



Independent Office
for Police Conduct

Swyddfa Annibynnol
Ymddygiad yr Heddlu

Rt Hon Harriet Harman QC MP
Chair, Joint Committee on Human Rights
House of Commons
SW1A 0AA

PO Box 473
Sale M33 0BW

Blwch Post 473
Sale M33 0BW

Tel/Ffôn 0300 020 0096

Text relay/Cyfnwidiad Testun 18001 020 8104 1220

Email/E-bost enquiries@policeconduct.gov.uk

Web/Gwefan www.policeconduct.gov.uk

Dear Ms Harman,

Independent Office for Police Conduct (IOPC) Response to the Joint Committee on Human Rights Report on Black People, Racism and Human Rights:

I am writing in relation to the recently published Joint Committee on Human Rights report on Black People, Racism and Human Rights.

The Committee made recommendations relating to the Angiolini review and learning arising from cases that engage article 2 of the European Convention on Human Rights. As the Independent Police Complaints Commission (IPCC) (the IOPC's predecessor organisation) was the subject of many of the recommendations made in the Angiolini report, I thought it might assist the Committee if I set out the IPCC response to the recommendations and the role the IOPC plays in identifying and disseminating learning from our work. I have responded below to the relevant recommendations from your report.

Committee recommendation 12. Recommendations from the Angiolini Review referencing institutional racism, race or discrimination must be responded to and taken forward as a matter of urgency. (Paragraph 74)

The IPCC responded to the recommendations made by Dame Elish on the 30 October 2017. The report is available on the National Archives website here:

https://webarchive.nationalarchives.gov.uk/20180226131942/https://www.ipcc.gov.uk/sites/default/files/Documents/research_stats/IPCC_response_to_Angiolini_Oct2017.pdf

This paper outlined the IPCC's response to the recommendations that related directly or indirectly to it as an organisation, including those relating to race and discrimination. A link to the IPCC response to these recommendations was shared with the Clerk to the Committee on 11 September 2020, alongside references to other available IOPC material regarding this subject matter. For ease, I have reproduced the Angiolini recommendations, and the IPCC response to recommendations referencing institutional racism, race or discrimination in annex A.

Further to the IPCC's response, the IOPC has not stood still in this area. We have taken a number of further steps to improve the investigation of article 2 cases and to respond to particular concerns amongst black communities such as the use of Taser and stop and search. This includes:

Race discrimination thematic work

Earlier this year we launched race discrimination as a thematic area of work¹. This means we will examine more cases relating to race discrimination issues, outside of those that arguably engage articles two and three of the European Convention on Human Rights which we already investigate. Initially we will focus on investigating more cases where there is an indication that disproportionality impacts BAME communities, including stop and search and use of force. We will also be investigating more cases where victims from BAME communities have felt unfairly treated by the police.

We have piloted the use of thematic learning in a review of investigations into stop and search in the Metropolitan Police Service (MPS) which resulted in 11 recommendations being made. The recommendations found the legitimacy of stop and searches was being undermined by:

- a lack of understanding about the impact of disproportionality

The review mirrors concerns expressed to us by communities across London. We saw a lack of understanding from officers about why their actions were perceived to be discriminatory. We recommended the MPS takes steps to ensure that assumptions, stereotypes and bias (conscious or unconscious) are not informing or affecting their officer's decision making on stop and search.

- poor communication
- consistent use of force over seeking cooperation

Handcuffs were used in nearly all instances where the use of other tactics could have de-escalated the encounter.

- the failure to use body-worn video from the outset of contact and
- continuing to seek further evidence after the initial grounds for the stop and search were unfounded.

In two investigations, the smell of cannabis formed the sole grounds given for the stop. Not only is this counter to policing practice, it undermines the legitimacy of the stop and search.

In several of these investigations, although the initial search was negative, rather than

¹ <https://www.policeconduct.gov.uk/news/iopc-announces-thematic-focus-race-discrimination-investigations>

ending the encounter, officers found new grounds to continue the search.

The MPS has accepted our recommendations and written to us to explain how they are responding to them. Further information regarding both the recommendations, and the MPS response is published on the IOPC website.²

Taser use

As well as stop and search, we are now undertaking a review of taser use in policing, which will report next year.

In addition, the IOPC called for greater local scrutiny of police use of Taser on 14 May 2020³ and I wrote to the Deputy Mayors for Policing and Crime and the Police and Crime Commissioner for the West Midlands to seek assurances regarding appropriate scrutiny of Taser use at a local level after specific incidents in those areas.

I was pleased to receive responses back from the Deputy Mayors and the PCC for West Midlands Police setting out the local scrutiny mechanisms in their area and how they were tackling this issue.

The Mayor of London has also improved scrutiny of both the use of Taser and stop and search in the measures announced recently as part of the Mayor's Action Plan to improve public confidence in the Metropolitan Police.⁴

Training

Given the increased work we are taking on in this area, we have developed an improved programme of discrimination training for our operational staff. Since August, more than 70 investigative staff and casework managers have been trained nationally to lead and support our race discrimination work.

The training is designed to improve technical knowledge and covers the overarching principles and practicalities of investigating race-based discrimination.

Data

The IOPC publishes annual statistics on deaths during or following police contact. These statistics are designated National Statistics by the UK Statistics Authority. Following recommendation 104 of the Angiolini Review, we have continued to examine how we can improve the presentation and accessibility of information regarding the correlation between ethnicity and restraint related deaths.

² <https://www.policeconduct.gov.uk/news/review-identifies-eleven-opportunities-met-improve-stop-and-search>

³ <https://www.policeconduct.gov.uk/news/iopc-calls-greater-scrutiny-taser-use-following-increasing-concerns#:~:text=The%20Independent%20Office%20for%20Police,community%20concerns%20in%20recent%20months.&text=%E2%80%9CThe%20IOPC%20recognises%20that%20the,often%20dangerous%20and%20challenging%20situations.>

⁴ <https://www.london.gov.uk/press-releases/mayoral/stop-and-search-to-be-better-scrutinised>

For the most recent statistics covering April 2019 to March 2020 (published in October), we have provided descriptions for all deaths in the “during or following police custody” category and for those deaths involving a police use of force, which would include restraint related deaths, in the “other deaths following police contact (independent only)” category. In addition, we have published a summary slide deck alongside the report that clearly outlines the main figures from this year’s report. This includes figures on use of force across these different categories and states the ethnicity of the deceased.

Gathering evidence in Article 2 investigations

Concerns were raised in the Angiolini review regarding perceived or actual opportunities for police officers and staff to confer prior to providing an account post incident. Dame Elish was supportive of the IPCC’s draft guidance, that was in existence at that time, on achieving best evidence in post incident procedures.

I am pleased to report that the Home Secretary approved this statutory guidance in January 2019. The guidance ensures that police forces must follow robust standards in the collection of evidence following a relevant incident.

13. As we recently recommended in our report on the human rights implications of measures to tackle Covid-19, the Government should give serious thought to establishing a Commissioner or Office of Article 2 compliance, to ensure that the correct processes are followed in cases requiring Article 2 ECHR investigations, without relying on bereaved families for ensuring appropriate follow-up. Such a body should ensure that lessons are learned, and that best practice is disseminated to relevant bodies to prevent future unnecessary deaths. (Paragraph 75)

Whilst consideration of recommendation 13 is clearly a matter for the Government, I thought it might be helpful to outline to the Committee how the IOPC makes learning recommendations, the duties on policing bodies to respond to our recommendations, and the practical steps we take in relation to the identification and dissemination of learning relating to IOPC cases.

The IOPC has the ability to make learning recommendations under two separate sections of the Police Reform Act 2002. Under Section 10 (1 e), the General Functions of the Commission (Office), it is the function of the Commission to:

“to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also of police practice in relation to other matters, as appear, from the carrying out by the Commission of its other functions, to be necessary or desirable;”

These powers were strengthened further in 2014 and we can now make formal learning recommendations to policing bodies arising from issues identified in a final report, appeal (review) or death and serious injury report (these are known as Section 28A recommendations). These recommendations are required to be published on our website and policing bodies have a statutory duty to respond to them within 56 days of issue. Responses are also required to be published on the IOPC website.

Since transition to the IOPC, between 8 January 2018 and 14 October 2020, the IOPC has issued 267 learning recommendations. Of these:

- 147 relate to cases in which the IOPC investigated a death
- 84 of the 147 recommendations made in cases involving a death were issued under S28A of Schedule 3 of the Police Reform Act 2002
 - Of these 84 learning recommendations made under Section 28A. 75 were local recommendations (i.e. made to individual police force or policing body) and 9 were national recommendations
- Of the 75 local recommendations, 52 have been accepted, 2 have not been accepted, 8 had an unclear response and the response is awaited in 13
- Of the 9 national recommendations, 5 have been accepted and a response is awaited in 4

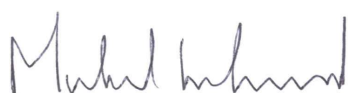
In order to demonstrate the impact of our work, we publish an annual Impact Report which illustrates examples of our learning and the impact we have had on policing. Our Impact Reports for 2018/19 and 2019/20 are available on our website⁵.

We also ensure that learning is disseminated throughout policing. We publish a quarterly magazine called Learning the Lessons which is contributed to by a range of policing bodies. The publication is popular amongst police officers and staff and each edition is regularly downloaded by over 1,000 people.

In addition, we share all of our learning with HMICFRS in order to assist them in their inspection of police forces. Our Regional Directors and oversight team also follow up learning recommendations with individual police forces.

I hope this is a helpful update of the work we (and our predecessor organisation) have done to respond to the recommendations made by Dame Elish. If you or the Committee would find it helpful to have any further information, then please do not hesitate to get in touch.

Best wishes



Michael Lockwood
Director General
Independent Office for Police Conduct (IOPC)

⁵ <https://www.policeconduct.gov.uk/who-we-are/accountability-and-performance/annual-report-and-plans>

Annex A

Recommendations in the Angiolini review to the IPCC referencing race

57. IPCC investigators should consider if discriminatory attitudes have played a part in restraint-related deaths in all cases where restraint, ethnicity and mental health play a part (in line with the IPCC discrimination guidelines). A systematic approach should be adopted across the organisation. (Ethnicity, 5)	Following our own review of how we investigate deaths, we committed to ensuring that issues of discrimination are always taken into account in our mode of investigation decisions, setting terms of reference and throughout the course of an independent investigation. In September 2015 we also published revised guidance on dealing with allegations of discrimination, which is to be used by the police service and our own staff. This states: ‘The terms of reference for an investigation into a complaint, conduct matter or death or serious injury matter that raises issues of discrimination should explicitly refer to and address any discrimination allegations raised. This includes where discrimination is alleged as an aggravating factor in relation to a separate criminal or misconduct allegation or where no specific allegation of discrimination has been made but it is apparent that discrimination may be a relevant consideration.’ We believe that having a systematic approach is key to achieving consistency and effectiveness in this area. Training on personal bias and discrimination has been incorporated into the core skills training for all new IPCC investigators. Recent training for decision makers on approving terms of reference also included a specific focus on explicitly addressing any potential issues of discrimination.
98. The IPCC should ensure that race and discrimination issues are considered as an integral part of its work. This should be monitored and fed into internal learning and the IPCC’s ‘watchdog’ role. (Ethnicity, 5)	Addressing discrimination has been a central part of the IPCC’s work in recent years. As previously stated, we have developed guidelines on handling allegations of discrimination to help ensure that forces and the IPCC identify, consider and address discrimination appropriately. As part of our oversight work, we have also carried out and published reviews of how allegations are being dealt with by forces at a local level in three thematic reports, noting that we uphold more appeals relating to discrimination allegations than other matters and directing reinvestigations. We have recently published the findings of this review and have made number of recommendations for improvement. We have asked all forces to review and apply the recommendations, and to identify where they

	can adopt the good practice examples from the report.
78. The IPCC should address discrimination issues robustly within misconduct recommendations, including where discrimination is not overt but can be inferred from the evidence in that specific case or similar cases involving the same officer. (Ethnicity, 5)	We recognise that it is extremely important that discrimination issues are dealt with robustly, by both forces and the IPCC. As previously mentioned, in September 2015 we published revised guidelines on dealing with allegations of discrimination, which both the police and IPCC staff should follow. They provide guidance on identifying different forms of discrimination, including where the discrimination has not been overt. Paragraph 6.9 of the guidelines sets out that: 'The investigating officer must look at all the circumstances of the particular case in order to see if discrimination can rightly be inferred from the surrounding facts'. Case to answer decisions must be based on the evidence available. However, the guidelines highlight that this may include evidence from previous incidents. Our effectiveness and proficiency in this area remains a priority. As has been mentioned, all of our operational staff have undertaken training on personal bias and discrimination.
104. The IPCC should monitor the correlation between ethnicity and restraint-related deaths, including in healthcare settings where the police were involved. Statistics should be published breaking down restraint related deaths by ethnicity. (Ethnicity, 5)	The IPCC already collects data on deaths following police contact (including in healthcare settings) where we investigate, identifying whether restraint was used, and the ethnicity of the deceased. This information is published in our annual deaths statistics. This year, we have provided an ethnic breakdown not only of deaths that follow arrest, but also of other restraint-related deaths that we independently investigated. We will explore whether there are other ways of presenting this information so that it is as accessible and transparent as possible.
107. The IPCC should monitor ethnicity and deaths in custody against ethnicity and arrests by reference to all arrests, including non-notifiable offences. (Ethnicity, 5)	The responsibility for collecting data on arrests currently resides with the Home Office, which records only notifiable arrests. We have correlated deaths in custody by reference to the number of such arrests, and can provide a breakdown by ethnicity. We are not aware of any consistent statistics in relation to non-notifiable arrests, and this would need to be discussed further with the Home Office.

