



House of Commons
Home Affairs Committee

Leadership and standards in the police: follow-up

Tenth Report of Session 2013–14

Volume I



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Volume I: Report, together with formal minutes

Volume II: Oral and written evidence

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Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

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The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom.

Committee staff

The current staff of the Committee are Tom Healey (Clerk), Robert Cope (Second Clerk), Eleanor Scarnell (Committee Specialist), Andy Boyd (Senior Committee Assistant), Iwona Hankin (Committee Support Officer) and Alex Paterson (Select Committee Media Officer).

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1 Background to the inquiry

1. On the evening of Wednesday 19 September 2012, the Government Chief Whip, Rt Hon Andrew Mitchell MP, was involved in a brief altercation with a police officer as he left Downing Street on his bicycle. What exactly was said during the incident is contested and is the subject of a Metropolitan Police investigation, Operation Alice, along with various events that happened in its immediate aftermath. We make no comment on the events of 19 September and the following days. This Report concerns a meeting which took place on 12 October 2012, in Mr Mitchell's constituency office in Sutton Coldfield with three representatives of his local Police Federations:

- Inspector Ken MacKail of West Mercia Police Federation,
- Detective Sergeant Stuart Hinton of Warwickshire Police Federation, and
- Sergeant Chris Jones of West Midlands Police Federation.

Mr Mitchell was accompanied by a Conservative Party press officer. Following the meeting, the three officers gave a joint statement to the waiting media. In answer to a question following this statement, the officer who made the statement told the waiting press that Mr Mitchell had “refused to elaborate” on the events of the 19 September and that he should therefore resign. On 19 October 2012, Mr Mitchell resigned as Government Chief Whip.

2. On Tuesday 18 December, the Channel 4 *Dispatches* programme broadcast excerpts of a recording of the 12 October meeting which seemed to indicate that comments made to the press following the meeting did not fairly and accurately reflect what had been said. On 24 December 2012, West Mercia Police referred Inspector Ken MacKail to the IPCC to investigate whether he had a case to answer for misconduct. In March and April 2013, Warwickshire and West Midlands Police also referred their officers to the IPCC. The IPCC decided to supervise a joint investigation, led by West Mercia, into the conduct of all three officers.

3. In August 2013, the final report of the investigating officer was sent to the IPCC for review. In October 2013, Deborah Glass, the Deputy Chair of the IPCC released a statement which strongly disagreed with the conclusion of the final report that, while the officers' comments to the media could be viewed as ambiguous or misleading, there was no deliberate intention to lie, and that none of the officers, therefore, had a case to answer for misconduct or gross misconduct. Given this public disagreement between the IPCC and the forces concerned about the outcome of a supervised investigation, and the strong public interest in the wider issues involved, we decided to inquire into the matter.

2 Our inquiry

4. On 23 October 2013 we took evidence from a number of people associated with this matter.¹ During the evidence session it became clear that this was a complex case: the three individuals involved in the investigation—Mr Steve Bimson of the IPCC, Detective Inspector Smith and Chief Inspector Reakes-Williams of West Mercia Police—all drew different conclusions about whether or not there was a case to answer for misconduct or gross misconduct by the members of the Police Federation.

5. We found the evidence of Inspector Ken MacKaill (West Mercia Police); Detective Sergeant Stuart Hinton (Warwickshire Police); and Sergeant Chris Jones (West Midlands Police), the three Police Federation representatives, to be misleading, possibly deliberately so, and lacking in credibility. The answers they gave were contradictory, inconsistent and provided little or no insight into their actions. If evidence was given in a similar manner by three serving Police officers to a court of law it is our view that such testimony would undermine a case and lead a jury to reach an unfavourable conclusion as to the credibility of the evidence given by those police officers. We are appalled at the stubborn and unashamed refusal of an apology by Inspector MacKaill, Detective Sergeant Hinton, and Sergeant Jones to Mr Mitchell. The only remorse shown by the three officers is that relating to the choreography of their dealings with the media after the meeting. Their statement of the 21 October 2013, which they continued to adhere to during their evidence, apologises for the “poor judgement in talking to the media following the meeting” on the 12 October 2013.² We believe this is an empty gesture of little comfort to Mr Mitchell and his family. No matter what their view on the case, we find it incredible that they cannot recognise the impact their actions have had on another person’s personal life and career. Both the Chair and Chief Executive of the College of Policing took the view that all three officers should apologise to Mr Mitchell. Alex Marshall, Chief Executive of the College, believed that it was “clear that the conduct of the officers fell below the standard that was expected and they misrepresented what had been said by Mr Mitchell”³ and Professor Pearce, the College’s Chair, said that “it is very, very clear that some wrongdoing has taken place.”⁴ We also note that, despite accepting the transcript as having been a correct recording of the meeting, when DS Hinton was asked about his use of the phrase “we as you know as a federation have issues with the reform of this woman that the Conservative Party have”, he claimed to have been misquoted and stated that he believed it to be a typographical error. In the opinion of his own Chief Constable,

It is clear that the phrase “that woman” was a reference to the Home Secretary and this is quite obviously a disrespectful term which should not have been used by anyone, particularly a serving police officer.

¹ A list of witnesses is at p.18

² <http://www.polfed.org/newsroom/1676.aspx>

³ Q524

⁴ Q527

We find it extraordinary that any witness, let alone a Chief Constable, should seek to correct the evidence given by another, particularly when that witness is a sworn officer, and given the nature of the investigation on which this inquiry focuses.

6. The letter also specifically draws into question the integrity of the evidence provided by DS Hinton and states that his answers may have been

adversely affected by his mistaken belief that he may face a misconduct panel at some future time.⁵

We are appalled at the assertion that DS Hinton misled this Committee because of his belief that he could face a misconduct panel. All evidence given to select committees should be provided honestly and not be affected by forethoughts of any future outcome. It is an indictment of the quality of evidence provided by DS Hinton that, when specifically asked if the reference to “this woman that the Conservative Party have” was about the Home Secretary, he suggested that it was

“a typo, to be perfectly honest”.⁶

This can only be characterised as mendacious when subsequently he has informed us in a letter that he accepts that

the woman referred to in this sentence must be the Home Secretary. No discourtesy or lack of respect was intended in referring to her in this way. I offer an unqualified apology to her through your Committee if the transcript appears to suggest either. Having listened to the recording—I do not claim to have a positive memory of the precise circumstances over a year later—my interpretation is that I was somewhat uncertain in what I was seeking to say at this point, and appear to have failed to bring immediately to mind the Home Secretary’s name.⁷

It is a serious matter to mislead a Committee of this House and DS Hinton will be recalled to the Committee to apologise for this. If he fails to apologise, that would constitute a *prima facie* contempt of the House. We are referring DS Hinton to the IPCC.

7. We asked explicitly whether any of the officers concerned had been disciplined for misconduct on a previous occasion. Inspector MacKaill stated he had been previously disciplined for misconduct. We are still awaiting details of the case. At the time that Inspector MacKaill clarified his disciplinary record for the Committee, the other witnesses were also invited to do so and both indicated that they had not been subject to disciplinary procedures. However, On 30 October, we received correspondence from Chief Constable Sims which stated that Sergeant Jones has been the subject of 13 complaints (including the current one):

⁵ Letter from CC Parker, 28 October 2013

⁶ Q262

⁷ Letter from DS Hinton, 29 October 2013

two were subject of a local resolution with the complainant, three were closed by dispensation, five were unsubstantiated and two resulted in action being taken⁸

Chief Constable Sims suggests that it seemed likely that the officers may have misunderstood the question as it was put to them in Committee. However, since the Committee returned to the question at the end of the officers' evidence, and Inspector MacKaill offered a clarification about a disciplinary matter some years ago, we do not believe that Sergeant Jones could have failed to recognise the question that was being asked. **Sergeant Jones failed to give a full account of his disciplinary record when asked. It is a serious matter to mislead a Committee of this House and Sergeant Jones will be recalled to the Committee to apologise for this. If he fails to apologise, that would constitute a *prima facie* contempt of the House. We are referring Sergeant Jones to the IPCC. As regards Inspector MacKaill, we have yet to receive further details on his disciplinary record. If he has also failed to provide a full account, he too will be recalled to the Committee.**

8. Chief Inspector Reakes-Williams told us that he believed, and still believes, that there was a case to answer for misconduct. CI Reakes-Williams has a significant amount of investigatory experience within the force and we consider, as is reflected in the law, that as the investigating officer he is best placed to draw an appropriate conclusion. We were also impressed with Chief Inspector Reakes-Williams candour and integrity in giving evidence to us and we note that, although the IPCC have questioned the final recommendation of the West Mercia investigation, it has no concerns about the conduct of the investigation itself.⁹

9. We note the view of Chief Constable David Shaw that the origins of the problem lie in the fact that the IPCC did not carry out a managed or independent investigation in which it would have had a say as to the final conclusion.¹⁰ However, we also note that one of the reasons given by the IPCC for not conducting the investigation itself was its lack of resources to investigate quickly enough. The case highlights the IPCC's resource levels which have lead to backlogs and delays which was a conclusion in our last report on the IPCC.¹¹ **We note that this case is another serious, high-profile example in which the IPCC has been unable, due to resource constraints, to conduct a managed or independent investigation in a timely manner, relying instead on a supervised investigation by one of the forces concerned. We urge the Government to ensure that the resourcing for the IPCC is robust and enables it to, in real terms, take on more independent investigations. We were glad to hear the Home Secretary's commitment in a speech at the College of Policing to this. In this case, we consider the IPCC should ideally have conducted an independent investigation but this does not excuse either the conduct of the officers or the failure of the three forces to undertake the complaint investigation properly or in accordance with the applicable law.**

⁸ Letter from CC Sims, 30 October 2013

⁹ W Mercia ev letter, 22 October 2013 p4

¹⁰ For an explanation of the modes of investigation available to the IPCC, see Home Affairs Committee, Eleventh Report of Session 2012–13, *Independent Police Complaints Commission*, HC 494, para 9

¹¹ Home Affairs Committee, Eleventh Report of Session 2012–13, *Independent Police Complaints Commission*, HC 494, paragraphs 26–35

10. **We also recommend that the public interest test used by the IPCC in allocating resources includes a reference to cases where the wider reputation of the police service is at stake.**

11. Had there been a managed or independent investigation, the IPCC could have ordered that the officers face disciplinary charges. Deborah Glass the Deputy Chair of the IPCC, in her evidence before us publicly stated the IPCC's strong disagreement with the conclusions drawn by the Appropriate Authorities.¹² Ms Glass has been in post for 13 years and has significant experience in the investigation and conclusion of these type of matters and we consider her to be a person of the highest integrity. She also told us that she believed that there was a case to answer for gross misconduct, not just misconduct.¹³ We do not accept the assertion that she was offering an opinion without knowledge of the facts. The IPCC also had the ability at any time during the investigation to change its mode from a supervised investigation to either a managed or independent investigation. It does not have this power once the investigation has been concluded. Given the IPCC's concern over resources, we cannot help but draw the conclusion that an overworked and under-resourced body was unable to cope with the demands upon it. **The law is clear on the relative roles and responsibilities of the IPCC and forces in supervised investigations, and on the procedure for submitting reports to the IPCC and to Appropriate Authorities. However, given the difficulties which have arisen in this case we believe clearer guidance for Chief Constables should be produced to avoid a repeat of the current situation.**

12. The gross procedural irregularities in the handling of this matter, which led at the time to the decision that the officers involved would not face disciplinary action, are deeply concerning and call in to question its legal validity. The three forces stated that the IPCC agreed that the investigation report could be sent out without a conclusion but we have received a letter from Deborah Glass which states:

It appears that two separate conversations have been conflated, resulting in misunderstanding. The investigator and the IPCC were apparently under some pressure from West Midlands Police to release details of the investigation and its conclusions before the report had been finalised and signed off by the IPCC. West Midlands Police, having appointed West Mercia to carry out the investigation, did not have any locus until the completed investigation, with conclusions, was sent to them as the appropriate authority. Mr Bimson therefore rightly advised Mr Reakes-Williams that he should not, at that point, send West Midlands the draft report with its conclusions, which were matters for the investigator himself at that stage. At the later meeting with the investigator on 31 July ... it was made clear that there should be one set of conclusions and that we considered there was a case to answer for gross

¹² The 'Appropriate Authority' is a senior officer appointed by the Chief Constable to oversee disciplinary matters. He or she must decide whether to record a complaint against an officer or a conduct matter which has come to the force's attention by some other route, and whether to refer it to the IPCC. In an investigation supervised by the IPCC, it is for the Appropriate Authority to decide, on the basis of the report from the Investigator, whether the officer has a case to answer. See Appendix A to the letter from Chief Constable David Shaw, dated 22 October 2013.

¹³ Q110

misconduct. Our expectation was that, once the report was completed, all three appropriate authorities would then have the report and its conclusions.¹⁴

This is extremely serious. If ACC Cann sought to change the conclusions of the report prior to its being signed off by the IPCC, this is both unacceptable and unlawful.

13. At the time of the report from DI Smith and CI Reakes-Williams being submitted improperly to the Appropriate Authority without conclusions, a briefing meeting was held. It was attended by DI Smith, CI Reakes-Williams, Penny Fishwick (Head of Legal for West Mercia Police), and Deputy Chief Constables Chesterman (West Mercia Police) and Brunton (Warwickshire Police), the other two Appropriate Authorities. In this meeting, CI Reakes-Williams discussed his conclusions and noted his difference in opinion to DI Smith. We believe this meeting was most irregular. It is astonishing that despite having a legal adviser present and it being a significant meeting to the process, there were no formal minutes and only minimal notes recorded, and that the legal adviser considered it appropriate that such a meeting should take place at all. We have since received a copy of the notes taken at this meeting. The evidence confirms that, considering the huge public and press interest in this matter and the rank of the officers involved, the record of such a crucial meeting is largely devoid of content.

14. There is also a question as to whether the terminology was simply confusing—for the purposes of the IPCC, CI Reakes-Williams is the ‘investigating officer’ under the supervised investigation scheme. However, in the original report Detective Inspector Smith is referred to as the ‘investigating officer’ whereas Chief Inspector Reakes-Williams is referred to as the ‘senior investigating officer’.

15. The end result of these procedural irregularities was confusion and an investigation which, although no one disputes that it was itself run properly, has had a damaging impact on the reputation of all involved. **We recommend that guidance be given by the Home Office to Police Forces about the need for correct and comprehensive note-taking of meetings that have a material impact on a complaint investigation or conclusion.**

16. We welcome the apology to Andrew Mitchell made by Chief Constable Shaw (West Mercia Police), Chief Constable Parker (Warwickshire Police) and Chief Constable Sims (West Midlands) before us and we note that all three Chief Constables recognised the damage done to the Police service as a result of the events following the 12 October meeting. We agree. We also believe, however, that these apologies have been unnecessarily delayed and should have been given earlier and not just because the Chief Constables had been brought before a Select Committee of the House. We regret this absence of leadership at a critical time which could have, if exercised earlier, prevented reputational damage to the police service.

17. We consider that the opinion of the IPCC, the procedural irregularities discovered in the process and the apologies given by the Chief Constables leads to the clear view that the conclusions of the investigation should be redetermined immediately. We also consider that due to the wider implications of the case on the public’s trust in the police the redetermination should be done as quickly as possible. As a first option we see no

¹⁴ Letter from IPCC, 29 October 2013

logical reason why that this cannot be performed by the Chief Constables themselves, in order to expedite the process. Despite the Chief Constables' involvement as the Heads of the Forces involved, we believe it would be proper for them to take on this role as they were not the Appropriate Authority when the decision was originally made in August 2013. At the time this responsibility had been delegated to their Deputy or Assistant Chief Constables.

18. We note that in their evidence before us only Chief Constable Shaw has decided to redetermine the conclusion to the investigation and Chief Constables Sims and Parker are satisfied with the assurance, given retrospectively by the forces' Appropriate Authorities, that the procedural error had no material effect on their conclusions and would not change the decision. We find this differentiation in conclusions baffling. The 'second best' scenario is one provided by the decision of Chief Constable David Shaw to refer the investigation of Inspector Ken MacKail to an unconnected Chief Constable nominated by HMIC. Though, it does not fulfil the pace of redetermination required at this point, and we believe involving a further party is unnecessary, the decision does at least mean that the conclusion will be reassessed. We hope that this will bring full and proper closure to this case and urges the selected Chief Constable to conduct his review as quickly as possible.

19. We consider that Chief Constable Chris Sims has made the wrong decision in choosing to let the matter rest. The West Midlands Appropriate Authority, Assistant Chief Constable Cann, did not attend the high-level briefing meeting held on the 1 August 2013. Instead, ACC Cann came to his conclusion based on the investigation report, without the opinion of the investigating officer CI Reakes-Williams, which is required by law, and the second-hand verbal briefing of the officer who attended the meeting on the 1 August 2013 on his behalf. We believe this to be unsatisfactory, unlawful and in need of review.

20. We also believe that Chief Constable Parker has taken the wrong decision in not redetermining the conclusions of the investigation relating to DS Hinton. Not only does this stem from our summation of the deficiencies in the process of the original determination, noted above, but also the letter of 28 October 2013 from CC Parker. In the letter, it appears CC Parker is offering excuses for, and explanations of, the evidence given by other witnesses, including DS Hinton a member of his force. The letter includes an assertion from the Chief Constable Parker that he could provide a better explanation than the one given in evidence before us by DS Hinton, due to him "knowing DS Hinton as I do."¹⁵ This does not give the public confidence that the Warwickshire Police service is acting in an impartial manner. We are further concerned that CC Parker's decision not to redetermine whether or not DS Hinton had a case to answer is based on the assertion by DCC Brunton on reviewing the available evidence whilst he was abroad on annual leave. Whilst we understand the need for a decision to be made prior to the Chief Constable appearing to give evidence on this matter, we would suggest that once again, the manner in which this decision was taken was irregular and not fitting to the seriousness of the case.

¹⁵ Letter from CC Parker, 28 October 2013

21. We consider that the evidence of the IPCC, who would have concluded that there was a case to answer for gross misconduct, the consistently held opinion of the investigating officer that the officers may have a case to answer for misconduct, the apologies issued by the Chief Constables, and the procedural irregularities with the investigation report itself, lead any fair minded individual to the conclusion that the officers involved have a case to answer for misconduct or gross misconduct.

22. As well as reputational damage to the police, there has also been reputational damage to the Police Federation. Police officers cannot join a union, nor can they take industrial action. Instead the Police Federation is a statutory staff association which acts on behalf of police officers and is their only way of collectively voicing concerns. In the absence of the same industrial and employment rights enjoyed by most other employees, in both the public and private sectors, the Federation has a vital role to play in ensuring that the interests of police officers are properly represented at all levels, from the basic command unit to the UK Government.

23. The 12 October meeting was convened on the basis of an anti-cuts campaign run by the Midlands regional branches of the Federation—West Midlands, West Mercia and Warwickshire (known as Region 3)—and their media relations advisers, the Gaunt Brothers. In late September the national chairman of the Police Federation wrote to these three branches highlighting his concern about the personalisation of the anti-cuts campaign in Region 3, which he believed could “compromise the very people’s interests we are supposed to look out for.”¹⁶ The three Branch Chairs refused to make any changes to the campaign which they saw as having “received overwhelming support.”¹⁷ The Gaunt Brothers continued to ‘personalise’ their campaign by directly linking the meeting with Andrew Mitchell to the ‘plebgate’ affair. On 10 October, two days before the meeting, Gaunt Brothers tweeted:

Breaking news, Andrew Mitchell’s fate will be decided when he meets the PC Plebs of Mids, Mercia and Warks on Friday.¹⁸

24. It is clear that the Region 3 anti-cuts campaign had, in the view of the leadership of the Police Federation of England and Wales, overstepped the mark, straying into territory which was both highly politicised and personalised. When the behaviour of the three Region 3 representatives and their PR adviser, Jon Gaunt, is seen in the context of this campaign, it is not surprising that some should reach the conclusion that they might have regarded the resignation of a Cabinet Minister as a desirable outcome.

25. Chief Constable Chris Sims has told us that he has revised the Facilities Agreement to ensure that, in future, if a local Federation branch wishes to fund any expenditure which is

something novel and contentious—and I think, for example, hiring a PR guru would fit very neatly into that category—then I would expect the force to be told. I would expect there to be a discussion.¹⁹

¹⁶ Letter from Police Federation, 26 September 2012

¹⁷ Letter from Ian Edwards, Ken MacKaill and Simon Payne, 27 September 2012

¹⁸ *West Mercia Investigation into conduct of Police Federation representatives on 12 October 2012*, Statement from Deborah Glass, IPCC Deputy Chair, 15 October 2013

We agree. **It is right that forces and the Police Federation work together to ensure that facilities agreements allow for a degree of challenge by the force for Federation expenditure or activity which seems on the face of it to be inconsistent with Federation's legitimate functions.**

26. On 30 October, a progress report on the Independent Review Of The Police Federation, chaired by Sir David Normington KCB, was published.²⁰ The report notes that the Federation

has substantially lost the confidence of its members ... Its influence and impact on the public and policy debate has declined, just at a time when the police service is undergoing major changes and needs influential voices representing front line officers. It has turned in on itself and risks losing public confidence and its legitimacy to represent front line policing.²¹

The progress report notes that the events

surrounding the former Chief Whip are also creating expectations of change from inside and outside the Federation. Members and representatives at all levels of the Federation are appalled at the damage this is doing to policing and are increasing the calls for change.²²

[...]

public confidence is being tested as never before by the events surrounding the actions of Federation representatives in their dealings with the former Chief Whip, Andrew Mitchell. Whatever the precise rights and wrongs of the case, those events are damaging the Federation, its members and the wider police service.²³

We are also concerned to read that whilst the report authors believe that in order to be effective, the Police Federation must be exemplary in standards of behaviour and ethics, they “do not think that the Federation consistently measures up to these standards at present. In fact, we have found numerous instances, in the public domain and not, where it has fallen well short.”²⁴ Such criticism should impress upon Police Federation officials the importance of their behaviour being of the highest standard and being unquestionably ethical.

27. On 24 October 2013 the College of Policing published a draft Code of Ethics for police officers in England and Wales. That code of ethics is under public consultation until 29 November 2013 and so is in no way finalised. We welcome the introduction of a code of ethics in to policing. The Code will also act as a “Hippocratic Oath” for police officers much like that adopted by other highly respected professions such as those in the medical

¹⁹ Q517

²⁰ The Review is being led by the RSA (Royal Society for the encouragement of Arts, Manufactures and Commerce) and is funded by the Police Federation of England and Wales. It began in March 2013 and is expected to produce a final report by January 2014

²¹ Police Federation Independent Review, Progress Report, Sir David Normington, October 2013, p1

²² Police Federation Independent Review, Progress Report, Sir David Normington, October 2013, p10

²³ Police Federation Independent Review, Progress Report, Sir David Normington, October 2013, p3

²⁴ Police Federation Independent Review, Progress Report, Sir David Normington, October 2013, p13

and legal sectors which reflects the recommendations made by this Committee on several occasions and most recently in our Report on Leadership and Standards. We believe that the officers involved in this case would have breached several standards within this code should it have been existence on 12 October. We believe that standards such as:

- Do not use your position to inappropriately coerce a citizen, settle personal grievances, or enforce your own ideas of morality.
- Ensure your language or behaviour could not reasonably be perceived to be abusive, oppressive, harassing, bullying or victimising.
- Do not allow your personal views to affect your professional relationships or the service you provide.
- Avoid any activity (work-related or otherwise) that may bring the force in to disrepute, or damage the relationship of trust and confidence between the police and the public.
- Report all violations or potential violations of the Code, as well as any violations which you reasonably believe are about to occur.
- [Police officers] are even-handed and free from favouritism, bias or deception.
- [Police officers] make choices on evidence and merit and are not influenced by other factors.
- [Police officers] are open and transparent in [their] actions and decisions.

may well have been breached on 12 October. We must now be assured that the code of ethics will result in material change and that police forces in England and Wales must highlight their actions when they punish wrong-doing by their officers.

28. We asked whether the code would apply to sub-contractors (such as Serco) contracted by police forces to carry out duties, Police Federation employees and sub-contractors contracted by the Police Federation. We were told that although the Code would apply to police sub-contractors, police and the Police Federation officers and staff, it would not apply to Police Federation sub-contractors as the College could not enforce it. **We welcome the news that those contracted by police forces to carry out work on their behalf will be covered by the new Code of Ethics. We understand the College's reasoning in not seeking to apply the Code to contractors working on behalf of the Federation—there is the risk that attempting to over-extend its reach could undermine the value of the Code—but we recommend that the College give further consideration to whether or not a requirement could be placed on those working for the Federation to ensure that a reference to the Code is included in commercial contracts with those carrying out work on its behalf. Some of the criticism in this affair can be directed towards the publicity campaign orchestrated by Jon Gaunt and yet it is the reputation of the police and Police Federation which has been damaged. A requirement that the Police Federation sub-contractors abide by the Code of Ethics would reduce the possibility of such a damaging situation recurring in the future.**

Conclusions and recommendations

1. We find it extraordinary that any witness, let alone a Chief Constable, should seek to correct the evidence given by another, particularly when that witness is a sworn officer, and given the nature of the investigation on which this inquiry focuses. (Paragraph 5)
2. We are appalled at the assertion that DS Hinton misled this Committee because of his belief that he could face a misconduct panel. All evidence given to select committees should be provided honestly and not be affected by forethoughts of any future outcome. It is an indictment of the quality of evidence provided by DS Hinton that, when specifically asked if the reference to “this woman that the Conservative Party have” was about the Home Secretary, he suggested that it was

“a typo, to be perfectly honest”

This can only be characterised as mendacious when subsequently he has informed us in a letter that he accepts that

the woman referred to in this sentence must be the Home Secretary. No discourtesy or lack of respect was intended in referring to her in this way. I offer an unqualified apology to her through your Committee if the transcript appears to suggest either. Having listened to the recording—I do not claim to have a positive memory of the precise circumstances over a year later—my interpretation is that I was somewhat uncertain in what I was seeking to say at this point, and appear to have failed to bring immediately to mind the Home Secretary’s name.

It is a serious matter to mislead a Committee of this House and DS Hinton will be recalled to the Committee to apologise for this. If he fails to apologise, that would constitute a prima facie contempt of the House. We are referring DS Hinton to the IPCC. (Paragraph 6)

3. Sergeant Jones failed to give a full account of his disciplinary record when asked. It is a serious matter to mislead a Committee of this House and Sergeant Jones will be recalled to the Committee to apologise for this. If he fails to apologise, that would constitute a prima facie contempt of the House. We are referring Sergeant Jones to the IPCC. As regards Inspector MacKaill, we have yet to receive further details on his disciplinary record. If he has also failed to provide a full account, he too will be recalled to the Committee. (Paragraph 7)
4. We note that this case is another serious, high-profile example in which the IPCC has been unable, due to resource constraints, to conduct a managed or independent investigation in a timely manner, relying instead on a supervised investigation by one of the forces concerned. We urge the Government to ensure that the resourcing for the IPCC is robust and enables it to, in real terms, take on more independent investigations. We were glad to hear the Home Secretary’s commitment in a speech at the College of Policing to this. In this case, we consider the IPCC should ideally

have conducted an independent investigation but this does not excuse either the conduct of the officers or the failure of the three forces to undertake the complaint investigation properly or in accordance with the applicable law. (Paragraph 9)

5. We also recommend that the public interest test used by the IPCC in allocating resources includes a reference to cases where the wider reputation of the police service is at stake. (Paragraph 10)
6. The law is clear on the relative roles and responsibilities of the IPCC and forces in supervised investigations, and on the procedure for submitting reports to the IPCC and to Appropriate Authorities. However, given the difficulties which have arisen in this case we believe clearer guidance for Chief Constables should be produced to avoid a repeat of the current situation. (Paragraph 11)
7. This is extremely serious. If ACC Cann sought to change the conclusions of the report prior to its being signed off by the IPCC, this is both unacceptable and unlawful. (Paragraph 12)
8. At the time of the report from DI Smith and CI Reakes-Williams being submitted improperly to the Appropriate Authority without conclusions, a briefing meeting was held. It was attended by DI Smith, CI Reakes-Williams, Penny Fishwick (Head of Legal for West Mercia Police), and Deputy Chief Constables Chesterman (West Mercia Police) and Brunton (Warwickshire Police), the other two Appropriate Authorities. In this meeting, CI Reakes-Williams discussed his conclusions and noted his difference in opinion to DI Smith. We believe this meeting was most irregular. It is astonishing that despite having a legal adviser present and it being a significant meeting to the process, there were no formal minutes and only minimal notes recorded, and that the legal adviser considered it appropriate that such a meeting should take place at all. We have since received a copy of the notes taken at this meeting. The evidence confirms that, considering the huge public and press interest in this matter and the rank of the officers involved, the record of such a crucial meeting is largely devoid of content. (Paragraph 13)
9. We recommend that guidance be given by the Home Office to Police Forces about the need for correct and comprehensive note-taking of meetings that have a material impact on a complaint investigation or conclusion. (Paragraph 15)
10. We welcome the apology to Andrew Mitchell made by Chief Constable Shaw (West Mercia Police), Chief Constable Parker (Warwickshire Police) and Chief Constable Sims (West Midlands) before us and we note that all three Chief Constables recognised the damage done to the Police service as a result of the events following the 12 October meeting. We agree. We also believe, however, that these apologies have been unnecessarily delayed and should have been given earlier and not just because the Chief Constables had been brought before a Select Committee of the House. We regret this absence of leadership at a critical time which could have, if exercised earlier, prevented reputational damage to the police service. (Paragraph 16)
11. We consider that the opinion of the IPCC, the procedural irregularities discovered in the process and the apologies given by the Chief Constables leads to the clear view

that the conclusions of the investigation should be redetermined immediately. We also consider that due to the wider implications of the case on the public's trust in the police the redetermination should be done as quickly as possible. As a first option we see no logical reason why that this cannot be performed by the Chief Constables themselves, in order to expedite the process. Despite the Chief Constables' involvement as the Heads of the Forces involved, we believe it would be proper for them to take on this role as they were not the Appropriate Authority when the decision was originally made in August 2013. At the time this responsibility had been delegated to their Deputy or Assistant Chief Constables. (Paragraph 17)

12. We note that in their evidence before us only Chief Constable Shaw has decided to redetermine the conclusion to the investigation and Chief Constables Sims and Parker are satisfied with the assurance, given retrospectively by the forces' Appropriate Authorities, that the procedural error had no material effect on their conclusions and would not change the decision. We find this differentiation in conclusions baffling. The 'second best' scenario is one provided by the decision of Chief Constable David Shaw to refer the investigation of Inspector Ken MacKail to an unconnected Chief Constable nominated by HMIC. Though, it does not fulfil the pace of redetermination required at this point, and we believe involving a further party is unnecessary, the decision does at least mean that the conclusion will be reassessed. We hope that this will bring full and proper closure to this case and urges the selected Chief Constable to conduct his review as quickly as possible. (Paragraph 18)
13. We consider that Chief Constable Chris Sims has made the wrong decision in choosing to let the matter rest. The West Midlands Appropriate Authority, Assistant Chief Constable Cann, did not attend the high-level briefing meeting held on the 1 August 2013. Instead, ACC Cann came to his conclusion based on the investigation report, without the opinion of the investigating officer CI Reakes-Williams, which is required by law, and the second-hand verbal briefing of the officer who attended the meeting on the 1 August 2013 on his behalf. We believe this to be unsatisfactory, unlawful and in need of review. (Paragraph 19)
14. We also believe that Chief Constable Parker has taken the wrong decision in not redetermining the conclusions of the investigation relating to DS Hinton. Not only does this stem from our summation of the deficiencies in the process of the original determination, noted above, but also the letter of 28 October 2013 from CC Parker. In the letter, it appears CC Parker is offering excuses for, and explanations of, the evidence given by other witnesses, including DS Hinton a member of his force. The letter includes an assertion from the Chief Constable Parker that he could provide a better explanation than the one given in evidence before us by DS Hinton, due to him "knowing DS Hinton as I do." This does not give the public confidence that the Warwickshire Police service is acting in an impartial manner. We are further concerned that CC Parker's decision not to redetermine whether or not DS Hinton had a case to answer is based on the assertion by DCC Brunton on reviewing the available evidence whilst he was abroad on annual leave. Whilst we understand the need for a decision to be made prior to the Chief Constable appearing to give evidence on this matter, we would suggest that once again, the manner in which this

decision was taken was irregular and not fitting to the seriousness of the case. (Paragraph 20)

15. We consider that the evidence of the IPCC, who would have concluded that there was a case to answer for gross misconduct, the consistently held opinion of the investigating officer that the officers may have a case to answer for misconduct, the apologies issued by the Chief Constables, and the procedural irregularities with the investigation report itself, lead any fair minded individual to the conclusion that the officers involved have a case to answer for misconduct or gross misconduct. (Paragraph 21)
16. It is clear that the Region 3 anti-cuts campaign had, in the view of the leadership of the Police Federation of England and Wales, overstepped the mark, straying into territory which was both highly politicised and personalised. When the behaviour of the three Region 3 representatives and their PR adviser, Jon Gaunt, is seen in the context of this campaign, it is not surprising that some should reach the conclusion that they might have regarded the resignation of a Cabinet Minister as a desirable outcome. (Paragraph 24)
17. It is right that forces and the Police Federation work together to ensure that facilities agreements allow for a degree of challenge by the force for Federation expenditure or activity which seems on the face of it to be inconsistent with Federation's legitimate functions. (Paragraph 25)
18. We welcome the news that those contracted by police forces to carry out work on their behalf will be covered by the new Code of Ethics. We understand the College's reasoning in not seeking to apply the Code to contractors working on behalf of the Federation—there is the risk that attempting to over-extend its reach could undermine the value of the Code—but we recommend that the College give further consideration to whether or not a requirement could be placed on those working for the Federation to ensure that a reference to the Code is included in commercial contracts with those carrying out work on its behalf. Some of the criticism in this affair can be directed towards the publicity campaign orchestrated by Jon Gaunt and yet it is the reputation of the police and Police Federation which has been damaged. A requirement that the Police Federation sub-contractors abide by the Code of Ethics would reduce the possibility of such a damaging situation recurring in the future. (Paragraph 28)

Formal Minutes

Wednesday 30 October 2013

Members present:

Keith Vaz, in the Chair

James Clappison
Michael Ellis
Lorraine Fullbrook
Dr Julian Huppert

Steve McCabe
Mark Reckless
Chris Ruane

Draft Report (*Leadership and standards in the police: follow-up*), proposed by the Chair, brought up and read.

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

Paragraphs 1 to 28 read and agreed to.

Resolved, That the Report be the Tenth 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.

Written evidence was ordered to be reported to the House for printing with the Report (in addition to that ordered to be reported for publishing on 23 October 2013).

[Adjourned till Tuesday 5 November at 2.30 pm]

Witnesses

Wednesday 23 October 2013

Chief Inspector Jerry Reakes-Williams, Professional Standards, Warwickshire and West Mercia Police

Dame Anne Owers, Chair, and **Deborah Glass**, Deputy Chair, Independent Police Complaints Commission

DS Stuart Hinton, Warwickshire Police Federation, **Sgt Chris Jones**, West Midlands Police Federation, and **Inspector Ken MacKail**, West Mercia Police Federation

Chief Constable Andy Parker, Warwickshire Police, **Chief Constable David Shaw**, West Mercia Police, and **Chief Constable Chris Sims QPM**, West Midlands Police

Tuesday 29 October 2013

Professor Shirley Pearce CBE, Chair, and **Alex Marshall**, Chief Executive Officer, College of Policing

List of printed written evidence

- 1 Letter from Deborah Glass, Deputy Chair, Independent Police Complaints Commission
- 2 Letter from Andy Parker, Chief Constable Of Warwickshire Police
Appendix: Misconduct allegation against DS Stuart Hinton
- 3 Letter from David Shaw, Chief Constable Of West Mercia Police
Appendix A: The Police Misconduct System
Appendix B: List of enclosed documents
Investigator's Report Version 'A'
Investigator's Report Version 'B'
File Note of DCC Chesterman, 2 August 2013
Investigator's Report Version 'C'
Table explaining differences in Versions 'A', 'B' and 'C' of Investigator's Report
Joint Statements From The Three Chief Constables
- 4 Letter from Chris Sims, Chief Constable Of West Midlands Police
Appendix: Decision Note Sgt Christopher Jones
Addendum 1
Addendum 2
Addendum 3
- 5 Letter from Paul McKeever, Chairman, Police Federation of England and Wales, to Ian Edwards, Ken MacKaill and Simon Payne
- 6 Letter from Ian Edwards, Ken MacKaill and Simon Payne, to Paul McKeever, Chairman, Police Federation of England and Wales
- 7 Letter from David Shaw, Chief Constable Of West Mercia Police
Appendix A: Rough note of DCC Chesterman
Appendix B: Rough note of DCI Reakes-Williams
Appendix C: Rough note of DI Gerry Smith
- 8 Letter from Chris Sims, Chief Constable Of West Midlands Police
- 9 Letter from Andy Parker, Chief Constable Of Warwickshire Police
Appendix A: Notes on Case Summary by DCC Brunton
Appendix B: Rough note of DCC Brunton
- 10 Letter from Dame Anne Owers, Chair, Independent Police Complaints Commission
 - A) Letter to DCC Simon Chesterman from Ms Glass dated 6 Sept 2013
 - B) Letter from DCC Simon Chesterman to Ms Glass dated 3 Oct 2013
 - C) Email chain between DCC Simon Chesterman and Ms Glass between 3-7 Oct 2013
 - D) Letter to DCC Simon Chesterman from Ms Glass dated 10 Oct 2013
 - E) Letter to DCC Simon Chesterman from Ms Glass dated 14 Oct 2013
 - F) Letter from DCC Simon Chesterman to Ms Glass dated 15 Oct 2013
 - G) Letter from Ms Glass to Ron Ball PCC dated 16 Oct 2013
 - H) Letter from Bob Jones PCC to Dame Anne Owers dated 17 Oct 2013
 - I) Letter from Ron Ball PCC to Ms Glass dated 22 Oct 2013

- J) Letter from Dame Owers to Ron Ball PCC & Bob Jones PCC dated 22 Oct 2013
- K) Extract from Mr Bimson Policy Book
- L) Extract from Mr Bimson Policy Book
- 11 Letter from Deborah Glass, Deputy Chair, Independent Police Complaints Commission
- 12 Letter from Andy Parker, Chief Constable of Warwickshire Police
- 13 Letter from Neil Brunton, Deputy Chief Constable of Warwickshire Police
- 14 Letter from DS Stuart Hinton
- 15 Letter from Jon Gaunt
- 16 Letter from Chris Sims, Chief Constable of West Midlands Police
 - Appendix A: Covering report from DCI Doyle
 - Appendix B: DCI Doyle notes
 - Appendix C: Report from DCI Doyle to ACC Cann dated 2nd September 2013

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Third Report	Leadership and standards in the police	HC 67
Fourth Report	The work of the UK Border Agency (Oct–Dec 2012)	HC 486
Fifth Report	E-crime	HC 70
Sixth Report	Police and Crime Commissioners: power to remove Chief Constables	HC 487
Seventh Report	Asylum	HC 71
Eighth Report	The work of the UK Border Agency (Jan–March 2013)	HC 616
Ninth Report	Pre-Lisbon Treaty EU police and criminal justice measures: the UK's opt-in decision	HC 615

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Fourth Report	Private Investigators	HC 100
Fifth Report	The work of the UK Border Agency (Dec 2011–Mar 2012)	HC 71
Sixth Report	The work of the Border Force	HC 523
Seventh Report	Olympics Security	HC 531
Eighth Report	The work of the UK Border Agency (April–June 2012)	HC 603
Ninth Report	Drugs: Breaking the Cycle	HC 184-I
Tenth Report	Powers to investigate the Hillsborough disaster: interim Report on the Independent Police Complaints Commission	HC 793
Eleventh Report	Independent Police Complaints Commission	HC 494
Twelfth Report	The draft Anti-social Behaviour Bill: pre-legislative scrutiny	HC 836
Thirteenth Report	Undercover Policing: Interim Report	HC 837
Fourteenth Report	The work of the UK Border Agency (July–Sept 2012)	HC 792

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Third Report	Firearms Control	HC 447
Fourth Report	The work of the UK Border Agency	HC 587

Fifth Report	Police use of Tasers	HC 646
Sixth Report	Police Finances	HC 695
Seventh Report	Student Visas	HC 773
Eighth Report	Forced marriage	HC 880
Ninth Report	The work of the UK Border Agency (November 2010-March 2011)	HC 929
Tenth Report	Implications for the Justice and Home Affairs area of the accession of Turkey to the European Union	HC 789
Eleventh Report	Student Visas – follow up	HC 1445
Twelfth Report	Home Office – Work of the Permanent Secretary	HC 928
Thirteenth Report	Unauthorised tapping into or hacking of mobile communications	HC 907
Fourteenth Report	New Landscape of Policing	HC 939
Fifteenth Report	The work of the UK Border Agency (April-July 2011)	HC 1497
Sixteenth Report	Policing large scale disorder	HC 1456
Seventeenth Report	UK Border Controls	HC 1647
Eighteenth Report	Rules governing enforced removals from the UK	HC 563
Nineteenth Report	Roots of violent radicalisation	HC 1446
Twentieth Report	Extradition	HC 644
Twenty-first Report	Work of the UK Border Agency (August-Dec 2011)	HC 1722