform proposals it rightly calls for the complaints system to be simplified so that all complaints—those concerning operations and policy (so-called direction and control) and quality of service as well as misconduct allegations to come under one system which is “citizen focused; in most cases the priority should be to find out what has gone wrong and put it right, not just who is to blame and how they should be punished”.

The problem is that the current system fails to establish culpability when that *is* called for—the IPCC mistakenly contrasts a “learning the lessons” approach for complaint handling from one where officers are sanctioned for misconduct, as if these are alternatives; they are not. A robust and effective system of accountability embraces both individual accountability and organisational learning and change, and the demonstration of individual accountability will itself be a salutary lesson for other officers. The IPCC has directed that just one discipline hearings be held in public in nearly six years.

#### 7. *A practical example—stop and search*

The range of police powers to stop and search people in public places and in their vehicles remains one of the most sensitive and difficult areas of operational policing from a public confidence and trust perspective. Here too the IPCC-led complaints system has mostly failed to deliver, with the result that people litigate rather than complain.

Recently there have been public controversies about the both the scale and manner of the Metropolitan Police’s (MPS) use of both sweeping Terrorism Act powers and the similar—and equally intrusive—“section 60” powers. In 2005 West Midlands Police (WMP) conducted more than double the number of “section 60” stops compared to the MPS that year (12755/5584). Following a succession of complaints and highly critical IPCC investigations overseen by myself as commissioner the Force’s misuse of the power was progressively reformed to ensure compliance with the law and improved community relations, a successful example of both a “sanctions led” and “learning the lessons” complaints process. As a result within a year the number of such stops had more than halved (to 5212) and by 2007–08 it was down to 2,361. The MPS use of the power has gone in the opposite direction, escalating each year. It seems likely that the kinds of problems encountered in the earlier WMP use of this power are being replicated in parts of London. One way the IPCC could intervene here is to use its (very largely neglected) “call in” powers to require every complaint case the MPS receives concerning stop and search where section 60 applied to be referred to it. It would then be in a position to choose suitable cases to undertake some investigations to establish whether MPS practices are or are not in accordance with the law and appropriate.

The alternative—in the absence of this kind of proactive use of the complaints system—to change unacceptable police behaviour was seen at the Kingsnorth Climate Camp protests. Here people (including children) who were adversely affected by police abuse of stop and search powers resorted to the courts rather than the complaints system, at greater cost to the public purse. And yet it was perfectly clear from very early on that Kent police had misused (“PACE”) stop and search powers when stopping and searching everyone entering the camp, and that there was plenty of good evidence to substantiate this. Yet instead of the IPCC being proactive in encouraging complainants to come forward, launching a full independent investigation (linking individual complaints as one case) and expediting what should have been highly critical findings, it took a group of complainants resorting to judicial review in the High Court to get Kent Police to back down and grudgingly accept it was in the wrong. Meanwhile complainants became bogged down in the complaints and appeals system and, one suspects, would have got nowhere through that route.

#### 8. *Reforming the IPCC*

The IPCC’s sponsoring department, the Home Office, has direct responsibility for and extensive powers over policing. The Home Secretary appoints the Chair<sup>6</sup> and Commissioners of the IPCC for fixed terms in office (up to five years) and decides on their re-appointment for a second term. This is not a basis for such office holders to fearlessly exercise their independence.

<sup>6</sup> Technically a crown appointment

The Chair of the Commission is a full-time appointment, despite there being a highly paid CEO and Executive team. This is almost without precedence in the public sector and of course contradicts good governance codes. The Commission comprises mostly full-time commissioners and is a very expensive<sup>7</sup> way to structure the leadership of any organisation, costing in excess of £1 million. The evidence that this unusual structure delivers any real benefit for the public is lacking whilst the evidence does suggest that it leads to poor and weak governance which the recent introduction of two part time “non executives” will not remedy.

The proximity of the IPCC to the Home Office and its nexus of NDPBs and 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”; it is an adopted member of the “family of police organisations” overseen by the Home Office as the patriarch. This has been reinforced by the functional developments in the IPCC role.

This concerns the capacity and capability of the IPCC as a civilian oversight body; here too the IPCC falls short of expectations. No detailed modelling of its capacity to undertake investigations was embarked upon prior to its launch but the outcome—with around 100 independent and 150 “managed” investigations started a year—was clearly never going to fulfil the original policy intentions. It remains very largely the case not only that “the police (continue to) investigate the police”, but that they (continue to) exonerate their fellow officers and that the IPCC appeals system represents no serious challenge to this culture of complacency.

The IPCC employs a significant number of former police officers<sup>8</sup> in its investigative function, particularly in more senior positions. It has abandoned its original aim of growing its own in-house investigative capability, expertise and style in favour of emulating police investigative models and practices. This reproduces a policing culture not a public facing, complainant oriented ombudsman service; one dominated by its high profile investigations function.

## 9. Recommendations

### A. Local Resolution of complaints

1) The provisions in the local resolution procedure which protect individual police officers from having to account for their behaviour and where appropriate apologise should be removed to place them on the same footing as other public servants.

### B. Police complaints handling

1) The police “local investigation” of complaints should be reformed to ensure a much more robust and credible system, with the aim of:

- (i) much more consistency across the police service in outcomes for complainants;
- (ii) plausibility in the rates at which complaints are found to be substantiated;
- (iii) a progressive reduction in appeals against police investigations;
- (iv) Much tighter and tougher investigation and oversight of performance by the IPCC working in partnership with Police Authorities.

### C. IPCC investigations function

1) Statistics for IPCC independent and managed investigations should be classified more fully to reflect:

- (i) Those triggered primarily by an immediate statutory duty for independent investigation of the incident<sup>9</sup> (at least initially) and
- (ii) Discretionary investigations triggered primarily by public complaints of serious police conduct affecting public confidence in the police etc.

2) There should be an independent review of the IPCC’s efficiency and its decision-making protocols governing its handling of “statutory” investigations with a view to determining:

- (i) How the turnaround time of such cases can on average be radically increased by early exit strategies and simplified investigations where appropriate; and
- (ii) Whether formal separation of this function from the “ombudsman” service in the complaints system is desirable, for example by creation of a “special investigations” unit within HMIC.

<sup>7</sup> Paid £75,000 each ((2008–09 rates); more for the two full-time deputy chairs and the commissioner for Wales

<sup>8</sup> Including also personnel other public authorities with criminal investigation and coercive powers it oversees, such as HM Revenue & Customs; the new Director of Investigations is a senior police officer who presided over the MPS complaints system described briefly above.

<sup>9</sup> Such as those where article 2 or article 3 of the Human Rights Act/ECHR may be engaged by the actions of state agents.

3) Targets should be set for a substantial increase in the number and types of complaint cases falling in to category (2) type investigations including areas such as stop and search which do not currently fall within mandatory referral criteria.

4) Decisions on which of the more serious “category 2” complaint cases warrant direct IPCC involvement should be based upon:

- (i) analysis and risk assessment of each Force’s complaints handling performance;
- (ii) relevant topical data on levels of public concern about policing operations, whether local to the Force or national; and
- (iii) regular public consultation exercises on what the IPCC’s strategic priorities for such cases need to comprise.

#### D. IPCC appeals

1) Appeal handling to be greatly improved by moving from a high volume, low quality “administrative” service to a high quality, lower volume<sup>10</sup> appellate procedure in line with its statutory obligations, reflecting the reality that once an appeal is determined it cannot be re-opened<sup>11</sup> without a costly and cumbersome procedure involving a public law challenge and judicial review by the High Court, an expensive and risky procedure for both defendant and particularly complainant.

2) Objectively measured improved confidence in the quality of the appeals service by users—complainants and their legal representatives—to be a performance target.

3) A formal triage process to be developed by IPCC to ensure that more significant, meritorious and complex appeals are properly reviewed by an appropriate hierarchy of decision-makers.

The triage system to include reviewing the role of Legal Services (a significant department within the IPCC) moving from a largely reactive role (handling “challenges” to decisions after the event) lawyers should “quality assure” the legal robustness of all appeal decisions before they are confirmed. This is particularly significant as appeal decisions cannot be changed or reviewed once made without expensive High Court proceedings.

4) The IPCC should deploy its own “intelligence” derived from the appeal system and other sources/ analytical techniques to spot potentially worrying patterns of complaint cases within a force—for example, the now widely concerns expressed concerns about the MPS’ Territorial Support Group—and use its “call in” powers, its triage system in appeals and other techniques to resolve such public concerns much more proactively.

#### E. Reform of the IPCC

1) Consideration should be given to moving the IPCC out of the Home Office sphere of influence to enhance and underpin its primary role as a public ombudsman service. The options here also depend upon the question of whether to transfer the “police style” criminal investigations to another suitable agency, acting on behalf of a reformed police complaints body. The preferable option is to introduce an Office of Police Ombudsman or similar, comparable to the Parliamentary Ombudsman. A less desirable but better institutional arrangement for the IPCC for the NDPB “sponsored” model is the Ministry of Justice. Two other relevant bodies fall under the remit of the Justice Ministry, HM Chief Inspector of Prisons and the Prisons and Probation Ombudsman; the transfer of the IPCC to the Justice Ministry could help create a nexus of such bodies concerned with individual rights within and across the criminal justice system.

2) There should be an independent review of the structure and value for money for the public purse of the governance and senior management structure of the IPCC.

3) Whilst the existing governance provisions prevail the following immediate changes should be made:

- (i) All IPCC public office holders (Chair and Commissioners) should be appointed for one term only to protect their independence.<sup>12</sup>
- (ii) The position of Chair should become a part time non executive one in line with all good practice guidelines for corporate governance.
- (iii) Commissioners should be formally rotated at intervals not exceeding two years in terms of their “lead Force” responsibilities to ensure that objectivity and rigour is sustained in the handling of relationships with individual forces.

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<sup>10</sup> A progressive reduction of appeals as a direct result of reform of the handling of complaints by police

<sup>11</sup> The IPCC is “functus officio” as are all such appeal bodies

<sup>12</sup> The Police Ombudsman for Northern Ireland (PONI) is a suitable model, appointed for one 7 year term.

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### Supplementary memoranda submitted by John Crawley

#### 1. APPEALS TO THE IPCC

In his oral evidence the Chair of the IPCC stated that the rate at which appeals to the IPCC by complainants are upheld has risen to 33%; the IPCC's latest published data for 2008–09 give a figure of 29% (1020 cases). But this headline statistic unhelpfully combines *three different types* of appeal. Two of them are largely procedural—appeals against a decision by a force not to record a complaint; and appeals against failure to follow the correct procedure in Local Resolution—and do not assist a review of the proportion of appeals against *police investigations* being upheld by IPCC, these being the appeals of most concern to the public. These appeals can be on three separate grounds: against the *information* provided; against the *findings* and against the *outcome*. If an appeal is upheld on any aspect of these however minor—for example, that the complainant was entitled to have received a copy of a particular document—then the overall appeal is treated as upheld. Hence a significant proportion of the relatively small number of such appeals upheld (528 out of 2,385 in 2008–09) concern only minor shortcomings not the heart of the matter complained of.

#### Valid appeals completed (determined) by the IPCC in 2008–09

<i>Type of appeal:</i>	<i>Non recording</i>	<i>Local resolution</i>	<i>Police investigation</i>	<i>Total</i>
No. of valid appeals	701	433	2,385	3,519
% upheld	49%	34%	22%	29%

#### 2. THE OUTCOME WHEN AN APPEAL AGAINST A POLICE INVESTIGATION IS UPHELD

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 when desirable. There are occasions when such an independent element is necessary. As a commissioner I used the power. However, the IPCC confirms that for 2008–09 out of 258 upheld appeals where re-investigation was required *not once* did it use this power.<sup>13</sup> 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.

#### 3. POLICE COMPLAINTS, MISCONDUCT AND DISCIPLINE OUTCOMES

In his oral evidence to the Committee the Chair of the IPCC explained that allegations of incivility and poor service were the most common complaints and claimed that the law enacted by Parliament (Police Reform Act 2002) had tied the police's hands because it focuses solely on officer misconduct. They want a system where they “find out what has gone wrong and put it right, not just who is to blame and how they should be punished”<sup>14</sup> and where the police can apologise promptly. The IPCC is being materially misleading here about the need for a change in the law. The bulk of such low level complaints are *already* dealt with via Local Resolution, the quick and informal procedure provided for under the Police Reform Act. In this process it has to be agreed at the outset that no question of officer misconduct arises and of course there is nothing stopping the force apologising and putting things right very promptly.

But when we look at cases involving formal police investigations, the largest category of allegation—57%—is that of assaults. It is difficult to see how an allegation of assault can be investigated properly without the conduct of the officer concerned being central to the matter. Where a complaint is formally investigated the IPCC argues correctly that decisions on whether or not to uphold a complaint should be separated out from—should not depend upon—whether there is sufficient evidence to support *formal* discipline proceedings against an officer; lack of sufficient evidence for the latter should not preclude the former. But again this commonsense approach to substantiating complaints does not actually require a change in the Police Reform Act for it to take place; the IPCC are using this as an excuse for the very low level of complaints—10% on average—upheld by police.

The Committee has asked the IPCC for statistics on discipline cases and outcomes and suspensions etc. It will be interesting to see if it can muster this data; it dropped collation and publication of these statistics some years ago, a sign perhaps that the current complaints system will never deliver appropriate disciplinary outcomes. The issue here is not that complainants or indeed the wider public are vengeful or routinely want to see police officers punished every time they get something wrong, but that they want a proportionate system that ensures that firm discipline is a credible part of the overall set of outcomes when things have gone seriously awry.

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<sup>13</sup> In 2 cases it “supervised” the re-investigation, a very limited oversight role largely undertaken by the Casework Manager.

<sup>14</sup> IPCC statement on its reform proposals; legislation *is* needed to bring “direction and control” complaints within the IPCC system and it makes sense that the definition of a complaint on the face of legislation should be changed so that it is not confined to “conduct”—but the current Act does not prevent police focusing on both conduct and the complaint in the present system.

## Memorandum submitted by the IPCC

### 1. Introduction

1.1 The IPCC appreciated the opportunity to give oral evidence to the Home Affairs Select Committee's inquiry into the work of the IPCC on Tuesday 23 February. Following his evidence to the Committee in April 2009, Mr Hardwick, Chair of the IPCC was keen to speak to the Committee about the wider work and role of the IPCC and expected the evidence session on 23 February to be the opportunity for that work to be explored.

1.2 The Clerk's decision to refuse the IPCC's offer to provide a written submission prior to the hearing has necessarily limited the evidence base for the Committee's inquiry and report. This document therefore provides a response to the questions and issues raised by the Committee and other witnesses during the hearing along with supporting documentation.

1.3 The IPCC reiterates the comments made by Mr Hardwick in his oral evidence. The IPCC believes it has delivered the statutory duties given to it by Parliament. The public are more confident in the complaints system. The system is more accessible and officers who have committed criminal and disciplinary offences have been held accountable. We can show real improvement in policing practice as a result of our work. However, more needs to be done and we recognise the need to continue to drive improvement and confidence in the system.

1.4 The IPCC works in a controversial and adversarial environment. We believe public confidence reflects our commitment to carry out our work and reach conclusions fairly, impartially and solely on the evidence. We are held accountable each day in the courts and inquests for the quality of our work.

### 2. IPCC'S INVESTIGATION INTO THE DEATH OF MR SEAN RIGG

2.1 The Committee heard from Marcia Rigg and a representative from Inquest. The IPCC would like to repeat its deepest sympathy towards Mr Rigg's family.

2.2 The circumstances of Mr Rigg's death are vigorously contested by all the parties involved. The detailed forensic and expert evidence is complex. The IPCC hopes the inquest, at which all the evidence from the IPCC's investigation will be subject to cross-examination in public and all the parties will be represented, will answer the concerns of Mr Rigg's family. The IPCC shares the concern of families in these circumstances that inquests can take so long to occur.

2.3 However, two allegations were placed in the public domain at the Committee's hearing which were not correct and where the facts are already a matter of public record.

2.4 Mr Rigg was not in good health. Although physically fit, he was in a poor state of mental health.

2.5 The IPCC has found no evidence that any police officer committed a criminal offence in relation to Mr Rigg's death. The IPCC investigation collected all available evidential material and submitted a file to the Crown Prosecution Service (CPS). The CPS considered this evidence independently and determined that there was no evidence to justify the instigation of criminal proceedings against any officer involved.

2.6 In his evidence, Mr Hardwick made clear that the IPCC had no control or jurisdiction of the circumstances in which Mr Rigg's family were first allowed to see his body. However, over the preceding weekend, the IPCC investigator worked tirelessly to facilitate the arrangements for the family to view Mr Rigg's body at the earlier opportunity.

2.7 The IPCC regrets it has not been able to secure the confidence of Mr Rigg's family. We acknowledge there are families who cannot accept the conclusions of our investigations. Equally, we are heartened by the appreciation we receive from many other bereaved families. Police officers equally will have their own perceptions. It is important to remember that nearly all the most difficult cases will conclude with being considered by a jury in a trial or inquest. We are proud of the consistent endorsement our investigations receive when considered impartially in this way.

### 3. THE IPCC STATUTORY DUTIES

3.1 The statutory duty given to the IPCC by Parliament is to achieve public confidence in the police complaints system. This is assisted by but is not synonymous with police or complainant confidence.

3.2 The IPCC is required to exercise its functions impartially and independently from the police, the media, interest or other pressure groups.

3.3 Unlike other complaints systems with which members of the Committee may be familiar, police complaints are defined by statute in terms of the conduct of individual officers rather than the service received by the complainant.

3.4 In addition to complaints, the IPCC's remit includes:

- allegations of misconduct where no public complaint has been made (such as corruption) and
- deaths following police contact even where there has been no complaint or allegation of misconduct.

3.5 The supporting information contained in this submission and in the accompanying documents aims to answer the questions raised by the committee by showing how the IPCC delivers its statutory duties.

#### 4. SUSPENDING OFFICERS

4.1 The Committee asked about the IPCC's powers to suspend officers. Under the new discipline regulations (December 2008), where the IPCC has undertaken a supervised, managed or independent investigation, the force must consult with the IPCC in deciding whether to suspend the officer concerned.

4.2 In relation to ACPO ranking officers, where the relevant police authority determines that an officer of this rank ought to be suspended, it is required to notify the IPCC of its decision to suspend and its justification for suspension.

4.3 In all these instances, the IPCC cannot suspend nor can they direct suspension. Therefore, the Commission does not keep figures on the number of officers who have been suspended.

4.4 Under the previous discipline regulations, the Chair of the Commission had to approve the suspension of ACPO ranking officers. It was under this power that the Chair approved the suspension of Metropolitan Commander Ali Dizaei.

#### 5. INVESTIGATION OUTCOMES

5.1 As the Committee will be aware, most complaints are dealt with at a local level by the force concerned. Where the complainant agrees, the IPCC encourages less serious complaints to be resolved without a formal investigation.

5.2 Complaint outcomes for the year 2008–09 for those cases formally investigated are set out in document 1a of the enclosed supporting documents—Police Complaints: Statistics for England and Wales 2008–09.

5.3 These figures have been consistent for a number of years. The outcomes for Mr Crawley's forces were consistent with this average. The statistics for the previous years which also include those for Mr Crawley's forces are available in the Police Complaints Statistics which are attached at documents 1c–1e.

5.4 Complainants who are not satisfied with the outcome of their complaint can appeal to the IPCC. Appeal outcomes are set out in document 1 Police Complaints: Statistics for England and Wales 2008–09.

5.5 We have set out below an important change that will be introduced from April this year about how outcomes are determined and measured (please see paragraph 12 and also document 14).

5.6 Attached at annex A to this submission is a list of some of the criminal convictions which have resulted following an IPCC investigation.

#### 6. MISCONDUCT AND DISCIPLINE

6.1 The Committee asked for further information on misconduct and disciplinary outcomes. Please find this attached at annexes B and C to this document. In line with the legislative changes in December 2008 this information relates to IPCC investigations started and completed after the 1 December 2008.

6.2 The IPCC has responsibility for cases that arise both from complaints and misconduct allegations.

6.3 The IPCC presents the findings of its investigations to the CPS or relevant discipline authority as appropriate. The IPCC does not—and should not—determine guilt or sanction.

6.4 As the Committee will be aware, Parliament agreed major changes to the police discipline system which came into effect in 2008. The effect of these changes is to make the police discipline system more consistent with normal employment practice with an emphasis on improving performance.

6.5 The IPCC is monitoring the effect of these changes but sufficient information is not yet available for firm conclusions to be drawn. We hope this is something the Committee may wish to return to in future.

#### 7. INVESTIGATORS INVESTIGATING THEIR FORMER FORCES

7.1 Mr Crawley raised the issue of IPCC investigators, who are retired police officers carrying out investigations involving their former forces. Following the hearing, the Clerk requested further information on this matter.

7.2 Thirty percent of investigators and 11% of IPCC staff in total come from a police background. The remainder of staff are drawn from a wide variety of backgrounds. A majority of IPCC investigations concern homicides. As Mr Crawley acknowledged, former police officers and other staff with investigative experience bring with them a wealth of professional investigative expertise which is required for the IPCC to carry out competent, robust and successful investigations.

7.3 All investigators, irrespective of background are required to undertake a tailored, extensive and externally accredited training programme. Over the past three years this has resulted in the organisation having a growing number of investigators, particularly at the Deputy Senior Investigator level, with a non law enforcement background. We will continue to “grow” our own investigators as the organisation develops.

7.4 Investigations are carried out by mixed teams overseen by a Commissioner. The IPCC will consider any of its staff’s links with police forces when considering the deployment of investigators to a case. If an investigator knows any of the officers or police staff involved in an investigation, they are obliged immediately to declare a conflict of interest to their line manager/senior investigating officer and they would not be deployed on that investigation.

7.5 The role of Commissioners is vital to the independence of investigations. Commissioners set the terms of reference, oversee and take the ultimate responsibility for the quality and effectiveness of IPCC investigations and the decisions which follow. As the Committee heard, by law Commissioners are not allowed to have ever served as a police officer.

## 8. FEEDBACK FROM COMPLAINANTS

8.1 The Committee quoted dissatisfaction rates directly from the King’s College Report entitled “Appellants’, Complainants’ and Police Officers’ Satisfaction with the IPCC”. This report was commissioned by the National Audit Office (NAO) as part of their Value for Money review of the IPCC in 2008. The NAO felt unable to draw conclusions from this survey given the relatively low sample that they surveyed.

8.2 The following is taken directly from the NAO’s final report:

“We note that the Police Ombudsman for Northern Ireland routinely asks complainants and police officers at the end of an investigation how their case has been handled. An advantage of this good practice is that it avoids the difficulty of asking complainants well after the investigation has ended to revisit traumatic experiences which they are trying to put behind them. We wanted to interview a sample of complainants, police officers and appellants to obtain their views on the IPCC’s effectiveness in handling complaints. We were able to interview sufficient police officers and appellants but because of difficulties with the number of complainants we could approach, we were not able to interview sufficient complainants. As a result we have not sought to draw conclusions from the survey, but we discuss the methodological issues in Appendix 1 (paragraphs 14 and 15) and have published the findings of the survey in a report on our website. We have recommended that the IPCC should put complainant feedback on a firmer footing.”

8.3 The full reports of the NAO (document 2), Public Accounts Committee (PAC) (document 3) and King’s College (document 4) are attached for the Committee’s information. The Treasury Minute which was provided in response to the PAC report is also attached (document 5).

8.4 Since the NAO study the IPCC has been conducting regular surveys of appellants and will be publishing the first year’s data in the summer of 2010. In 2009, the Commission agreed to undertake surveys of complainants, family members involved in our independent investigations as well as those being investigated which will also be published in 2010–11.

## 9. PUBLIC CONFIDENCE SURVEY (document 6)

9.1 Whilst feedback from complainants and those subject to investigation is of importance to the IPCC, our statutory obligation is to establish and maintain public confidence in the complaints system. The public confidence survey that we commissioned in 2008 helped us to understand how people want their concerns addressed.

9.2 Of the 4,000 people surveyed, 88% of those who had heard of the IPCC thought they would be treated fairly if they made a complaint about a police officer to the IPCC. Sixty seven percent were very or fairly confident that the IPCC deals with complaints in an impartial way. In all but the most serious complaints, most people want an explanation or apology rather than an officer punished. The IPCC has worked hard to address this through the Stock Take (document 11) and the revised Statutory Guidance which will become operational in April 2010.

## 10. DEATHS IN CUSTODY

10.1 The Committee were interested in the fall in the number of deaths in custody and whether this was a direct result of the IPCC’s work in this area.

10.2 The figures from the Police Complaints Authority’s annual reports indicate that in the years prior to the establishment of the IPCC, deaths in police custody remained constant at 30–34 each year. Deaths in police custody have fallen in every year since the IPCC has been established from 36 in 2004–05 to 15 in 2008–09.

10.3 We have conducted rigorous and transparent reviews following many of these deaths which have resulted in both individuals being held to account where necessary and in us providing recommendations in relation to equipment and facilities. We believe that the recommendations that we have made in this area have gradually led to the incremental decrease in the overall number of deaths. Feedback which has been received from forces also supports this view.

10.4 Of course, the IPCC acknowledges the work of the police themselves and the contribution of the pressure groups in lowering the number of people who tragically die in these circumstances.

10.5 The IPCC continues to place a high priority on this area and this year has embarked on a robust research study which will look at deaths in custody over an 11 year period and will examine in detail the trends and circumstances of these deaths.

10.6 The IPCC's most recent report on deaths during or following police contact is contained within the IPCC Annual Report 2008–09. This is attached for your information (document 7).

## 11. THE IPCC'S CONTRIBUTION TO IMPROVED POLICING

11.1 We have included some of our research reports: *Police Road Traffic Incidents Study of cases involving serious and fatal injuries* (document 8) and *Police Custody as a "Place of Safety": Examining the use of Section 136 of the Mental Health Act 1983* (document 9).

11.2 Forty people died in police road traffic incidents in 2008–09. The IPCC's research report into Road Traffic Incidents identified shortcomings in police practice around police pursuits which have led to revisions to ACPO Guidance. We are working with the Home Office and police driving professionals to secure the codification of police pursuits practice in order to ensure compliance with best practice. There is broad acceptance that there should not be variation in police pursuit practice between neighbouring forces.

11.3 Police custody is not a safe place for people with mental health problems and the IPCC quickly became concerned about the number of people with mental health problem who died in police custody. The IPCC's report into the use of Section 136 of the Mental Health Act in police custody identified high numbers of people being placed in police custody suites as a place of safety. This was the first time national figures on this subject were produced and has been used to:

- Inform the Bradley Review into offender healthcare and formed part of the resulting recommendations to reduce the practice of using custody suites as places of safety; and
- Encourage local healthcare providers to create alternative places of safety and thereby reducing the risk of people with a mental illness dying in police custody.

11.4 Following the evidence session on 23 February, we were sent the written submission which Mr Crawley provided to the Committee prior to his appearance and which he and the Committee referred to during his evidence session. It has not been possible to review and provide a considered response to Mr Crawley's written submission in time for the Committee's deadline. Many of his points and proposals are a matter for policy makers and Parliament as they would require significant legislative changes. While the IPCC aims to draw out and feed back from its work, we do not believe we are the appropriate body to determine policing policy. We address Mr Crawley's points in relation to the effectiveness of the complaints system in paragraph 12 below where we reference the work done as a result of our Stock Take of the complaints system:—"*Building on Experience. Taking stock of the new police complaints system after four years operational experience*"—in 2008 (document 11).

## 12. THE IPCC THREE YEARS ON

12.1 The IPCC has developed significantly over the past three years.

*Stock Take of the complaints system* (documents 11 and 12),

12.2 During 2007–08, after three years experience of the complaints system, the IPCC undertook an evidenced based review of the system. This review was known as the "Stock Take". This involved extensive consultation with complainant and community groups, the police, Parliamentarians, and the wider public. The evidence base showed that most complaints are about officers being "rude and late", were made by people who mainly wanted an explanation and apology, but who often remained dissatisfied with the police response. Proposals for developing the complaints system, to make it more effective, were developed.

12.3 The Stock Take concluded with proposals to make the system more complainant focused and less bureaucratic. In particular, the proposals aimed to ensure that when a complaint is made, the first response of the police service is to quickly identify and fix the problem rather than an exclusive concern with the conduct of the officer. Of course, where the conduct of the officer is the concern, that still needs to be dealt with robustly. The Stock Take recognised that most complaints were best dealt with quickly and simply at local level. The proposals were also in line with the Parliamentary reforms of the police misconduct system implemented in December 2008.

12.4 The IPCC was grateful for the advice of the Parliamentary and Health Services Ombudsman (and other complaint bodies) in developing the proposals and the Ombudsman's endorsement of the Stock Take conclusions.

12.5 The Stock Take proposals received wide support and required two principal vehicles for being progressed:

- primary legislation—which depends on Parliamentary timetables. We are pleased that the Government indicated its support for these proposals in its recent White Paper on Policing and the broad support of the main political parties; and
- revising the IPCC's Statutory Guidance to the police on the handling of complaints. This has now been completed by the IPCC.

*IPCC Statutory Guidance to the Police* (documents 13 and 14)

12.6 Section 22 of the Police Reform Act 2002 enables the IPCC to issue guidance to the police on the operation of the complaints system. This guidance requires the approval of the Home Secretary. It is known as "The Statutory Guidance".

12.7 In the light of the Stock Take findings, the IPCC revised its Statutory Guidance (document 14). The Guidance was revised following a comprehensive consultation process. The revised Statutory Guidance received Ministerial approval in December 2009.

12.8 The guidance aims to make the system less bureaucratic and more complainant focussed. Key changes include:

- defining complaints as "a considered grievance" and encouraging forces to deal with less formal expressions of dissatisfaction before they become formal complaints; and
- introducing the concept of an "upheld" complaint so even where there is no individual misconduct or where misconduct cannot be proved but there is evidence, on the balance of probabilities, that the complainant has not received a satisfactory service, the complaint can be acknowledged; Encouraging forces to deal with complaints proportionately in accordance with seriousness of the matter concerned, rather than a "one-size-fits-all" approach.

12.9 The guidance stresses that where misconduct is the issue, this needs to be dealt with robustly and individual officers held to account.

12.10 The IPCC is currently conducting a major implementation programme with forces and the guidance will become operational in April this year.

12.11 The guidance is intended to be a web-based resource and will be publicly available on the IPCC's website.

*Confidence and Accountability Framework*

12.12 The IPCC has developed a framework for assessing the performance of individual forces in relation to complaint handling. This has been done with the police service and with wider consultation. To varying effect, forces already monitor their performance but a single shared system will enable force comparisons to be made, police authorities to better hold forces to account and for forces to better serve the public. The framework is currently being implemented and will be operational across all forces in England and Wales by April 2010 and developed further with forces thereafter. The information will be published enabling the public to hold forces to account.

12.13 The framework will provide a firmer basis for assessing the performance of forces than the raw complaints data which as Committee Members identified, can be interpreted in different ways.

*Learning the Lessons Bulletins* (documents 10)

12.14 An important feature of the IPCC's work is to draw out learning from the complaints system so that policing is improved for the public in the future. The IPCC published regular Learning the Lessons Bulletins. Publication is in collaboration with ACPO, APA, HMIC, NPIA, the Police Federation and the Home Office. The Bulletins have been widely welcomed.

*Operations Manual*

12.15 Internally, the IPCC has undertaken a major project to consolidate and enhance internal guidance to Commissioners and Staff. This will have benefits in improving consistency and quality of the work undertaken by the IPCC. The new Operations Manual will be implemented from 1 April 2010 and after a period of testing will be made publicly available save for any extracts which are operationally sensitive.

### 13. THEMATIC ISSUES

#### *Gender Violence*

13.1 The IPCC has experience of investigating alleged failures by the police in over 20 incidents of gender violence related deaths or very serious injuries over the past two years. In September 2009, the IPCC established a Gender Violence Strategic Support Group, comprising members from a number of key voluntary organisations in the field. The aim of this group is to consider some of the issues/trends emerging from IPCC investigations and consider how best this learning could be shared with forces and other key stakeholders. One of the ways the IPCC will do this is by producing a Learning the Lessons Bulletin specifically focussed on gender violence issues. This is planned for October 2010. Members of the group provide expert advice to the IPCC on individual cases.

13.2 The IPCC recently responded to the call for evidence from the Joint Committee on Human Rights in relation to Part 21 of the Crime and Security Bill, power to issue a domestic violence protection notice. The IPCC submission is attached for the Committee's information (document 15).

#### *Stop & Search*

13.3 The IPCC recognises concerns and different views on the police's use of stop and search powers. This is a matter for Parliament and police operational decisions. However, the IPCC has recently worked with a range of community and youth groups and consulted the police service to develop new criteria against which it will assess stop and search related complaints. The IPCC is currently in the process of informing forces about these criteria in preparation for full implementation in April 2010.

13.4 The IPCC recently responded to the call for evidence from the Joint Committee on Human Rights in relation to Part 1 of the Crime and Security Bill, police powers of stop and search. The IPCC submission is attached for the Committee's information (document 16).

13.5 We have required the police to refer all complaints related to the police's use of Section 44 (anti-terrorist related) stops to the IPCC. We are currently supervising a group of complaints where these powers appear to have been used in relation to tourists or professional photographers.

#### *Corruption*

13.6 Where there is an allegation of serious wrong doing, the public confidence survey makes it clear the public expect the IPCC to be involved from the start. This is a key priority for the IPCC. The IPCC has agreed a revised protocol with ACPO concerning how and when corruption allegations should be referred to us.

13.7 The IPCC is currently building a more comprehensive national picture of the risks associated with corrupt behaviour of officers and staff. This assessment will allow the IPCC to share those risks across the service, thus providing Chief Constables with opportunities to negate and or reduce the risks. We will make use of the full range of powers we have been given to investigate and expose serious wrong doing.

13.8 The IPCC's investigation into Metropolitan Police officer, Commander Ali Dizaei who was found guilty of misconduct in a public office raises wider concerns. We regret we did not have an opportunity to raise these with the Committee.

#### *Contracted staff*

13.9 We have noted the concerns expressed by some members of the Committee about the IPCC's lack of powers in relation to police contacted staff. This is a growing problem and a concern the IPCC shares. We regret there was not time to discuss this and hope this will be an issue to which the Committee will return.

### 14. GOVERNANCE OF THE IPCC

14.1 The Committee referred to the appointment of the Chair. Nick Hardwick was first appointed as Chair by the Crown in December 2002 and took up post in April 2003. He spent the first year overseeing the appointment of his colleague Commissioners, the appointment of the executive team and establishing the IPCC's values and ways of operating. The IPCC went live in April 2004. The Crown reappointed Nick Hardwick for a further five years in February 2008.

14.2 The terms of all Commissioners who were appointed in 2003–04 came to an end in 2008. Prior to this, Commissioners reviewed and discussed the structure and composition of a future Commission—Mr Crawley was part of these discussions. The Commission unanimously agreed to propose to the Home Office the reduction in the number of Commissioners, from 18 to 13 which included the creation of two new non-executive/non-operational Commissioners. The Home Office accepted this proposal.

14.3 During the reappointment process, existing Commissioners were required to reapply through a rigorous and competitive process overseen by the Office of the Commissioner for Public Appointments (OCPA). Some Commissioners chose to leave at the end of the first term, some reapplied and were not reappointed and some were appointed to further three or five year terms. As part of the process, Commissioners were asked to formally indicate whether they were likely to apply to be reappointed. Mr Crawley expressed his intention to apply for one of the posts of Deputy Chair. We do not think that at that point Mr Crawley or his colleagues were influenced in their work by their desire to be reappointed. In the event Mr Crawley subsequently decided not to pursue his application.

14.4 In his evidence to the Committee Mr Crawley proposed that Commissioners should be appointed for only one term and should be rotated around the country every two years so that they did not have continuous responsibility for the same group of forces.

14.5 The term of appointment for Commissioners is subject to Schedule 2 of the Police Reform Act 2002 which provides that they are eligible for reappointment. There are many public bodies—for example HM Inspector of Prisons—who invite their public appointees to work a second term.

## 15. CONCLUSION

15.1 The IPCC is proud of its achievements so far but of course recognises the system as a whole and the IPCC itself can further improve. We welcome feedback and the NAO and PAC reports have had a positive impact on our work. We try hard to engage with and maintain dialogue with our critics.

15.2 Resources are an issue and are likely to be more so in future. We think there is more we can do to make the system more efficient and complainant centred and would be grateful for the Committee's support in obtaining the legislative opportunity to do so.

15.3 The IPCC's work is recognised around the world as a tangible demonstration of the British tradition of policing by consent and respect for justice. Those who work for the IPCC feel privileged to have had the opportunity to do so and are committed to doing all they can to fulfil the responsibilities given to us by Parliament.

*25 February 2010*

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## **Memorandum submitted by the Police Federation of England and Wales**

### BACKGROUND

1. The Police Federation of England and Wales welcomes this inquiry by the Home Affairs Committee. As the body that represents the interests of 140,000 police officers, we bring together views on the welfare and efficiency of the force, and take responsibility for their presentation to both Government and other opinion formers. We would welcome the opportunity to provide further written or oral evidence to assist the Committee in their inquiry. For more information about the Police Federation please visit [www.polfed.org](http://www.polfed.org).

2. One of the primary functions of the Federation at a local level is to advise and assist its members when they are the subject of a formal complaint or internal investigation. It achieves this through a network of Discipline Liaison Officers who liaise with the IPCC Commissioners as well as the ACPO Discipline Lead, the Head of Professional Standards, the Police Authority Lead, solicitors and the Head of Personnel (HR) on all matters relating to misconduct or unsatisfactory performance procedures. They also operate as a point of contact for officers who are the subject of investigations and their families.

3. Our evidence is therefore designed to broadly represent the reported experiences of officers that have been the subject of—or witnesses involved in—IPCC investigations. We give a report of an actual case as an illustrative example of what can happen based on events that are not extraordinary and echo in other forces across the country.

### SUMMARY

4. We are supportive of the principles of the IPCC and the role they undertake. Since their inception they have demonstrated that they are an organisation that is prepared to consult, listen, learn and improve. Despite this progression at an organisational level, things on the ground do not always operate effectively. It is not uncommon for procedures to go awry which can have unfavourable consequences for all those involved but particularly those officers who have damning accusations hanging over their heads, frequently for years. In this document we highlight situations where we feel procedures could be improved and suggest means by which this might be achieved.

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#### ORGANISATIONAL EXPERIENCE

5. We fully understand the need for a body such as the IPCC and appreciate the difficult position they find themselves in, often perceived as standing between the police and the public and satisfying neither. We are supportive of the principles behind the work that they do and have worked together with them to revise complaints procedures and guidance. In December 2008, the IPCC released an advisory leaflet for police officers explaining the police complaints system which we contributed to:

[http://www.ipcc.gov.uk/you\\_and\\_the\\_police\\_complaints\\_system\\_-\\_pol\\_fed-ipcc.pdf](http://www.ipcc.gov.uk/you_and_the_police_complaints_system_-_pol_fed-ipcc.pdf)

6. The IPCC have also recently undertaken a consultation to devise new statutory guidance which the Federation contributed to and we were pleased with the draft document which is currently awaiting Home Office approval.

#### OFFICER EXPERIENCE

7. In general 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 livelihood, personal relationships and self-esteem.

8. One of the main problems officers associate with IPCC investigations is the length of time they take which is often far greater than if the matter was being dealt with by the local Department of Professional Standards (DPS). Cases which continue for several years are not uncommon. Here a recently concluded case is given as an example:

- In March 2006 a marked police vehicle attending an immediate response call was involved in a collision with a pedestrian who sadly died from his injuries.
- The enquiry started as a managed enquiry by the IPCC. Two weeks prior to the limitation of proceedings for the consideration of summary traffic offences, the IPCC declared it to be an independent enquiry and raised the stakes to investigate the officer involved for death by dangerous driving. The inquiry was prolonged for several months and the local Federation DLO sent many chase up e-mails to the IPCC.
- A further number of months went by with the final decision from the IPCC being that the officer be offered a written warning for an alleged breach of the force driving policy.
- The Federation did not agree with this decision believing that it should be dealt with by advice.
- On 27 October 2008 the Deputy Chief Constable at the time, issued the officer with a written warning for a breach of the Staffordshire Police driving policy.
- The issue finally came before an inquest and on 11 February 2010 the coroner's jury recorded a verdict of Accidental Death.
- The whole process took nearly four years to conclude. During this time the officer and his family suffered untold distress and anxiety. We feel that this case would have been less protracted if the IPCC had been more proportionate in their initial assessment of incidents that are referred to them.

9. The quality and skills of investigative officers and interviewers working on behalf of the IPCC are often called into question and we feel there is much scope here for improvements in the training and guidance provided by the organisation.

10. In theory, officers are supposed to be contacted by the IPCC every 28 days but this rarely appears to happen in reality and it is often left to Federation representatives to chase up information.

11. The impression we get is that the IPCC—much like the service it scrutinises—is over-stretched and under-resourced and would benefit from a review so that its remit is clearly established and resourced appropriately.

12. There appears to be an issue around the status of an officer within an investigation, namely whether they are a witness or a subject. If they are deemed to be a subject then they have a right to legal advice. But all too often there is often 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.

13. In the vast majority of cases, mistakes not malice are the cause in complaint cases. We recognise that steps have been made by the IPCC towards creating a greater emphasis on learning rather than blame but this has a long way to go yet and in the meantime officers remain under threat of criminal prosecution for omissions or inadvertent acts undertaken whilst executing their duty as an officer. We feel this situation needs to be re-assessed and rectified as soon as possible.

5 March 2010

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## Memorandum submitted by The Police Action Lawyers Group

### 1. INTRODUCTION

The Police Action Lawyers Group (PALG) is an organisation comprised of lawyers who represent complainants against the police throughout England and Wales.

PALG is comprised of solicitors, barristers and legal executives who represent complainants against the police throughout England and Wales. PALG members are concerned first and foremost with the principal objectives of the complainants we represent: to ensure that the police are held accountable for their conduct through all available avenues, including the police complaints system, judicial review and compensation claims.

We were established in 1991 and meet every three months. We are London based, with a sub-group in South Yorkshire.

PALG grew out of a desire to share information & expertise, and to ensure that complainant lawyers did not feel they were working in isolation. This was achieved by establishing regular meetings to discuss complainants' concerns and developments in police law & practice.

Due to our large and varied membership, the collective experience of PALG is considerable. We include lawyers who act on behalf of complainants against virtually every force in England and Wales. Membership is contingent on lawyers only acting for complainants, to ensure that we provide a wholly independent space to discuss complainants' concerns.

All of our work as an organisation is voluntary and we receive no funding of any kind. The group is motivated by a desire to achieve the best possible outcome for our clients, many of whom have suffered the most serious abuse at the hands of the police.

As a group we have also been in a position to liaise with other organisations representing complainant interests, including INQUEST, Liberty, Justice and MIND. We have also developed a lobbying role, particularly in relation to the police complaints system. To that end our members have attended before Select Committees, met with Ministers, and prepared regular briefings.

PALG members have been involved with numerous notable police complaint cases and inquiries, some of which are discussed in the case studies we have provided below. A high proportion of PALG lawyers represent members of the public in external complaints against the Metropolitan Police Service. These cases typically involve allegations of false imprisonment, assault and malicious prosecution, often aggravated by racism. A significant number of our clients are diagnosed with Post-Traumatic Stress Disorder, sometimes exacerbated by their experience of the police complaints system. Some of the most distressing cases we deal with are on behalf of families whose relatives have died in police custody. Many of our members are also active within the INQUEST Lawyers Group.

These submissions are made pursuant to a request from the Rt Hon Keith Vaz MP by way of a letter dated 23 February 2010. This followed the hearing of oral evidence by the Home Affairs Committee on 23 February 2010 on *The Work of the Independent Police Complaints Submission*.

### 2. BACKGROUND: PALG AND THE IPCC

#### 2.1 *The Historical Context*

It is important to bear in the mind the history of the investigation of police complaints in this country.

As the Committee will be aware, the IPCC was preceded by the Police Complaints Authority (PCA). The PCA had long been criticised by complainants and complainant groups for two primary reasons: firstly, that there was no provision for independent investigation (all police complaints were at the time investigated by police officers); and, secondly, for a lack of transparency: complainants were not entitled to see the investigating officers report. There were also problems with delays in the processing of complaints. However at the heart of all these criticisms lay the fundamental problem that complaints against the police were rarely upheld. Complaints would be brought about very serious misconduct issues, including allegations of criminal misconduct. These same allegations would lead to successful civil claims against the chief officer of the relevant force, with compensation being paid to the victim. However the officer(s) responsible would remain in post, undisciplined, because the complaints system appeared unable to deliver on this particular aspect of police accountability. The anomaly between the outcome of civil claims and the outcome of police complaints increasingly brought the complaints system into disrepute.

Complainants brought legal challenges to the complaints system that exposed its weaknesses, particularly around the issue of its lack of independence. Calls for an independent body to oversee and investigate police complaints dated back at least to Lord Scarman's Inquiry into the Brixton Riots in 1981, however they gained particular traction following the publication of the Stephen Lawrence Inquiry report (the "MacPherson Report") in 1999. The report made a specific recommendation regarding the need for an independent body to oversee the investigation of police complaints and this recommendation was accepted by the then Home Secretary.

In 2000, the government issued a consultation paper entitled *Complaints Against the Police: A Consultation Document*. This paper reflected two previous studies: one commissioned by the Home Office entitled *Feasibility of an Independent System for Investigating Complaints Against the Police*, and another by Liberty entitled *An Independent Police Complaints Commission*. PALG prepared a detailed response to the consultation.

In late 2000 the government issued a framework document entitled *Complaints Against the Police: Framework for a New System*. The Police Reform Act 2002 followed a further period of consultation, in which PALG was again involved, and the IPCC took over from the PCA on 1 April 2004.

## 2.2 Early Experience of the IPCC

In the 18 month period following the IPCC's coming to power, complainants and complainant bodies quickly became concerned regarding the quality of decision making by the IPCC, and for the apparent impartiality informing those decisions. This culminated in PALG submitting a dossier to the IPCC in October 2005 entitled *The PALG Experience of IPCC Decision Making and Performance* [see appendix A].

## 2.3 The Advisory Board

The IPCC Advisory Board was created with the stated intention of providing its stakeholders with a forum for being heard. PALG were represented on the Board from the outset, despite scepticism on the part of its members that its involvement might be deemed an endorsement.

Following long held concerns that, among other things, concerns raised during Board meetings were not being addressed, PALG tendered its resignation from the Advisory Board on 11 January 2008. A copy of the resignation letter is attached, at Appendix B.

## 3. THE POSITION NOW—AN INDEPENDENT AND EFFECTIVE COMPLAINTS SYSTEM?

The IPCC has on a number of occasions cited three primary factors in support of claims of effectiveness and independence. These are:

1. That substantially more complaints are now made each year;
2. That more complaints “in actual numbers” are now being substantiated; and
3. That a significant majority of the general public believe that their complaints would be dealt with fairly by the IPCC.

IPCC Chair Nick Hardwick made much of the above during the recent “File on 4” programme on BBC Radio 4 entitled “*How well does the IPCC police the police?*” [the transcript of which is attached at Appendix C]

Whilst it is clear that a greater number of complaints are now made against the police than were made in the days of the PCA, fewer of those complaints are in fact being upheld in real terms. In the final three years under the PCA, between 12 and 13% of complaints nationally were upheld. That figure has been in steady decline under the IPCC, falling to 10% in the latest statistics released (2008–09).

The figures above can appear especially stark when put into the context of individual forces. The Metropolitan Police is the largest police force in England and Wales. In 2008–09, only 4% of the 3,807 complaints made against the Metropolitan Police were upheld. This figure too has declined under the IPCC, coming down from 13% in 2004–05.

A fundamental issue here is what happens when the IPCC is faced with an account of abuse of power by a complainant and an account by officers, with little corroborative evidence on either side. In these circumstances the IPCC routinely concludes that it cannot uphold the complaint because of insufficient evidence. Indeed the IPCC chair Nick Hardwick confirmed that the IPCC cannot assist in such cases at a PALG meeting last year. Yet on the same evidence, and on the same standard of proof, a civil court is able to determine where the truth lies. It does this by testing each party's account. Police forces' legal advisors also reach conclusions on the likelihood of winning or losing a civil claim and settle many of our client's civil claims accordingly.

The IPCC's claim to public confidence is founded upon an MORI survey of individuals who had no actual experience of the IPCC. PALG members were consulted by the National Audit Office (NAO) in 2008 on the subject of the IPCC. The NAO, surprised that no survey of those who had actual experience of the IPCC had been commissioned, instructed that this be done. The result was that around 80% of those questioned stated themselves to be “dissatisfied” or “very dissatisfied” with the manner in which their appeal had been dealt with.

One of the myths about police complaints investigations is that they are “independent”, even if that is a key component of the Commission's title. The fact is that the vast majority of complaints, some of them about very serious assaults, are investigated by police officers from the same force as the “complained about” officer.

The 2008–09 statistics and annual report from the IPCC shows the following:

- (a) Only 88 complaints out of over 31,000 complaints cases (containing over 50,000 allegations) were independently investigated by the IPCC, and “managed” another 130 investigations. 42 independent investigations involved deaths in custody, as did 16 of the managed investigations.
- (b) Around 90% of investigations completed result in a finding that the allegations were unsubstantiated.
- (c) Allegations of discriminatory behaviour, serious assault, and “other assault” have the lowest “substantiation” rate at 3%, 5% and 4% respectively.
- (d) There were 397 allegations of serious assault and 7168 of other assault. There were over 1,500 allegations of discriminatory behaviour.
- (e) Some police forces dealt with up to 67% of complaints by way of “local resolution” by which there is no formal investigation at all.
- (f) The complaint substantiation rate for police forces varies between 23% (Northants) and 3% (Cheshire).

We are concerned with some of the implications of these figures.

- (a) It is still the case that minute numbers of complaints are upheld. We do not believe that 97% of complaints about serious assault are groundless or without foundation, or that almost 7,000 false complaints of assault were made last year;
- (b) The differentials between forces in substantiating complaints strongly suggests a “post-code lottery” and inconsistent standards of investigation by local police forces. Urgent research and investigation is required to ascertain why, for example, a complaint is over seven times more likely to be upheld in Northamptonshire as opposed to Cheshire.
- (c) If deaths in custody are removed from the figures then the IPCC is only independently investigating about 45 other cases a year out of the 31,000 total.

It is clear from the statistics that we do not have an independent police complaints system, even for the vast majority of various serious complaints. It would also appear clear from the above statistics that there are large numbers of police officers responsible for serious assault and other assaults who have not been held accountable for their actions.

It is our view that the current state of affairs does not comply with human rights law. In relation to serious assaults, we note that the State has the responsibility to ensure that there is an official effective investigation of arguable cases of serious mistreatment. In *Assenov v Bulgaria* (1998) 28 EHRR 652 the ECtHR set out that “arguable cases” of serious mistreatment in breach of Art 3 require “an effective official investigation...as with that under Article 2.” At [102] the Court said:

*“The Court considers that, in these circumstances, where an individual raises an arguable claim that he has been seriously ill-treated by the police or other such agents of the State unlawfully and in breach of Article 3, that provision, read in conjunction with the State’s general duty under Article 1 of the Convention to ‘secure to everyone within their jurisdiction the rights and freedoms in (the) Convention’, requires by implication that there should be an effective official investigation. This obligation, as with that under Article 2, should be capable of leading to the identification and punishment of those responsible. If this were not the case, the general legal prohibition of torture and inhuman and degrading treatment and punishment, despite its fundamental importance, would be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity.”*

In an opinion dated 12 March 2009 the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, set out what in his view should be the requirements concerning independent and effective determination of complaints against the police. In relation to an Independent Police Complaints Body (IPCB), the UK equivalent to which is the IPCC, he found that:

*29. An independent and effective complaints system is essential for securing and maintaining public trust and confidence in the police, and will serve as a fundamental protection against ill-treatment and misconduct. An independent police complaints body (IPCB) should form a pivotal part of such a system.*

*30. Five principles of effective police complaints investigation have been developed in the jurisprudence of the European Court of Human Rights on Articles 2 and 3 of the ECHR:*

- 1. Independence: there should not be institutional or hierarchical connections between the investigators and the officer complained against and there should be practical independence;*
- 2. Adequacy: the investigation should be capable of gathering evidence to determine whether police behaviour complained of was unlawful and to identify and punish those responsible;*
- 3. Promptness: the investigation should be conducted promptly and in an expeditious manner in order to maintain confidence in the rule of law;*

4. *Public scrutiny: procedures and decision-making should be open and transparent in order to ensure accountability; and*

5. *Victim involvement: the complainant should be involved in the complaints process in order to safeguard his or her legitimate interests.*

34. *Primary legislation should provide for the operation of an IPCB with general responsibilities for oversight of the police complaints system and express responsibility for investigating Article 2 and 3 complaints in accordance with the ECHR independence principle. Arrangements in the form of, for instance, secondary legislation, regulations, statutory guidance and protocols, will be required to enable the police and IPCB to work together in partnership and ensure that all complaints are handled fairly, independently and effectively.*

It is our view that the approach of the Commissioner reflects the law, and that, because the vast majority of complaints alleging an arguable breach of Art 3 are still investigated by the local police force, the necessary levels of independence are not being provided by the IPCC, even though the statutory framework for this to happen is in place. The problem for the IPCC is the limited resources available for investigation (even though there is no evidence that an independent investigation is more expensive than an investigation by a local police force).

There are ongoing cases testing the lawfulness of the current system. In the recent *Morrison* case Mr Justice Nicol held that it was not possible to say in advance that a local investigation would not comply with Art 3, because of the possibility of a criminal trial against police officers and the right of appeal to the IPCC. That decision is currently being considered by the Court of Appeal. In *Fox v UK*, a challenge to the independence of an investigation into serious assault is being considered by the European Court of Human Rights and the application has been communicated to the UK government for observations.

In relation to the IPCC system of appeals we note that there were 4,131 appeals in relation to investigation of complaints by local police forces in 2008–09 and that most of these were against the “outcome” of an investigation. Although the statistics say that 22% of the “outcome” appeals were upheld, what is not explained in the statistics is that “outcome” covers (i) appeals against the information provided by the police; (ii) the findings of the investigation (eg whether a complaint is substantiated); and (iii) the action the police propose to take (eg whether misconduct proceedings will be instituted). It is our view that a breakdown of the figures provided is required to allow complainants and the general public to obtain a proper impression of the appeals system. We also note that it is not possible to see from the level of successful appeals in relation to each police force. As noted above the “postcode lottery” of police complaints investigations is a particular concern that we have.

Further in relation to appeals, we are concerned about the ability of the IPCC to process over eighty appeals a week. We are concerned that low level case managers are used to decide appeals in the majority of cases and the experience of our members is that the quality of decision making is often poor. The only way to challenge an appeal decision by the IPCC is by way of an expensive application for judicial review (the IPCC is not able to “review” decisions which are clearly wrong at a higher level). Cases that have gone to a full hearing such as *Dennis* (2008) and *Herd* (2009) have shown that decisions can be irrational and/or fail to understand the basis of the appeal. We note the NAO’s concerns about the IPCC’s lack of internal quality assurance processes. It seems to us that appeals should always be considered by properly trained and experienced staff.

There is a sting in the tail too in relation to impact of the creation of the IPCC upon civil claims, which as highlighted above have historically been vital in calling to account police officers who abuse their powers. Whilst complainants are seemingly little or no better off now under the IPCC than they were the PCA, the “veneer” of independence means that their decision-making is considered by many to be more rigorous. In particular, where a complainant applies to the Legal Services Commission (LSC) for funding to pursue a civil claim, the LSC will have regard to the complaint outcome in deciding whether to make a grant of funding. Indeed, the funding code applied by the LSC has been amended in the wake of the creation of the IPCC specifically to require an individual to pursue the complaints process before seeking such funding (save in certain circumstances) Many of our clients then have their funding applications refused on the grounds that their complaint did not succeed. This is a deeply troubling development for police accountability in the UK.

In conclusion we would say the following:

1. That there is an historical failure to deliver on police accountability;
2. That the IPCC has failed to solve these historical problems; and,
3. That complainants are arguably now in a worse position due to the credence given by organisations such as the Legal services Commission to the findings of the IPCC.

**Letter from the Chair, IPCC, to Lynne Jones MP**

**RE: PARLIAMENTARY QUESTIONS TO THE SECRETARY OF STATE FOR THE HOME DEPARTMENT REGARDING THE IPCC**

I have been asked by the Home Office to respond to your Parliamentary Questions dated 27 January 2010.

1. *How many and what proportion of appeals to the IPCC against police investigation of complaints were upheld in each of the last three years; and how many such appeals resulted in a re-investigation (a) undertaken by the police; (b) supervised by the police; (c) managed by the IPCC and (d) undertaken independently by the IPCC?*

The following table shows the number and overall proportion of investigation appeals made to and upheld by the IPCC against police investigation of complaints in each of the last three years:

<i>Year</i>	<i>No. investigation appeals made</i>	<i>No. valid investigation appeals upheld*</i>
2006–07	1,995	307(17%)
2007–08	2,558	439(19%)
2008–09	3,038	528 (22%)

\* The proportion of appeals upheld only relates to valid investigation appeals completed by the IPCC.

In 2008–09, 258 upheld investigation appeals resulted in further/re-investigation. Of these 256 were investigated locally and two were supervised investigations. Data is not held for the years 2006–07 or 2007–08.

2. *On how many occasions the IPCC has used its statutory powers under the Police Reform Act 2002 to require a complaint case to be referred to it which did not fall to be referred to it on a mandatory basis by the police force or police authority concerned in each of the last three years?*

We do not hold this statistical information centrally. However, forces are compliant with IPCC requirements. It would now be very unusual for a force not to voluntarily refer a case to us once we had expressed a wish for them to do so. Our formal “call in” powers are therefore only very rarely used.

3. *On how many occasions the IPCC has presented a case against an officer at a police conduct hearing in each of the last three years?*

We do not hold this statistical information centrally. Prior to 1 December 2008, the IPCC could under Regulation 25 to the Police (Conduct) Regulations 2004 present cases, either itself or through independent counsel or solicitor provided that it had directed that a case should proceed to disciplinary proceedings. The position post 1 December 2008 is that the power to present disciplinary proceedings following a direction was revoked. The power was replaced so that by virtue of Regulation 30 to the Police (Conduct) Regulations 2008 the IPCC may attend misconduct proceedings to make representations.

4. *On how many occasions the IPCC has directed that a police conduct hearing be held in public in each of the last three years?*

The majority of cases which the IPCC independently investigate result in a public hearing in the form of a criminal trial or inquest.

In addition, as you will be aware, the IPCC has the power to to direct a public misconduct hearing under Regulation 30 of the Police (Conduct) Regulations 2004 (for cases coming to attention of the Appropriate Authority before 1 December 2008) or Regulation 32 of the Police (Conduct) Regulations 2008 (for those after 1 December 2008). The IPCC may direct that a misconduct hearing is heard in public in full or in part where:

- There has been an independent investigation, and
- The Commission considers it to be in the public interest because of either the gravity of the case or other exceptional circumstances.

IPCC Commissioners assess whether hearings should be held in public according to a specific set of criteria. These criteria are widely available on the IPCC website at [www.ipcc.gov.uk](http://www.ipcc.gov.uk).

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The IPCC has only ever once directed that a police conduct hearing be held in public. This was in the case of Colette Lynch in 2007. In case you are not aware of the particulars of the case, Ms Lynch was stabbed on 3 February 2005 by her estranged partner Percy Wright. The IPCC undertook an independent investigation into the circumstances leading up to her death and as a result of this investigation, we directed Warwickshire Police to hold a hearing in public in relation to two of their officers.

*17 February 2010*

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