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House of Commons
Home Affairs Committee

Leadership and standards in the police: follow-up

Tenth Report of Session 2013–14

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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Ian Austin MP (Labour, Dudley North)
Nicola Blackwood MP (Conservative, Oxford West and Abingdon)
James Clappison MP (Conservative, Hertsmere)
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Yasmin Qureshi MP (Labour, Bolton South East)
Mark Reckless MP (Conservative, Rochester and Strood)
Mr David Winnick MP (Labour, Walsall North)

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Karl Turner MP (Labour, Kingston upon Hull East)
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Publication

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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Oral evidence

Taken before the Home Affairs Committee

on Wednesday 23 October 2013

Members present:

Keith Vaz (Chair)

Nicola Blackwood
Mr James Clappison
Michael Ellis
Lorraine Fullbrook
Dr Julian Huppert

Steve McCabe
Mark Reckless
Chris Ruane
Mr David Winnick

Examination of Witness

Witness: **Chief Inspector Jerry Reakes-Williams**, Professional Standards, Warwickshire and West Mercia Police, gave evidence.

Q1 Chair: Before I begin the session, could I thank Chief Inspector Reakes-Williams for coming to give evidence to the Select Committee today. We are most grateful.

This is a continuation of the Select Committee's inquiry into leadership and standards in the police, and in particular the response by the IPCC to the report by the West Mercia, Warwickshire and West Midlands Police. First of all, Chief Inspector, I wrote to you earlier this week and I asked you to supply some documentation to this Committee consisting of your draft report, which I will call "draft report A" and your second report "final report B" and you were unable to supply it. Was there a reason that you personally were unable to supply this?

Chief Inspector Reakes-Williams: I understood that the force was going to do that on my behalf.

Q2 Chair: We received a letter from a Penny Fishwick who said that she advised the Chief Constable to instruct you not to submit any documentation in response to your request at the present time. Did you have any contact with this solicitor?

Chief Inspector Reakes-Williams: With Penny Fishwick? Yes, I have had contact with her. As I say, I understand that the force were going to provide those documents.

Q3 Chair: Which is why you did not?

Chief Inspector Reakes-Williams: I did not do it on that basis.

Q4 Chair: We have now received that documentation from the Chief Constable. I just wanted to clarify why you were not able to send it. Can I remind you, as I will remind all witnesses before us today, that it is a prima facie contempt of the House to give false evidence to a Select Committee? I am sure you were aware of that.

You wrote the initial and the final report to the IPCC in respect of these matters, and in the first report—

Chief Inspector Reakes-Williams: Sorry, Chair, can I just correct you? To be absolutely accurate, my Detective Inspector actually wrote the report but with

me supervising it and checking it, and it was obviously submitted when I had seen it and approved it.

Q5 Chair: Were you the senior officer involved?

Chief Inspector Reakes-Williams: Yes.

Q6 Chair: Did you end the draft report with the words, "By giving a misleading account of what took place at the meeting I believe the officers have a case to answer for misconduct and bringing discredit on the police service"?

Chief Inspector Reakes-Williams: Yes, I did.

Q7 Chair: Do you still consider that the three officers concerned—and we will hear from them later—have a case to answer in respect of misconduct and discredit being brought on the police service?

Chief Inspector Reakes-Williams: Absolutely, yes, I do.

Q8 Chair: Could you tell the Committee why?

Chief Inspector Reakes-Williams: Chair, I find myself in some difficulty here. I am very clear that I did find a case to answer of misconduct. That is still my view. My difficulty is that I understand that my Chief Constable has written to you and said that there may still be proceedings. Therefore, I find myself in a difficult position when it comes to going into details, as to explaining exactly why. I am very clear on what the position is, but I am not sure that I should be going into details about my rationale. I know that you have that and that is still my position. I hope the members of the Committee all have that report, and I feel it would not be appropriate to go into all the details in public when there may still be proceedings. I hope you understand that.

Q9 Chair: As you know, this is a report that has already been written and your reasoning is very clearly in that report so it is already in the public domain. We are asking you about that. We are not asking you about something that is confidential. The Committee intends to publish all the reports and all the documents because, as you know, the IPCC—and

indeed your Chief Constable—were very clear that the process was not a problem. They thought the investigation appeared to be thorough. It is just the conclusions. So we are interested today not in the detail, just in your conclusions that were appended to report A. It is those conclusions, which presumably as you say have not changed. Perhaps you could tell this Committee because it is in the public domain. It will not have any effect on any future proceedings because nobody is questioning the investigative process or the fact finding. What we want today is facts. We are not here to provide mediation between the various parties. We are here to establish the facts. So would you tell the Committee why you came to that conclusion, because they are your conclusions and, as you say, they are not going to change are they?

Chief Inspector Reakes-Williams: No, they are not. Okay. My view is that taken as a whole the comments made by the Federation representatives did have the impact of misleading the public as to what happened in that meeting. I think it is important that I make a distinction between misconduct and gross misconduct. If I thought the case was made out that the officers had lied my conclusion would have said it was gross misconduct, without question. I think there is room for interpretation. We are talking here about semantics to some extent, what weight you put on certain words and certain phrases. That is one aspect.

Q10 Chair: Is that because the version that was given at the meeting, which of course was recorded, was different to the version that was given to the press immediately after the meeting on 12 October, is that why you come to that conclusion?

Chief Inspector Reakes-Williams: I think it is based on the phrase that Inspector Mackaill used. In other words, that Mr Mitchell had refused to say what he did say. I think that any average member of the public hearing that would think that Mr Mitchell had not given any account at all of what happened in Downing Street, whereas clearly Mr Mitchell did give an account. But I think there is room for doubt and interpretation as to whether it was a full account. If you listen to the recording and then you listen to the interview afterwards, on the balance of probabilities I do not consider that the officers have lied. I think they have misled.

Q11 Chair: If they had lied you feel that they would then be up for gross misconduct—

Chief Inspector Reakes-Williams: Absolutely.

Chair:—which would mean dismissal. Whereas at the end of—

Chief Inspector Reakes-Williams: I think it is also, Chair—sorry to interrupt—my job to come to an opinion and give a recommendation. Clearly it then goes to the Appropriate Authorities and if the Appropriate Authorities decided on a hearing, clearly that is where the evidence is heard and the panel then decide whether there is a finding of gross misconduct or not. So I do the investigation, I come to an opinion with a recommendation.

Q12 Chair: Of course. Were you disappointed that that recommendation was not followed? You have

been very clear with us today and I thank you for your honesty and transparency. You are standing by what you said in that first report that you submitted. Were you disappointed at the end of the day that there was not a case to answer, because you obviously have a lot of experience in these matters? How long have you been in the Professional Standards Department at West Mercia Police?

Chief Inspector Reakes-Williams: I have only been in the Professional Standards Department since January this year.

Q13 Chair: Have you dealt with other cases of this kind?

Chief Inspector Reakes-Williams: I have dealt with other cases. I think it would be impossible to say other cases of this kind.

Q14 Chair: It is pretty unique.

Chief Inspector Reakes-Williams: Yes.

Mr Winnick: A somewhat lower profile I would imagine.

Q15 Chair: Let me just deal with the process after this. You submitted a draft with your conclusions?

Chief Inspector Reakes-Williams: Yes.

Q16 Chair: A second report, the final report, was then sent to the IPCC. Is that right?

Chief Inspector Reakes-Williams: Yes.

Q17 Chair: But that did not have the conclusions that I have read out, those that are on page 28 of the document?

Chief Inspector Reakes-Williams: No.

Q18 Chair: Why did they not have those conclusions, which could perhaps have avoided any of this controversy if they contained those conclusions?

Chief Inspector Reakes-Williams: Perhaps I can just talk you through without going into too much detail. The draft report was submitted on 26 July to the IPCC representative. Clearly we had been having meetings at the IPCC. The conclusions of the report would not have been a surprise to the IPCC representative. As it was clearly and well understood to be a draft report, I felt that it was right that the findings of my Detective Inspector as the investigating officer was on there, but that also my contrary view was on that report. It was always understood that that was not a final report. Quite understandably the IPCC came back and said, “You can’t have a report with two different views. You have to come to a finding”.

Q19 Chair: That is Inspector Smith’s view and your view?

Chief Inspector Reakes-Williams: Yes. But it was always understood on my part, in the sense the people whose opinion matters are the Appropriate Authorities. They are the one who make the determination.

Q20 Chair: For the purposes of the public, the Appropriate Authorities are the three Deputy Chief Constables who met you, who you briefed about this.

23 October 2013 Chief Inspector Jerry Reakes-Williams

Not the Chief Constables, it is the Deputy Chief Constables?

Chief Inspector Reakes-Williams: For West Mercia and for Warwickshire Police, it is the Deputy Chief Constables. Although you may want to clarify this later, I understand that for the West Midlands Police it is actually the Assistant Chief Constable who has that role.

Q21 Chair: Could you give us their names?

Chief Inspector Reakes-Williams: Yes. In West Mercia it is Simon Chesterman. In Warwickshire it is Neil Brunton, and in West Midlands I understand it is Gary Cann.

Q22 Chair: So you gave your conclusions in the first draft but you feel very strongly—and the law tells you—that it is up to the Appropriate Authorities, those three Chief Constables, to submit the final report, with or without conclusions. Is that right?

Chief Inspector Reakes-Williams: Again, to be strictly accurate—and language is important in this investigation—I had a meeting on 1 August with the two Deputy Chief Constables, Mr Chesterman and Mr Brunton.

Q23 Chair: That is West Mercia and Warwickshire?

Chief Inspector Reakes-Williams: Yes, Warwickshire, and a representative from West Midlands because Mr Cann was not available. A senior representative from the Professional Standards Department in the West Midlands was there, together with a legal adviser. In that meeting we reviewed the crucial evidence, which was the recording of the meeting and the recording of the interview afterwards. A discussion followed in which we briefed the people present. I should also add at this point that the IPCC had directed me because clearly the Appropriate Authorities needed to see the report. The IPCC had directed that we were not to share our conclusions with those officers. So on 31 July a copy of our report, without the conclusions, was sent to the Appropriate Authorities.

In the discussion the following day on 1 August, I made my view clear. I made it clear that there was a difference of opinion between myself and DI Smith, who was present by the way. In the course of the discussion it was clear that there was a difference of opinion. My understanding was that it was then for the Deputy Chief Constables and the Assistant Chief Constable to make a determination. That was done for West Mercia and Warwickshire by way of a file note, which we had received within 24 hours of the meeting. My understanding was that, “Right, that is the decision and, therefore, that is what goes in the final report. I have made my opinion known. I have made my recommendation. The senior officer has made a different decision and, therefore, that is what should go in the final report”, keeping in mind the IPCC’s direction that there should only be one final opinion in the report.

Q24 Chair: Do you think Mr Mitchell is owed an apology about the way in which this whole case has been handled?

Chief Inspector Reakes-Williams: Certainly I do. Whatever the rights and wrongs of this case, I think you have to take into account the impact on Mr Mitchell and his family of what took place at that meeting on 12 October. Clearly that is the only thing I can comment on, bearing in mind the wider issues.

Q25 Chair: Has this damaged the reputation of the forces?

Chief Inspector Reakes-Williams: I think by the fact that I am sat here and we are all here, we have to say, yes, it has had an impact on the reputation of the forces.

Q26 Michael Ellis: Chief Inspector, you were charged with writing this report into allegations of misconduct in respect of three police officers, members of the police federations in region three I believe. For the purposes under statute, you were the investigating officer, correct?

Chief Inspector Reakes-Williams: Yes.

Q27 Michael Ellis: You had an inspector under you who was working with you to achieve the goal of completing this report, but you are the person that counts under law as the investigator?

Chief Inspector Reakes-Williams: Yes.

Q28 Michael Ellis: So your view was that these three officers ought to face disciplinary proceedings for misconduct?

Chief Inspector Reakes-Williams: Yes.

Q29 Michael Ellis: Your junior disagreed with that assessment?

Chief Inspector Reakes-Williams: Yes.

Q30 Michael Ellis: You then compiled a report in which you gave seven reasons why you thought that that should be the case. I am not going to rehearse them all now but they include seven reasons why you thought that they had misled. I want to ask you, you said to Mr Vaz that you did not believe that these officers had lied but that they had misled. What is the difference? They came out of the meeting with Mr Mitchell and they said something that was not true to the waiting press. You say that was misleading the press. What is the difference?

Chief Inspector Reakes-Williams: I think the difference is whether they intended to do that or not. Clearly, if they came out with the absolute intention of misleading the press that would be gross misconduct and it would be a lie. I do not take the view, having analysed the evidence, that that is the case.

Q31 Michael Ellis: Your report then went to the Chief Officers prematurely, did it not? It was a procedural irregularity. In fact it was unlawful for the senior officers to see your report before the IPCC. Isn’t that right?

Chief Inspector Reakes-Williams: They did not see the report before the IPCC. The draft report went to the IPCC on 26 July.

Q32 Michael Ellis: Before it was finalised?

Chief Inspector Reakes-Williams: Yes, but—

Q33 Michael Ellis: That was an irregularity, wasn't it?

Chief Inspector Reakes-Williams: Certainly, since all this has played out in the last month or so—and I know that a lot of people have pored over this—what I would say is that I was acting under the directions of the IPCC. Bear in mind that we had a meeting with the IPCC rep on 31 July in the morning before the copy of the report without the conclusions was forwarded to the Appropriate Authorities. There was a clear instruction that that should go to them without the conclusions. Clearly, if you look at the regulations that is an irregularity.

Q34 Michael Ellis: That is an irregularity. You are confirming that?

Chief Inspector Reakes-Williams: I think it is an irregularity but, as I say, it was a supervised inquiry by the IPCC and I was following their instructions.

Q35 Michael Ellis: So your understanding was that they thought that you should take off the conclusions and recommendations of your own report, send it to your chiefs and see what they say?

Chief Inspector Reakes-Williams: Yes, and that is documented in my policy book.

Q36 Michael Ellis: Then when it comes back from the chiefs their view is that there should not be misconduct proceedings. They overruled your judgment in the matter?

Chief Inspector Reakes-Williams: Yes.

Q37 Michael Ellis: But you are the investigating officer. It is your opinion that should count, shouldn't it?

Chief Inspector Reakes-Williams: My understanding is that it is the Appropriate Authorities who decide whether there is a case to answer for misconduct.

Q38 Michael Ellis: The Deputy Chief Constables did not write the report. You did, Chief Inspector.

Chief Inspector Reakes-Williams: Yes, the draft report but they wrote a file note giving their findings, and that is what is reflected in the final report.

Q39 Michael Ellis: So your views were overruled and what happened was you thought that there was misconduct on the part of three police officers dealing with Andrew Mitchell in Sutton Coldfield and after your chiefs had looked at it they said, "No, there isn't"?

Chief Inspector Reakes-Williams: Yes.

Q40 Dr Huppert: Thank you. It is an interesting challenge to have a look at the changes that have gone on. As you say there was the change in what the final conclusion was. I notice there are also a number of other changes scattered throughout in the section that was originally the Investigating officer's recommendations. For example, the wording of whether the comments were seen as ambiguous or

reckless was changed from ambiguous or misleading. There is a whole series of other changes that soften the tone even of the original investigating officer's report, even before your conclusions. Why were those changes made and who decided that they should be softened?

Chief Inspector Reakes-Williams: I think it is important that you appreciate that in compiling a report it goes through quite a number of different versions, and certainly my DI will have made amendments as we were going through and having meetings with the IPCC. It would have come to me. I would have made amendments. Sometimes very, very minor ones, sometimes you would include things and then you might take them out because you think there is a better bit to put in. Those kind of things. Inevitably, when you write a report it does go through quite a lot of changes.

Q41 Dr Huppert: Is it fair to say that between version A, the first version and version C, the final one, in every single case the changes made were in the direction of softening the report? It is certainly true of every one I have been able to find.

Chief Inspector Reakes-Williams: To be honest, I don't think I could answer that without having a good look and being reminded exactly what they were.

Q42 Dr Huppert: Having a look through they are all softening comments being put in at some stage, which seems strange if the argument was about what the final conclusion would be that you were also softening the rest of the contents.

Chief Inspector Reakes-Williams: What I would say is that clearly the final report needed to reflect the views of the Appropriate Authorities. So some of the re-writing would have been in relation to their findings.

Q43 Dr Huppert: As Michael Ellis was saying, is the Appropriate Authorities named at the end of the report? It seems to be signed off.

Chief Inspector Reakes-Williams: No. It is signed off by myself because, as has already been pointed out, I am the investigating officer. My understanding. I remember Dame Anne Owers saying how complicated the police regulations can be at a conference I went to. It is difficult. We may have made procedural oversights. I don't think any procedural oversight affects the outcome, which I think is the important thing.

Q44 Dr Huppert: Throughout it talks about "The investigating officer considers", rather than "The investigating officer has been told to consider".

Chief Inspector Reakes-Williams: Yes.

Q45 Mr Clappison: You have told us about a meeting that took place on 1 August, which I believe was after the report had gone without recommendations to the Chief Constables and Deputy Chief Constables.

Chief Inspector Reakes-Williams: It was the day after that.

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Mr Clappison: The day after that. This was a meeting I think you told us with the Deputy Chief Constables—is that right?—of the three authorities and one person representing them.

Chief Inspector Reakes-Williams: Yes, and a senior member of the professional standards and the legal adviser.

Q46 Chair: Just to be accurate for the record, it is the two Chief Deputy Chief Constables, Mr Cann and Mr Chesterman?

Chief Inspector Reakes-Williams: No, Mr Chesterman and Mr Brunton were the two who were present.

Chair: Thank you.

Q47 Mr Clappison: Did you make clear in the course of that meeting that, notwithstanding the fact that the report had gone without recommendations, that it was your view that these three officers should face charges of misconduct?

Chief Inspector Reakes-Williams: Yes.

Q48 Mr Clappison: You made that absolutely clear to the three Chief Deputy Constables or representatives?

Chief Inspector Reakes-Williams: Yes.

Q49 Mr Clappison: You are the head of professional standards for your force, aren't you?

Chief Inspector Reakes-Williams: Yes.

Q50 Mr Clappison: Did you think it was a bit surprising that they did not go along with what you were recommending because this was your job, what you are supposed to do as a senior officer?

Chief Inspector Reakes-Williams: I think it is a case, contrary to some things that I have heard and seen, that is not necessarily straightforward because it is talking about language. You need to think about how much value you put on certain words and I think different interpretations are possible. I do not agree with the Appropriate Authorities. However, I quite understand the conclusion that they have come to.

Q51 Mr Clappison: On that question of interpretation, you have been quite clear about this because Mr Ellis mentioned the seven reasons that you gave, and you reached quite a clear conclusion on that. You said in reason 6, very similar to what you have said today, "I think that an ordinary member of the public, listening to the officer speaking to the media after the meeting, would have interpreted the words as meaning that Mr Mitchell would not give any account of what occurred in Downing Street on 19 September 2012. This is clearly not the case". Reason 7 was, "The Officers have therefore given an account of the meeting to the media that was inaccurate and misleading and contrary to the elements of the Standard of Professional Behaviour listed above". The fact that no proceedings were then taken and that your report was ignored means that your views, which were expressed clearly there as the head of professional standards, were in fact left hanging in the wind.

Chief Inspector Reakes-Williams: I work in a disciplined organisation. You often do not agree with decisions that those above you make but you stand by them. There is an element here of collective responsibility, as I am sure there is in the political world.

Q52 Mr Clappison: I understand that, but you have made your position clear as Ministers do in the political world and then they are bound by other people's views sometimes.

Chief Inspector Reakes-Williams: I am absolutely clear that the Appropriate Authorities knew my views from 1 August.

Q53 Chair: Chief Inspector, of course, there is no collective responsibility I hope in the police service to suppress the truth, is there?

Chief Inspector Reakes-Williams: Absolutely not.

Q54 Chair: Are there minutes of this meeting that took place with the two Deputy Chief Constables with yourself? Because the best way to deal with what was being said, since this is now in the public domain, is that we see the minutes. Who took the minutes of this meeting?

Chief Inspector Reakes-Williams: There were no minutes at that meeting. I ought to point out that as there was a legal representative there I guess that would be difficult from a legal privileged point of view.

Q55 Chair: Sorry, why is it legally privileged?

Chief Inspector Reakes-Williams: My understanding is that if legal advice is being given by a lawyer there is—

Q56 Chair: Was Penny Fishwick there?

Chief Inspector Reakes-Williams: Yes.

Q57 Chair: So Penny Fishwick, the head of legal services?

Chief Inspector Reakes-Williams: I am pretty sure it was Penny. I think it was, yes.

Q58 Chair: She said to me that she had advised the Chief Constable to instruct you not to give the report. She was present at the meeting?

Chief Inspector Reakes-Williams: Yes.

Q59 Chair: Presumably she might have a note of this very important meeting when your conclusions were in effect overruled?

Chief Inspector Reakes-Williams: There will be an entry, for instance, in my policy book, I think. I would have to check that.

Q60 Chair: That is your entry?

Chief Inspector Reakes-Williams: Yes.

Chair: But did you see her take notes?

Chief Inspector Reakes-Williams: No official minutes were taken of that meeting.

Q61 Chair: Were there any unofficial minutes taken?

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Chief Inspector Reakes-Williams: No. But obviously what I do not know is people make their own notes, don't they, and I am sure the Appropriate Authorities would have been taking notes in order to help them make their decision but they are not formal minutes.

Q62 Chair: What is so odd about it is—apart from Mr Mitchell, who of course recorded the conversation in his constituency office on 12 October—nobody else seems to have that accurate a recording. For a meeting of that importance, with two Assistant Chief Constables, the Appropriate Authority, yourself and Mr Smith, when there is a difference of view, one would have thought, dealing with four police officers and one legal adviser who is the head of legal services, somebody would have made a note.

Chief Inspector Reakes-Williams: If you bear with me one second, I can check and see. I have a note in my—if I can just explain—policy book.

Q63 Chair: This is your note?

Chief Inspector Reakes-Williams: Yes. A policy file is something in major investigations where the senior investigating officer makes a note of key decisions and a rationale for that decision.

Chair: Of course. This was your note. This was not the note of the meeting as a whole?

Chief Inspector Reakes-Williams: No. As I say, I am absolutely clear nobody took official minutes. There was nothing recorded.

Q64 Chair: Even though this was a case that was all over the world. It involved three Chief Constables, three Assistant Chief Constables, a Chief Inspector and an Inspector—

Chief Inspector Reakes-Williams: Sorry, I think I need to clarify that there were no Chief Constables there.

Chair: No, but the whole case involves three Chief Constables, three Assistant Chief Constables, a Chief Inspector, an Inspector, another Inspector who was at the meeting on the 12th and two Sergeants. Nobody thought about taking a note of this very important meeting?

Chief Inspector Reakes-Williams: Sorry, the meeting on the 12th?

Chair: Not the meeting on the 12th, the whole case involved all these people. For this meeting, which was the crucial meeting, nobody took a note?

Chief Inspector Reakes-Williams: No, not an official note. As I say, I am sure people would have made their own notes about what was taking place but there were no official minutes.

Q65 Nicola Blackwood: Chief Inspector, we have had some discussion about the downgrading of the decision from misconduct to no misconduct, and you have explained it as interpretation of semantics. Like most people, I would like to understand what the criteria are and how you can understand these semantics. You started off in your answer to the Chairman by saying that one of the reasons why you thought that this was misconduct and not gross misconduct was because when Mr Mackaill came out

he said he did not say what he said, referring to Mr Mitchell—

Chief Inspector Reakes-Williams: “He refused to say what he did say” I think are the words.

Nicola Blackwood: Then of course, when he was speaking to Michael Crick in the *Dispatches* programme he went on to say that Mr Mitchell did not actually give a full statement or a full version of his events, which I think that we all conclude, having read the transcript, Mr Mitchell did do. I wonder how that is interpreted semantically.

Chief Inspector Reakes-Williams: I would disagree with the view that Mr Mitchell gave a full account. My understanding is that an account given—I think it was in the *Telegraph* just before Christmas—contained things that were not said in the meeting on 12 October. I think that is why I say there is room for doubt. Clearly, Mr Mitchell was absolutely clear in that meeting about what he did not say, but in my view he did not make it so clear about exactly what he did say in full detail to mean that when the officer came out and said, “He refused to say what he did say” that it is a clear case of lying. I think there is room for doubt.

Q66 Nicola Blackwood: Was there any question that Mr Mitchell left unanswered in the transcript that he refused to answer? If you read the transcript there is no question that Mr Mitchell refused to answer.

Chief Inspector Reakes-Williams: I absolutely think and I am very surprised that the officers did not press him, and clearly they made comments that they appreciated his candour and things like that, and I am certainly surprised that they did not press him for a full account. Clearly I cannot explain that, but looking at all the evidence and analysing it I think there is sufficient room for doubt that Mr Mitchell gave an absolutely full account. Clearly, as I say, they should have pressed him on that but they didn't, but I think there is room for doubt.

Q67 Nicola Blackwood: In other words, they complain that he did not give a full statement about questions that they did not ask him?

Chief Inspector Reakes-Williams: I think you have to interpret it that there is doubt as to whether Mr Mitchell gave an absolutely full account. I understand what you are saying. That is why I am surprised the officers did not press him, but I think if you look at other accounts where there is more detail than is given in that meeting—

Q68 Nicola Blackwood: It is media detail. It is media commentary rather than a transcript, so it is difficult to say. Can I move on to your second point? That was about premeditation and whether the police officers were—as you say in your report—caught in the headlights and naive about dealing with the media, or whether they were in fact aware of what they were doing. We know from a bit of PR that the Gaunt Brothers have put out, that they in fact released a press release about the meeting that was going to happen with Mr Mitchell on 12 October to ensure that there was maximum publicity about the event. We also know that the police officers arrived half an hour

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early, in order to give interviews, and they in fact stated during that period that if Mr Mitchell did not give a satisfactory explanation they would be calling for his resignation. How does that not count as premeditation? I do not understand how it works for misconduct and so on, so I am trying to understand how the criteria would fit.

Chief Inspector Reakes-Williams: The first thing I would say is that we had a very narrow remit for this investigation, a remit agreed with the IPCC. If I might quote from the first of those, “To investigate whether Inspector Ken Mackaill provided a false account of the Federation meeting with Rt Honourable Andrew Mitchell MP on 12 October 2012 to the media in a deliberate attempt to discredit Mr Mitchell”. So it was clearly a very narrow investigation in that sense, and whether it was a false account given with that deliberate attempt. I am not convinced that it was a deliberate attempt. I think the result was that the public were misled, but I don’t think it was a deliberate attempt to mislead.

Q69 Chair: Yes, you did make that clear earlier on. Thank you. Can you advise the Committee, the worst thing that can happen to somebody who is guilty of misconduct is what?

Chief Inspector Reakes-Williams: At a misconduct meeting as opposed to a hearing a final written warning.

Q70 Chair: A final written warning?

Chief Inspector Reakes-Williams: Yes.

Chair: This is all about a final written warning in the end?

Chief Inspector Reakes-Williams: Yes.

Q71 Chair: What is the worst thing that can happen with gross misconduct?

Chief Inspector Reakes-Williams: Dismissal.

Q72 Chair: Is there anything before misconduct or does it just go to misconduct and then gross misconduct?

Chief Inspector Reakes-Williams: Underneath misconduct would be management action.

Q73 Mr Winnick: The meeting between Mr Mitchell and the Police Federation, the three representatives on 12 October last year, looking at your investigator’s report version A on page 20 it states, “The meeting is concluded by Mr Mitchell saying, ‘Well, I’ve been absolutely clear with you and I obviously ask you to accept my word’”. What I want to ask you, Chief Inspector, is this. What else could Mr Mitchell have said at the meeting? He said that he had been extremely rude to the police in Downing Street, that he used the F word. He does not deny that. He apologised, but he strenuously denied using the other allegations made against him. Leaving aside whether he was telling the truth or not, I am not asking you to come to a conclusion on that, Chief Inspector. That is not what I am asking you. What I am asking you is there anything else that Mr Mitchell could have said at the meeting other than what he did?

Chief Inspector Reakes-Williams: Yes. I do not know exactly the period of time that we are talking about. I think Mr Mitchell talks about 40 seconds. Mr Mitchell is absolutely clear about what he did not say, but I think there is doubt as to whether he gave a full account of every word that was spoken between him and the officers in Downing Street, and that is why I came to the conclusion I did.

Q74 Mr Winnick: What leads you to the view that Mr Mitchell was not clear or honest—or whatever word one wants to use—on what he did not say to the police officers at Downing Street?

Chief Inspector Reakes-Williams: Sorry, I think he was absolutely clear about what he did not say, but I think there is room—

Q75 Mr Winnick: He admitted what he did say, yes.

Chief Inspector Reakes-Williams: He admitted one element of what he said, yes, which is the use of the F word.

Q76 Mr Winnick: But denied the use of the word “pleb” and the rest of it, yes.

Chief Inspector Reakes-Williams: Yes.

Q77 Mr Winnick: What else could he have said other than his account of what occurred?

Chief Inspector Reakes-Williams: That is difficult for me to say because obviously I don’t know what was said. But I think there are fuller accounts now, compared to the ones that were given in the meeting. Therefore, there must be doubt as to whether a full account was given. Therefore, that is why I made the conclusions that I did.

Q78 Mr Winnick: What you are saying, Chief Inspector, is there remains a question mark over precisely what occurred on that evening in Downing Street.

Chief Inspector Reakes-Williams: Absolutely. Obviously this is an investigation that is an offshoot of the main investigation.

Chair: Mr Ruane, we have a number of other witnesses.

Chris Ruane: I will be quick.

Chair: Before you say anything, sorry, Mr Ruane—*[Interruption.]* Order, could we have the mobile phone switched off, please? Nicola Blackwood has a declaration of interest.

Nicola Blackwood: Yes. I would like to say that I was a researcher to Andrew Mitchell some time ago.

Chair: And of course, as you know, because we are all Members of the House, Chief Inspector, we all know him as well. Yes, Chris Ruane.

Q79 Chris Ruane: Can I return to the issue of the minutes? In all the meetings that I attend in the constituency or here, minutes are usually taken or at least action points; action minutes are taken. Are you absolutely sure that in your meeting on that day minutes were not kept and is this normal procedure? How did you know the outcome of that meeting if minutes or action points were not taken? How did you take that information away?

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Chief Inspector Reakes-Williams: First of all, in all my meetings with the IPCC I did take action points and those are reflected in my policy book. This meeting was my opportunity to brief the Appropriate Authorities on the investigation and on our findings. It was then understood by me that the Appropriate Authorities would then make their own determination, which they did by way of a written file note. Obviously that was shared with me within 24 hours, and on the basis of that the final report was made. So I am sure that the people present at the meeting would have made some of their own notes, but nobody was delegated to take official minutes of that meeting.

Q80 Chris Ruane: Is that normal procedure?

Chief Inspector Reakes-Williams: It is difficult for me to answer that because I don't think I have ever been in this situation before.

Q81 Chair: It is pretty extraordinary, isn't it, Chief Inspector, looking back, that at a meeting of that importance nobody should have taken minutes?

Chief Inspector Reakes-Williams: It is easy to be wise with hindsight. I make my key decisions in my policy file.

Chair: I understand. We are all wiser with hindsight, everyone sitting round this table, but given that this had been running for a year it would have been sensible for there to be minutes taken. Anyway, what would be very helpful to the Committee is if you could let us have a copy of what you have put into your policy notebook on this issue. We will be writing to all those present—including Penny Fishwick—and we will ask them for their notes because we would be very surprised if notes were not taken.

Q82 Mark Reckless: Chief Inspector, I believe you said just now to Mr Ruane that you shared your conclusions with the Appropriate Authorities. You said earlier in your evidence the IPCC directed you not to share conclusions with the Appropriate Authorities.

Chief Inspector Reakes-Williams: Yes.

Mark Reckless: Why did you then do so?

Chief Inspector Reakes-Williams: Clearly they did not have the full written conclusions, but I think it would have been very odd and rather illogical to have briefed the Appropriate Authorities without making clear what my conclusions were. Clearly there is a difference between making your overall conclusion clear and going in great detail into your rationale for that. I thought it was very, very important, with a difference of opinion, that they were aware from that point of what that difference of opinion was.

Q83 Mark Reckless: I do not see the relevance of this difference of opinion. You said earlier that you were the person appointed to investigate the complaint under the statute. Were you also approved by the IPCC to do that?

Chief Inspector Reakes-Williams: Yes.

Q84 Mark Reckless: You do not benefit from the statutory scheme of delegation for that statutory role, and all through this it appears that someone else is

referred to as the investigating officer and somehow because he disagreed with you then all these other things had to be done. Surely you were the investigating officer?

Chief Inspector Reakes-Williams: There is a slight conflict between the IPCC's wording, which is quite clear that I am the investigating officer. In internal police language, DI Smith would have been the investigator. I would be the senior investigating officer. It is semantics.

Q85 Mark Reckless: The primary legislation is clear, you are that person appointed to investigate the complaint.

Chief Inspector Reakes-Williams: Yes.

Q86 Mark Reckless: Then you are the person who has to put in under 22(3) that you are the person appointed under paragraph 17. You have to submit a report of your investigation to the Commission and copy that to the Appropriate Authority. Instead of doing that you gave a different version to the Appropriate Authority, then changed it and then put in someone else's views as the final report.

Chief Inspector Reakes-Williams: It is a supervised inquiry by the IPCC. I had a meeting on 31 July where I am absolutely clear that the IPCC directed me to forward a copy of the report without the conclusions.

Q87 Chair: In answer to Mr Reckless' question to you, you said that you disobeyed that instruction.

Chief Inspector Reakes-Williams: I guess, in effect, yes, I did.

Q88 Chair: You did, and you did show the conclusions. That is the point Mr Reckless was making.

Chief Inspector Reakes-Williams: Yes.

Q89 Mark Reckless: The primary legislation at 22(6) to schedule 3 of the 2002 Act says that the person submitting a report then refers to them, "including all such matters in his report as he thinks fit". Did you do that?

Chief Inspector Reakes-Williams: No. As I say, I think procedurally not every "i" might have been dotted and every "t" crossed but I was acting with the full knowledge of the IPCC. I was acting with the full knowledge of the Appropriate Authorities. I was acting with the full knowledge of our legal adviser. None of us around the table have picked that up at any time and I think it is important, obviously, that the key thing is the outcomes.

Q90 Mark Reckless: You were not acting as you should have been according to law.

Chief Inspector Reakes-Williams: Yes, I was doing my best and I was obeying the instructions of the IPCC who were supervising the inquiry.

Q91 Mark Reckless: Therefore, do you think that your boss the Chief Constable is right to rescind his decision to find no misconduct?

Chief Inspector Reakes-Williams: I am not sure it is really for me to comment on that.

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Q92 Mark Reckless: That was your view.

Chief Inspector Reakes-Williams: My view is clear. I have made it clear to the Committee and it remains the same.

Q93 Mark Reckless: So you consider there is a case for misconduct?

Chief Inspector Reakes-Williams: Yes.

Q94 Lorraine Fullbrook: Chief Inspector, please can you tell the Committee exactly what is missing from the account of what happened in the transcript of the recording to your perception of a full explanation of what happened in Downing Street? Exactly what is missing for you?

Chief Inspector Reakes-Williams: You are asking me very particular detail.

Lorraine Fullbrook: Absolutely.

Chief Inspector Reakes-Williams: To be honest, I would have to go back through the report—

Q95 Lorraine Fullbrook: It is quite germane to the outcome of this. You made a recommendation based on whether it was a full account or not, so exactly what was missing from the difference between the account and a full account?

Chief Inspector Reakes-Williams: There are aspects certainly of an account given in the *Telegraph* later that were not given during that meeting. In actual fact, Mr Mitchell does not give huge detail. I understand why and I understand his account. He does not want to get into a fire fight—as he describes it—with the officers. He is absolutely clear about what he did not say but I am not convinced that he gave every detail. I cannot—

Q96 Lorraine Fullbrook: Can you tell the Committee exactly what it is that you require for your version of a full account?

Chief Inspector Reakes-Williams: Every word that was said between Mr Mitchell and the officers in Downing Street. If you want me to go further than that it would take some time for me to go through all the papers.

Q97 Chair: We do not want you to do that today. Thank you very much.

Chief Inspector Reakes-Williams: I am very happy to take that point away and come back to you in detail.

Chair: Would you come back to us? If you could write to us that would be very helpful.

Q98 Steve McCabe: Chief Inspector, as a very experienced investigator, what mark would you give yourself out of 10 for the role you have played in this matter?

Chief Inspector Reakes-Williams: I don't think that is a question I can answer. I accept that there may have been procedural issues, but I would ask you to remember that everybody involved was fully aware of what was going on. None of us picked up any procedural irregularities at the time, including the IPCC. My understanding was as a supervised inquiry that I should obey the instructions. We had a series of meetings all the way through this investigation and there was a clearly documented—

Q99 Steve McCabe: I guess that is less than 10. Is it less than five?

Chief Inspector Reakes-Williams: I am not prepared to put a number on it.

Q100 Chair: Mr McCabe's self-assessment does not attract you. We are coming to the end of your evidence, Chief Inspector, and you have given evidence in a very open and transparent way. We are extremely grateful for what you have said to us today. But this leaves the public with the impression that here we have a senior investigating officer who had conclusions of misconduct and then has a meeting with two Assistant Chief Constables. The conclusions disappear and another report is then submitted to the IPCC. So for the public, who are not part of the machinery of policing and complaints, there is this huge explanation, is there not, as to what has happened. At the end of the day, you have been vindicated. We will hear evidence later from the Chief Constable of West Mercia that has been submitted confidentially to this Committee, which we will publish at 5.30pm, which totally vindicates your view. You must be delighted about that vindication considering your first conclusions were removed because he is backing you up today, isn't he?

Chief Inspector Reakes-Williams: Yes. I guess so. I would like to make clear that no pressure has ever been put on me to change the report. As far as I was concerned, the important thing is I came to a view, I gave my opinion, my recommendation. That was made. It has not changed. However, I am not the Appropriate Authority and it is absolutely for the Appropriate Authority to make the final decision. That is why I submitted a report as I did.

Chair: We understand. We will hear evidence about this later, that the Appropriate Authorities have been overruled for whatever reason, and that your original decision to have a relook at this is going to be vindicated. Thank you very much for giving evidence to us today. We would be grateful for a copy of those minutes. We are grateful to you for coming down here at short notice and for the transparency and openness of your evidence.

Examination of Witnesses

Witnesses: **Dame Anne Owers DBE**, Chair, Independent Police Complaints Commission, and **Deborah Glass**, Deputy Chair, Independent Police Complaints Commission, gave evidence.

Q101 Chair: Deborah Glass, thank you for coming in and Dame Anne Owers. We wanted you to come, Deborah Glass, but the Chair indicated she wished to come with you. I wonder whether on reflection you feel that the IPCC made a huge mistake in not conducting this investigation right at the start. You admit that this was an extremely high profile case. As the Committee has said in previous reports, the IPCC is an extremely important body. Surely you should have conducted this investigation.

Deborah Glass: I think it was a reasonable decision to take at the time, Chairman.

Chair: Sorry, you will need to speak up.

Deborah Glass: I think it was a reasonable decision to take at the time. We are obviously aware of the profile of the case. Would it assist the Committee if I set out some of the chronology here just to put this in context?

Q102 Chair: I think we know the chronology. We would like to know about your decision. Why did you not do this, bearing in mind that subsequently last Tuesday, in a very important letter you cast doubt on the whole process. Not the investigation of facts but the conclusions. Why did you not do this in the first place? Isn't that why we have an IPCC?

Deborah Glass: A couple of points to make. First, there was no issue with the investigation itself. When the referral was made to us from West Mercia this was about a week after we had a referral to the Metropolitan Police about the original Downing Street incident. The decision was taken on that case to supervise it. Again we make a judgment call. We can have conversations about that. That decision was taken because we do not have the resources at the moment to deal with investigation on that scale. I would like us to have those resources of course, but we did not have the resources when that referral came in.

When the West Mercia referral came in, firstly it was linked. We did not know how big it was going to be so a consistent position was made in relation to that case.

Q103 Chair: In principle, it should not have been big. It was a 45 minute meeting that turned out to have been recorded by Mr Mitchell. Many of the statements were made on open television. Everyone saw what the statements were. It did not seem like a big thing to do, did it?

Deborah Glass: We could not know at the outset what we were going to find in this case, bearing in mind that the Metropolitan Police investigation was essentially into allegations of conspiracy.

Q104 Chair: Having looked at the case, the intervention points that you had with the IPCC was when the draft report came to you with the conclusions attached to the draft report, which we are calling report A because there are so many versions of this report. You were happy with those conclusions, were you, or you seem to be?

Deborah Glass: Not entirely, no. When I saw the draft report, first of all I saw that it had two sets of conclusions. That clearly is not appropriate. A report can only have one set of conclusions. I raised that. I made that quite clear to our investigator, who I know passed that on to the investigating officer. But I was not happy with the conclusion of misconduct, and what I said at the time was that I could not see how the evidence had changed since—

Q105 Chair: Sorry, you were not happy with the conclusion that there ought to be a misconduct hearing?

Deborah Glass: As opposed to gross misconduct.

Chair: I see.

Deborah Glass: What had happened in this case, if I just can go back a moment?

Chair: Yes, please.

Deborah Glass: When the referrals were made to us they were what is called conduct referrals. What the three forces were saying in effect is that, "We think that there is misconduct to be investigated". The assessment that the investigating officer did at the outset was gross misconduct. What I was thinking—

Chair: Your expectation.

Deborah Glass: My expectation was in relation to gross misconduct. I saw the two sets of conclusions. Clearly the senior officer had overruled the junior one. I was concerned about the first set of analysis that did not make a lot of sense. In relation to the senior officer's analysis I thought the questions he was asking were about the right ones. I did not completely agree, though, with his analysis of the evidence.

Q106 Chair: Yes. But you are telling us something more today than you said in your statement last week. I was expecting you to say your concern was the fact that there were no conclusions in the final report. You are telling this Committee that it should have been upgraded from a misconduct to a gross misconduct hearing?

Deborah Glass: I have never seen a report with no conclusions, and I have to say I am completely baffled by what I have just heard about an IPCC direction because that is news to me.

Q107 Chair: You did not give an instruction for Mr Bimson who works for the IPCC or Ms Bimson. I do not know whether it is a man or a woman.

Deborah Glass: It is Mister.

Chair: Mr Bimson did not give an instruction to anyone to say, "We want a report without conclusions"?

Deborah Glass: I certainly did not. I obviously cannot speak for Mr Bimson. All I have is the note he sent me of that meeting, which very briefly says, "After the initial report was completed I met with the IO and deputy on 31 July to discuss the report and the need for it to have one set of conclusions, which they were happy with".

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Q108 Chair: No one who reads reasonable English would take that to mean, “We don’t want a conclusion”?

Deborah Glass: That was certainly never my intention. I cannot say there isn’t a misunderstanding there. Of course a report should have a set of conclusions. What we said is it should have one set of conclusions. Plainly getting a report with two sets could not be right and there needed to be a single set.

Q109 Chair: I do not know if you have a swivel chair, but you must have fallen off your chair when you then received the final report that had no conclusions whatsoever.

Deborah Glass: The final report had a conclusion of “no case to answer” and I was absolutely astonished.

Q110 Chair: At the decision? You thought it should be gross misconduct?

Deborah Glass: Absolutely astonished. That is what I was expecting.

Chair: Gross misconduct?

Deborah Glass: Yes.

Q111 Chair: Therefore, do you think that the police officers lied?

Deborah Glass: I want to be clear here on what I have said in my statement. This is a case to answer and if I can read it so I can get the words precisely into the record. What I have said is, “My view is that a misconduct panel should determine whether the three officers gave a false account of the meeting in a deliberate attempt to support their Metropolitan Police colleague and discredit Mr Mitchell in pursuit of a wider agenda”. So it is not—

Q112 Chair: You finished off by saying, “In my opinion the evidence indicates an issue of honesty and integrity, not merely naive or poor professionalism”.

Deborah Glass: Yes, exactly. My point here is the evidence should be heard by a panel. I am not judge and jury here. That is not my role but I would have expected a misconduct panel to have heard the evidence and made that determination.

Q113 Chair: You have been doing these cases for how many years?

Deborah Glass: Getting on for 13 years.

Q114 Chair: So you know a bit about police complaints?

Deborah Glass: I do, yes.

Q115 Chair: Looking back over those 13 years—I know you are about to leave the IPCC on 31 October—have you had other cases of this kind when the draft reports have come in saying, “Misconduct”? You felt it should be gross misconduct and then it came back with the words “No case to answer”.

Deborah Glass: There is nothing inherently suspicious about a change from a draft report to a final report. I do want to make that clear.

Chair: No, that is why they are called drafts.

Deborah Glass: Yes, exactly. What is quite normal between a draft and a final is there is further analysis

of the evidence. It is tested. Challenges are put in and conclusions may well change. But from what I have seen, what I could not understand was how the conclusions could have been reached that were.

Q116 Chair: Ms Glass, are you telling us that you felt that the two accounts did not match up, there was a false account given to the media?

Deborah Glass: What I am saying very clearly is that I thought there was a case to answer in relation to that. That evidence, the transcript, the full recording, which I listened to very carefully, the broadcast media, which I watched, the interviews, all of that should be put before a panel.

Q117 Chair: Do you now regret not doing this investigation yourself having looked at what has happened?

Deborah Glass: It wasn’t actually about the investigation. Obviously if I had known that I was going to have a significant disagreement at the end then clearly. But by the time the investigation was concluded, and I took advice on this, “Can I re-determine this now?” and the advice was very clear—

Q118 Chair: Can you re-determine?

Deborah Glass: No, the advice I received was very clear. The investigation was concluded and it would have been an abuse of process to re-determine it simply to rewrite the conclusions.

Q119 Chair: Your legal advice is there is nothing further the IPCC could do?

Deborah Glass: That is why I published because all I could do at that stage was say, “This is the disagreement and the reasons for it”.

Q120 Mr Winnick: At the end of the findings, Ms Glass, you say, “The officer also confirmed we all agreed before the meeting that it was obviously an integrity issue in relation to the records” and so on. Then you say, “In the circumstances it is difficult to see what Mr Mitchell could have said to the officers, short of agreeing with the Metropolitan Police Service Officers about whether it would affect the position they were likely to take after the meeting”. From that I take it that it is your view Mr Mitchell was as frank as he possibly could be in his account, in his interpretation of what happened at the Downing Street gates when he was refused permission to take his cycle through. Is that so?

Deborah Glass: I think the transcript speaks for itself. He answers the questions that he is asked. He is not asked to give a full account. What I felt was there was a kind of ex post facto justification that, just because he had given more detail later, he should have given it then when he wasn’t asked for it. That is what I was reflecting in that—

Q121 Mr Winnick: So he could not have said more, given his account of events, than what he did?

Deborah Glass: It certainly seems to me that he was answering the questions he was asked.

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Q122 Mr Clappison: I wonder if you can help us with this. You told us that you came strongly to the conclusion that there was a case to answer and you are disagreeing with the police authorities. Did you make that known to them?

Deborah Glass: I did. As soon as I saw the final report I called the Deputy Chief Constable of West Mercia and I said, "What is this? How did this come about?" and he said to me that the three forces had discussed it, they had taken legal advice and this was the view of all three of them. I continued to express a certain amount of astonishment at this and he said, "Look, it is really important that you listen to the recording for yourself". I said, "Absolutely, I am going to do that. So I won't make any judgments over the telephone in this conversation, but what I will do is go back, get all of the evidence, review all of it". Which I did and I said, "I will write to you with what I think". I wrote to the Deputy Chief Constable on 6 September with a very detailed—

Q123 Chair: Does this Committee have a copy of this letter?

Deborah Glass: It does not but I would be happy to provide it to you.

Chair: I would be most grateful. In fact it would be very helpful, Ms Glass, if you could let us have a copy of all the correspondence in respect of this case because what you have said today is very useful.

Q124 Mr Clappison: We know this now because you made the statement you made. It came out on your own volition out of the process last Tuesday with your statement. We have been given written evidence by Mr Andy Parker, who is the Chief Constable of Warwickshire Police. Can I just very briefly read this to you? He says, "I have very recently been advised by the Chief Constable of West Mercia that referral of the report without the recommendations, and the referrals to the Appropriate Authorities prior to its formal referral to the IPCC both constitute procedural irregularity. I have also been advised by CC Shaw that the IPCC's initial view is that they no longer have locus over this investigation and it is for the individual forces to determine what, if any, action to take". Were there in your view any procedural irregularities as far as the IPCC were concerned?

Deborah Glass: Not as far as we were concerned but obviously I have begun hearing about some particular irregularities within the investigation itself, as between the conclusions and the final determination stage.

Q125 Mr Clappison: Somebody who is reading Mr Parker's report for the first time would have no idea that you had disagreed with him, or that you had given your view that there should be an investigation. It rather ignores that all together. It leaves quite a different impression to say that you have said that you no longer have any locus over the investigation and it is up to the individual forces.

Deborah Glass: All I can say in this case is that I made my position absolutely clear to one Deputy Chief Constable acting on behalf of three, and I wanted them to have the benefit of my view, which

was my absolutely independent judgment in relation to the evidence and its conclusions, before they made any final determinations.

Dame Anne Owers: If I might—

Chair: Yes, Dame Anne.

Dame Anne Owers: I think legally it is obviously right that in a supervised investigation, precisely for the reasons that Ms Glass has said, we cannot then halt that just because we want different conclusions to be reached. But I think the Appropriate Authorities could have been in no doubt what Ms Glass' view was, expressed very forcibly in the letter to DCC Chesterman. To that extent, they did have the benefit of an independent assessment of the evidence. They may not have had an independent investigation but they certainly had all the benefit of an independent assessment of where the evidence led to, but they chose not to follow that route.

Q126 Chris Ruane: This was a 45 second incident that was videotaped. Unfortunately not audio taped. It has gone on for over a year. It has cost £237,000 according to yourself. It has involved an investigation with three police forces with inconclusive conclusions, your own IPCC report last week and a Select Committee inquiry this week. Do you think the whole process could have been shortened? It has resulted in the ending of a ministerial career and eight police officers being arrested, and all of the uncertainty for all of those individuals and their families. Do you think this could have been foreshortened? There could have been a shorter process if the IPCC had become involved at an earlier stage?

Deborah Glass: I think you are referring to the Metropolitan Police investigation rather than the West Mercia one that we are discussing here, which was not about the Downing Street incident. It was about a 45 minute meeting that Mr Mitchell had with three Federation representatives.

Q127 Chair: I think what Mr Ruane said, taken as a whole, the whole thing cost—

Dame Anne Owers: If I may I would want to go back to the answer that Ms Glass gave earlier, which is that—as this Committee well knows and as you said in your last report—we are not a body that the moment has a vast number of resources in the shape of people. If we had had to take this independently and had to do what the Metropolitan Police Service did, for example, and take statements from hundreds of officers we simply would not have had the resources to deploy quickly to that.

Chair: Of course. I think we get the resources point and we have—

Dame Anne Owers: So I think the short answer to your question is, no, it would not have shortened things.

Chair: Thank you.

Q128 Michael Ellis: Ms Glass, you have been pretty emphatic that, as far as you are concerned, the Chief Inspector was not directed to send a report to his chief officers in the way that he has described. Do you stand by that?

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Deborah Glass: Certainly I gave no such direction. I obviously cannot speak for our investigator, but there is no information I have on the record to do that. I would just add that the IPCC has no power to issue a direction of this sort, so it does seem rather surprising.

Q129 Michael Ellis: Is it correct that under the Police Reform Act it is irregular and unlawful to do such a thing?

Deborah Glass: That is why I am—

Michael Ellis: I see that your chief, Dame Anne, is agreeing with that.

Dame Anne Owers: Yes.

Q130 Michael Ellis: The act of sending the report to the chief officers, in the way that happened in this case, was unlawful and irregular? Dame Anne?

Dame Anne Owers: The answer is I do not know. The best thing for us to do at this point, given that this is new information for us, is to talk to our investigating officer and to write to the Committee on this specific point. I really think that would be—

Q131 Michael Ellis: Is it your understanding, Dame Anne, that it is outwith the procedure normally followed under the Police Reform Act 2002?

Dame Anne Owers: You are right that if we are managing an investigation we have direction and control. This was a supervised investigation and we do not under the Police Reform Act have powers of direction.

Q132 Michael Ellis: The Chief Inspector said that he was absolutely clear that he was following instructions in doing that. The Chief Constable of West Mercia Police, David Shaw, says in a statement to this Committee, “I have been able to ascertain that there was an apparent misunderstanding between the IPCC and the West Mercia Police, which led them to understand that they could send the investigator’s report. This was wrong as a matter of law”. So the Chief Inspector says he was absolutely clear. The Chief Constable says it was a misunderstanding, and it seems you are agreeing with me that this was a procedural irregularity at the very least and potentially unlawful. Am I right?

Deborah Glass: Obviously, I cannot comment on what—

Q133 Chair: Ms Glass, we will publish the documents that Mr Ellis has referred to at 5.30pm today. I am sorry you do not have a copy but he is giving an accurate reflection of what is being said.

Dame Anne Owers: As I say, I think the best thing for us to do is to go back and put this point absolutely to the investigating officer and to write to the Committee.

Q134 Michael Ellis: Forgive me, Dame Anne, there have been lots of reports the IPCC have done on many numerous different issues involving lots of different police forces. Have you known this to happen before?

Deborah Glass: I am certainly not aware of it.

Q135 Michael Ellis: In your 13 years it has not happened before?

Deborah Glass: Can I say what ought to happen? What ought to happen is the investigating officer—in fact, your knowledge of the Police Reform Act is excellent on this point, Mr Ellis, more than many chief constables—ought to complete an investigation by the investigating officer. The Appropriate Authority is a different body and the Appropriate Authority is quite at liberty to disagree with the conclusions of the investigating officer. They are different processes that you would expect to have followed.

Q136 Michael Ellis: Yes, but what has happened here is that the Chief Inspector has come to a conclusion and that conclusion has been usurped, it seems to me. The reality is that whereas the Chief Inspector—legally under statute, the investigating officer—was under the view that there ought to be misconduct proceedings, the final report ends up that there should be no misconduct proceedings and there is no case to answer. Whereas you, Ms Glass, felt that it went even further than misconduct and should be gross misconduct. Are we dealing here with a whitewash?

Deborah Glass: I think we are certainly dealing with some confusion. One would need to clarify how we got to the position that we did. I have asked the questions and I have no doubt you will be asking questions of the individuals.

Q137 Michael Ellis: But I am asking you. In your considered judgment, with the vast experience that you have—and you are close to leaving the IPCC, I acknowledge that—do you feel instinctively that this is a whitewash or an attempt at a whitewash? I note the statement that the Chairman referred to early that you gave, which I commend you for, which says, in part, “The police officers had a responsibility to present a fair and accurate picture. Their motive seems plain. They were running a successful, high-profile, anti-cuts campaign and the account that he [Mitchell] provided to them did not fit with their agenda”. In view of the strength of your statement, do you feel that this is showing characteristics of a whitewash?

Deborah Glass: I thought the investigation was thorough and sound, I have no issue at all with the investigation and I thought the conclusions were wrong, and I have said that.

Chair: Thank you. I think you have said that several times, that you feel the investigation was properly conducted, everyone thinks it was, but it is the conclusions that were problem. I understand that. Nicola Blackwood then Mark Reckless.

Q138 Nicola Blackwood: This was a supervised investigation, which means that you should have known what was going on, as far as I can understand, but you do not seem to have known what happened with the reports when they were sent to the chief constables and so on. I am trying to understand what supervision means in this context. You have there a letter from Mr Bimson, which does not say a great deal, and that is really one of the reasons why we are in this mess, because you disagree now with the

constables of this investigation but you cannot do anything about it. Had you known earlier what was going on, perhaps you could have intervened. Could you explain exactly what the supervision meant in the period following the investigation and during the writing and negotiation of these reports?

Deborah Glass: At the moment of conclusions, supervision is essentially finished, because you are supervising the investigation. At the point at which the investigating officer has finished the investigation and is writing conclusions, there may be some discussions, and we saw the draft report.

It was quite a brief period. The draft report was received on 29 July, which had the two sets of conclusions, and I have described what we did in response to that. I saw that report. I said to our investigator, "This does not make a lot of sense to me. First of all, it needs to have one set of conclusions, and I cannot see how the evidence has changed since the assessment of gross misconduct", which the investigator had made at the outset.

There was a meeting between our investigator and the Chief Inspector the following week, at which this was discussed. I have reported the very short aspect of that that I know. As I say, I have heard nothing of any direction to withhold—I would need to find out about that. I simply do not know. At that point we were expecting to get back a final report. Between a draft report and a final report, the report would be with the investigating officer to finalise and then our next involvement would be the final report, and that is what happened.

Q139 Nicola Blackwood: Your officer, Mr Bimson, did not come back with any concerns that there was a potential for downgrading from misconduct to no case to answer?

Deborah Glass: No.

Q140 Nicola Blackwood: He did not come back with minutes from those meetings or any material for you to review?

Deborah Glass: No. Nothing gave me any concern until I saw that final report on 28 August, which concluded no case to answer. Until that point I had no inkling that this was going to be anything other than, at the very least, misconduct, and I expected to see gross misconduct.

Q141 Mark Reckless: In that final report you received on 28 August, towards the end of the conclusion it says, "For these reasons and on the balance of probabilities, the IO does not consider that the officers have a case to answer for misconduct". Who do you think that reference to the IO refers to?

Deborah Glass: This is now a very good question, from what we have heard. I would have expected that to be Chief Inspector Reakes-Williams' conclusions. It is open to the Appropriate Authority to then take a different view.

Q142 Mark Reckless: The law requires, at 22(2)(3) of the Schedule for Complaints, "A person appointed under paragraph 17 or 18 [for supervised or managed investigation] shall: (a) submit a report on his

investigation to the Commission; and (b) send a copy of that report to the Appropriate Authority". But is not the actual position that the final report you received is not the report of that person appointed to investigate the complaint but is of someone else, Inspector Smith, as instructed by the Appropriate Authority, and you have not received the final report as provided for by the legislation?

Deborah Glass: This is now becoming clear. You would expect the final report to be that of the investigating officer and the Appropriate Authorities are perfectly entitled in the legislation to take a different view.

Q143 Mark Reckless: But in the event it appears to be of the investigating officer's deputy, who is incorrectly referred to as the IO in that report.

Deborah Glass: We are looking at the same information. I can clarify no further.

Q144 Mark Reckless: Assuming that is the case, does that not mean that it is open to you, as the IPCC, under the legislation to at any time, "Change the basis of the investigation from a supervised to a managed or independent investigation"?

Deborah Glass: I wish it were so, and that is the advice I took when I received this final report with conclusions that I simply found extraordinary.

Q145 Mark Reckless: Could you therefore go back to your legal adviser and clarify whether the final report you received is from the investigating officer you appointed or is from someone else who was incorrectly described as the IO?

Deborah Glass: I am obviously happy to get further advice on this, but my understanding is that it is pretty clear. I cannot redetermine this simply because there has been some sort of irregularity around the conclusions.

Q146 Mark Reckless: But the law says you can come in and redetermine the method of investigation at any time. Why do you not do that and make it a managed or independent investigation and let that run its proper course?

Deborah Glass: If I could have done so lawfully I would certainly have done so. The clear advice I had is that simply when the investigation was concluded, to redetermine something simple to rewrite the conclusions would have been an abuse of process.

Q147 Mark Reckless: That clear advice was on the presumption that it had concluded and the final report you received was from the investigating officer you appointed.

Deborah Glass: I don't think I want to give myself legal advice in front of this Committee.

Q148 Chair: No, we are not seeking to do that. The point Mr Reckless is making is at the end of this whole process, if the chief constables come to you and they say, "This cannot be handled by the police any more, even by another police officer outside the force, will you look at this again for us", you cannot say no, can you?

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Deborah Glass: If there is some way of doing this lawfully, then I would certainly do that, because that was—

Q149 Chair: At the moment you are refusing on the grounds of legal advice you have been given, because the determination has been made and therefore you cannot open up a redetermination, even though Mr Reckless invites you to intervene because of the irregularities that we have heard at this Committee today. You feel you cannot do that because that is the advice you have received.

Deborah Glass: I can get further advice on it.

Q150 Chair: If you could do that, that would be very helpful. If the chief constables say to us and we say to them, “Is it now best that the IPCC now deals with this”, which was apparently what they wanted in the first place, you would take legal advice and see whether that was possible.

Deborah Glass: I would be very happy to do that, but I would just add that the chief constables have had the benefit of my independent assessment already.

Q151 Chair: Of course. Is there anything wrong with the chief constables or the Appropriate Authorities, whatever they are called now, making the decision themselves now?

Deborah Glass: Not at all. What I am quite clear about is that they themselves have the power to take a fresh decision.

Q152 Chair: The chief constables of West Mercia, West Midlands and Warwickshire can themselves make this decision?

Deborah Glass: That is my understanding, yes.

Q153 Dr Huppert: Can I go back to the original decision about the form of the investigation? It seems to me that is the key. Firstly, just to confirm, the letter of referral to the IPCC from DCC Chesterman, am I correct in saying it said, “This has the potential to be a high-profile investigation. There is also potential for the impartiality of the police investigation to be questioned”. That is correct. It is also correct to say their clear preference was for an independent investigation. Is that right?

Deborah Glass: or at least supervised, is what it goes on to say.

Q154 Dr Huppert: But they clearly preferred independent.

Deborah Glass: Yes.

Q155 Dr Huppert: You said that the reasons were concerns about the Metropolitan and resources. Section 15(3) of the Police Reform Act says that there are two factors that must be considered, and it does not list others. Those are the seriousness of the case and the public interest. Would you agree that if you look at the seriousness of the case and the public interest, this would clearly score very highly for both of them?

Deborah Glass: It would, yes.

Q156 Dr Huppert: Given that those are the only two factors on which the decision is supposed to be made, why was a decision taken, of the four options available, to take the second lowest and one which was not the preference of the recommendations?

Deborah Glass: Because we live in the real world. The public interest is also about, “Can I deploy to this? Can we deliver?” To take a decision on an independent investigation is all very well and is admirable, but if we cannot, behind that, deliver the kind of investigation that is needed, then that would not have been a sensible—

Q157 Dr Huppert: In other cases where we have spoken to Dame Anne about issues, the IPCC have said, “We need more resources to investigate this case” and the Government has generally supplied those. I do not know if there have been occasions if it has necessarily been everything that is wanted, but there have been extra resources. Was a request made for extra resources?

Deborah Glass: There was not in this case. What we have learnt—and we know this from Hillsborough—is we can deal with major inquiries but we also know that we cannot take them on quickly, so we have had to resource ourselves for that. Unlike the police, who have mutual aid arrangements—if they need 30 officers, they can go to another police force and borrow them from one day to the next—we cannot do that. To have got the scale of investigative capacity we would have needed to have taken on these two initially linked inquiries would simply not have been feasible in the short term. I would have loved to have done it but it just was not practical.

Q158 Dr Huppert: There has been criticism of the IPCC before of having police investigating police. This one seems to have a whole chain of police investigating police, and I hope there will be some lessons learnt for the future that this was the sort of case which desperately needed not to be looked at by the police themselves, just for transparency so that we did not have this sort of mess.

Dame Anne Owers: I think I would not disagree. Of course, we are talking in the context of the statement the Home Secretary made in February that the public interest and the interests of the police is best served by the IPCC having the capacity to do more independent investigations, and we agree with that. I would just say that at the moment, given where we are—and I will not trouble the Committee with my views on resources again—is that in a number of major investigations, like, for example, Operation Elveden, Operation Herne, the only thing that we can do with our current resources is to supervise, and sometimes only supervise part of them. That, for us, is very unsatisfactory. This Committee made comments in its previous report about supervising investigations, and we are with you on that.

Chair: I think we all agree with that and we will certainly revisit this again. Lorraine Fullbrook and Steve McCabe, and that is the end of this session.

Q159 Lorraine Fullbrook: I would like to ask what do the IPCC do from here on this case.

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Deborah Glass: All I could do was publish the statement I made last week. The reason I published it was that was the end of the road for us. I did not have the power to direct proceedings in the circumstances. Given that it was a matter of record that it was a supervised inquiry, and given that at the end of that there was a quite fundamental disagreement about the conclusions, I felt I had a duty to put that disagreement on the record, and that is what I did.

Q160 Lorraine Fullbrook: So nothing else happens from the IPCC, knowing the facts of the case so far?

Deborah Glass: I am now being asked—and further information is coming to light today to suggest that there may be some legal avenue for reopening this. I do not know the answer to that.

Chair: We appreciate that you will need to take advice. We do not wish you to make a decision now.

Q161 Steve McCabe: You acknowledged earlier that it is quite common for a draft report to change before we end up with the final report, but I am wondering is it common in this case or are we witnessing an extraordinary, quite inexplicable decision by the police that defies belief? Is that what has happened? They appear to have taken a conclusion and gone through a 180-degree turn on it. Is that common or is that something you have not come across before?

Deborah Glass: I have already expressed my amazement about this.

Q162 Steve McCabe: Everyone should draw that conclusion that it is almost impossible to understand who they could have arrived at this decision?

Deborah Glass: All I can say is that to me the evidence and the conclusions were so at odds that I needed to put that on the public record.

Q163 Chair: Given that we have a process and that we have been waiting a year for this, because it was 12 October last year when this meeting took place, where do you think this leaves Mr Mitchell? Do you think he is owed an apology for what has happened?

Deborah Glass: I think that this is a matter between the police forces and Mr Mitchell. My concern is around a case to answer for potential misconduct.

Q164 Chair: And you have made it very clear that you think there should be. Dame Anne, were you surprised at the ferocious reaction of the police to the letter from Deborah Glass in which there were then calls for the abolition of the IPCC? You must be aware that this had happened.

Dame Anne Owers: I am not aware of the police calling for us to be abolished.

Q165 Chair: Some members of the force had.

Dame Anne Owers: Have they? Well, I am afraid we have to do what we have to do. What we are doing is what is our statutory duty to do. The Committee has been clear there are questions about whether it would have been better had this been independent from the beginning, but I don't think the police service can argue that they did not have the benefit of an extremely well-reasoned, independent view of what the IPCC considered the conclusions to be.

Q166 Chair: It has also been suggested that Deborah Glass is leaving on 31 October. This is her parting shot. Are you satisfied, having looked at the case, that this is the right thing that has happened?

Dame Anne Owers: I am satisfied that that is not the case. Just for the record, Deborah is not leaving on 31 October. She will not be taking on operational responsibilities after that date. She will still be with the IPCC until next March, but she will not have her current operational responsibilities. I think after 13 years she deserves to be able to do something else for us as well.

Q167 Chair: Let me just put one point to you. It has been suggested that police officers should themselves carry recording devices, which would enable people to be absolutely certain of events and what has occurred. This was put forward by one of our parliamentary colleagues, David Davis, MP. Do you think this is a good idea? Clearly none of this would have happened had we not had the recording that was done by Mr Mitchell's assistant. We would not be in this room today. Do you think there is merit in this?

Dame Anne Owers: I would be nervous about extrapolating from a single, albeit very serious case to an entire way of policing. I would not really want to comment on that directly, save to say that I am old enough to have been around when the Police and Criminal Evidence Act was being debated and there was considerable resistance at that time from the police to tape-recording of interviews. In fact, that process has proved beneficial not just to suspects but also to the police themselves, because it is made clear on the record precisely what did and did not happen.

Mr Winnick: I think it should be said that in this whole sorry saga one thing is absolutely clear. The integrity of Deborah Glass is certainly not in any way questioned whatsoever. I think she has done an excellent job of work.

Chair: To have an endorsement from Mr Winnick is something that we all look forward to. It is more than I have ever achieved.

Q168 Chair: Could we return to the seriousness of the subject and call Inspector Ken Mackaill, Detective Sergeant Stuart Hinton and Sergeant Chris Jones.

Examination of Witnesses

Witnesses: **Inspector Ken Mackaill**, West Mercia Police Federation, **Detective Sergeant Stuart Hinton**, Warwickshire Police Federation, and **Sergeant Chris Jones**, West Midlands Police Federation, gave evidence.

Q169 Chair: Mr Mackaill, Mr Hinton and Mr Jones, thank you very much for coming at short notice to give evidence to the Committee today. We are most grateful. In your case, Mr Jones, you have flown in from abroad from your holiday and we are extremely grateful to you for coming here.

I am not going to go through the history of this, because I hope that you are aware of it, having obviously lived with this since 12 October last year. Mr Hinton, you and your colleagues issued an apology on Monday on a website. You said, “We acknowledge the investigation’s criticisms relating to our poor judgment in talking to the media following the meeting with Andrew Mitchell, for which we take this opportunity to apologise”. To be very clear, what exactly are you apologising for?

DS Stuart Hinton: We are apologising for our poor judgment. It was mentioned in the report of the investigating officer that we showed poor judgment in speaking to the media immediately following the meeting with Mr Mitchell. I think we are all happy to take the criticism on the chin around that, in that what clearly we should have done is given ourselves an opportunity to debrief the meeting, decide in fact whether we wanted to make any statement at all or whether we should submit ourselves to interviews to the media. We did not do that.

Q170 Chair: So it is the choreography of what you did in giving the statements rather what you said either at the meeting or to the media. At the moment there is no apology for what you said at the meeting and the difference in what you said to the media. The apology on the website of the Police Federation is for the choreography, is it?

DS Stuart Hinton: That is part of it, if I might carry on. The apology is also to the public, our colleagues and anybody else involved, in the fact that by not allowing ourselves to have a considered response to the media we may have said things that could be interpreted as being misleading, but we certainly did not intend to do that and we certainly did not lie intentionally.

Q171 Chair: Mr Jones, it is very strange, because it seems to me the apology is a very half-hearted apology. It is an apology for the choreography of what you should have done before you got to see the nine television cameras outside. It does not appear to be an apology to Mr Mitchell. Is it an apology to Mr Mitchell? I know he is a member of the public as well, but is this a specific apology to Mr Mitchell for the way in which you conducted yourselves at the meeting or outside, or is that still not something you want to apologise for?

Sgt Chris Jones: At the moment I think the way in which this has been picked over, I am still firmly of the opinion that we did represent that meeting correctly when we emerged from the meeting, and those were planned words.

Q172 Chair: There is no apology to Mr Mitchell at the moment. I am just not clear, because this was put on the website and we want to be clear about the status of this apology. Is it an apology to Mr Mitchell or is it to everyone who is in the public?

Sgt Chris Jones: It is an apology to everybody in the public.

Q173 Chair: That you did not stop and pause and think before you went to the press.

Sgt Chris Jones: Yes.

Q174 Chair: It is an apology for the choreography not being properly dealt with?

Sgt Chris Jones: Yes.

Q175 Chair: Not an apology for anything that you have done? You don’t think you have done anything wrong?

Sgt Chris Jones: At the moment, no, I am not convinced that we have done anything wrong.

Q176 Chair: You would know now after a year, would you not?

Sgt Chris Jones: Yes, I am not convinced that we have done anything wrong.

Q177 Chair: You have done nothing wrong, you have done nothing to apologise for. That is your view?

Sgt Chris Jones: At the moment, yes.

Q178 Chair: Mr Mackaill, you did most of the talking, of course, to the media. You are an inspector in the force. The words “integrity, honesty and probity” were mentioned several times in the recorded conversation that you had with Mr Mitchell. Are you also of the view that nothing that has happened in the last year, nothing that happened at this meeting, merits an apology to Mr Mitchell?

Inspector Ken Mackaill: No, I gave what I believed was an accurate account of the meeting.

Q179 Chair: To the media?

Inspector Ken Mackaill: To the media, but I subscribe to the apology that I should not have done it in the way I did, that we perhaps should have considered a response, whether we were going to give interviews or produce a press statement. Mr Mitchell had indicated that there was a possibility of giving a joint press statement if we had agreed the position. That was before our meeting.

Q180 Chair: So it is all about the way in which you spoke to the media, nothing about the content, the fact that the investigating officer—have you now seen the report that the Committee has seen? Have you seen the report?

Inspector Ken Mackaill: The investigating officer’s report? Yes, I have, yes.

Q181 Chair: You have seen what he has said about the difference in the version of events and what you

said to Mr Mitchell and what you said to the media. He has not concentrated necessarily on choreography; he has talked about content. You have seen the investigating officer's report. Did you see the conclusions, Mr Jones, of the draft report?

Sgt Chris Jones: I have seen the reports. I am not sure which version of that report—

Q182 Chair: The first report. Shall I remind you what was said? Is that helpful to you? This is what it said: "By giving a misleading account of what took place at the meeting, I believe the officers have a case to answer for misconduct and bring discredit on the police service. Are you aware that that was said about by the Chief Inspector who heads the Professional Standards Department?"

Sgt Chris Jones: I am now, sir, yes.

Q183 Chair: And you were not before?

Sgt Chris Jones: I contest that we gave a misleading account.

Q184 Chair: I understand that, but you were not aware of what an independent inspector had said?

Sgt Chris Jones: No.

Q185 Chair: Mr Mackaill, were you aware of the evidence that has just been given to us by the deputy chair of the IPCC and the chair of the IPCC?

Inspector Ken Mackaill: Yes.

Q186 Chair: You have watching that evidence?

Inspector Ken Mackaill: Yes, I have.

Q187 Chair: Did you hear her say that it is not a case for misconduct, it really is a case for gross misconduct?

Inspector Ken Mackaill: I did hear that, yes.

Q188 Chair: What did you feel about that?

Inspector Ken Mackaill: I do not accept that it is gross misconduct.

Q189 Chair: You do not?

Inspector Ken Mackaill: No.

Q190 Chair: Mr Hinton, in respect of the meeting that took place with Mr Mitchell, you do not dispute the recording that Mr Mitchell took. You have seen a transcript of that, have you?

DS Stuart Hinton: I have, and my colleagues have and, no, we do not dispute this recording. In fact, I do not have a problem that it was recorded. I am quite glad it was recorded now, to be perfectly honest, because everybody, members of the Committee and you, Chair, can see what was said, what we asked. I would ask that you come to a reasonable view around what we said afterwards.

Q191 Chair: We have all seen the transcripts afterwards. Don't you think it is very odd? You are officers with some years' standing. How many, Mr Jones?

Sgt Chris Jones: Twenty-eight years.

Q192 Chair: Mr Mackaill?

Inspector Ken Mackaill: Twenty-two.

Q193 Chair: Mr Hinton?

DS Stuart Hinton: Twenty-one years.

Q194 Chair: Do you not have even the slightest doubt about this matter, given what has been said by Chief Inspector Reakes-Williams and Deborah Glass, not even the slightest doubt that there may be a difference between what you said at the meeting and what you said to the media and that that may have brought your police service into disrepute? I am looking at the apology that you gave. You seem to think that the public are upset about this and that is why you made the apology. Do you think that this furore is not something that one should be concerned about?

DS Stuart Hinton: I am extremely concerned, absolutely extremely concerned, and that is part of the very short statement we put forward.

Q195 Chair: How do you think it can be addressed? Clearly for the rest of your professional lives, all three of you will know that this report has been written about you. All three of you will know that in evidence to this Select Committee the deputy chair of the IPCC has said that you really ought to have had a case for gross misconduct. You had to have that hearing. She was not finding you guilty; she was saying there ought to be a hearing. For the rest of your professional lives this will follow you around. Do you not think, Mr Mackaill, it is in your interests to make sure that there ought to be a hearing and this matter ought to be cleared up once and for all? Wouldn't you like that?

Inspector Ken Mackaill: Until recently I had understood that it was cleared up once and for all, that the facts had been analysed by the Appropriate Authority and a conclusion reached.

Q196 Chair: We have just discovered, of course, that there are no minutes of the meeting that the Appropriate Authority has looked into it. We understand that you want to accept the verdict, but if you put out this statement, you must be concerned about your reputation and the reputation of your colleagues. Surely, Mr Jones, you did not issue this statement for fun?

Sgt Chris Jones: No, we did not issue this statement for fun.

Q197 Chair: You issued it for a reason.

Sgt Chris Jones: We are concerned about the reputation of the police service and the reputation of our colleagues, which comes back to something we spoke about in the meeting with Mr Mitchell.

Q198 Chair: Do you not think, therefore, it is in your interests that this matter ought to be redetermined and once and for all you need to be able to put your views forward with someone completely independent of the officers who you have day-to-day contact with in your forces? This is an inquiry that has been conducted by your local forces, has it not?

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Sgt Chris Jones: It has, and the chief constables or the deputy chief constables, or the ACCs, have reviewed that and come to a conclusion.

Q199 Chair: We will be hearing from them next week. As far as you are concerned, everything is fine and you don't think there is anything else that ought to be done?

Sgt Chris Jones: No, sir.

Q200 Chair: As far as you are concerned, there is no problem here now? You have apologised and that is it? Not to Mr Mitchell but to the public.

DS Stuart Hinton: We submitted ourselves to the correct process and the investigation that, as you are very well aware, was conducted under the supervision of the IPCC.

Q201 Chair: Mr Hinton, I don't think you understand that we have received evidence from your chief constable, who will be giving evidence to us shortly, that he regards the process as being flawed.

DS Stuart Hinton: I am not aware of that, no.

Q202 Chair: That is what he said. What do you feel about that, the fact that the chief constable now wants this redetermined?

DS Stuart Hinton: That is a matter for the chief constable. If that is his decision, I accept that as his decision, if he is entitled to do that, as I, up until this moment, was happy to accept his decision previously.

Q203 Chair: Mr Mackaill, would you be happy to accept a redetermination?

Inspector Ken Mackaill: I would need to look at the reasons for the chief constable determining that was happened so far is unlawful. It does surprise me, after this length of time and the seniority of people involved in the inquiry, that it has not been lawful. But I do not know the reason for Mr Shaw's view.

Q204 Chair: Mr Jones?

Sgt Chris Jones: Again we would have to follow due process and succumb to due process.

Q205 Chair: What exactly does that mean, Mr Jones?

Sgt Chris Jones: If it is found that it was lawful and the determination was—

Q206 Chair: You would be happy to accept a redetermination if you find that due process has not been followed?

Sgt Chris Jones: I am of the opinion and belief that due process has been followed so far.

Q207 Chair: But if the chief constable rules that it has not been and that there are irregularities, would you happy to have a redetermination.

Sgt Chris Jones: I would have to succumb to do that.

Q208 Chair: You would be happy to do that?

Sgt Chris Jones: I would have to succumb to it. Whether I would be happy or not, no.

Q209 Mr Clappison: Mr Mackaill, are you still maintaining to this Committee today that the account which you gave of the meeting with Mr Mitchell at his constituency surgery was an accurate account?

Inspector Ken Mackaill: Yes.

Q210 Mr Clappison: You say it was. Mr Reakes-Williams is getting it completely wrong when he says that the account you gave to the media was inaccurate and misleading and any member of the public would come to that interpretation?

Inspector Ken Mackaill: I do not accept that at all.

Q211 Mr Clappison: Let's look at what you said after that meeting. You came out and you spoke to the cameras. You said, and these are your words, "He will not tell us what he actually said". You repeated that in interviews and your colleagues said the same thing. Yet in the meeting, we know now with the benefit of the recording that was made of the meeting, which you have complained you were unaware of but it was in fact made, Mr Mitchell's words to you, his explanation when you asked him about all of this, was, "I did not say, and I give you my word. I did not call the officer an effing pleb, but I did say, you know, under my breath but audibly, in frustration, 'I thought you lot were supposed to effing help us'. I did say that and it is for that that I apologise". That was an account, was it not?

Inspector Ken Mackaill: It was a partial account. Can I just state I have never actually complained about the recording. Like my colleagues, I welcome the fact that the recording was made.

Q212 Mr Clappison: I am very pleased to hear that now, but can we just dwell on this? You said, "He will not tell us what actually said". That is what he said to you, wasn't it?

Inspector Ken Mackaill: Yes, that is right. Part of what I said has been taken out of context, and it may help if I were to read a fuller version of what I said. I think this bit was broadcast by Sky. I apologise for any language here, but it is a quote. "To use his words 'a 'profound apology with feeling' for what he did say". That is a reference to where he said, "I thought you were supposed to fucking help us".

He has also repeated a denial of many of the words reported in the officer's notes at the time, and that is the reference to plebs, morons, knowing your place and that sort of thing.

Q213 Mr Clappison: You accept now that he did give you account and you went on to say that he did not give an account?

Inspector Ken Mackaill: He gave an account but he did not tell us exactly what he said.

Q214 Mr Clappison: If that is the case, if that is right, why was it you did not ask him more questions? This is one of the points Mr Reakes-Williams raises in his investigation. You never asked him any further questions, you just left it at that.

Inspector Ken Mackaill: He was asked a question by my colleague Stuart Hinton.

Q215 Mr Clappison: Can I quote to you what Mr Reakes-Williams says? He said, “Why did three experienced police officers not press Mr Mitchell for the full explanation they wanted during the meeting? He gave an answer but they did not go on to indicate that they were not satisfied that he has given a full account”.

DS Stuart Hinton: As I asked the question, can I come back on it? I asked the initial question around, “I think we would like you to tell us what you did say” during the meeting. He came back with that brief explanation as to what he said. That is quite correct.

Can I just say that, yes, I understand what Chief Inspector Reakes-Williams was saying, but what I must emphasise, as a detective of some experience, is I was not there to conduct a police interview with Mr Mitchell. We were having to try to clear the air and to try to sort out what had happened.

Q216 Mr Clappison: I think we know a bit better than that about this, don't we?

DS Stuart Hinton: I refute that.

Q217 Mr Clappison: I just want to finish this. Mr Hinton, you said, “I understand what you are saying you said now and I appreciate your candour”. I am quoting what Mr Reakes-Williams said, nobody else. This is your own chief investigating officer.

DS Stuart Hinton: That is in the transcript and again I can explain exactly what I meant by “his candour”. My understanding was, until we had the meeting, that Mr Mitchell had only ever said publicly that he did not agree with the words that were attributed to him. He used that phrase. It was not very specific around what he had and had not said. When I asked him that question during the meeting, he then came out with—and it was the first time I was aware that he said, “I did not use the word ‘pleb’ and I did not use the word ‘moron’”. I think he uses that in it. That was what I was thinking his candour for. Because rather than just saying, “I am not agreeing with the words that were attributed to me, I am actually saying to you I did not”. After the meeting all three of us were very clear and implicit in repeating his denial of those specific words.

If you take the phrase that I think was used in an interview is he did not say exactly what he did say on its own, out of context, that would be wrong. If I said that alone, it would clearly be wrong and misleading.

Q218 Mr Clappison: Can I just put this to you? You also said to BBC Midlands, all three or certainly Mr Mackaill, “He, Mr Mitchell, has come out with what he has not said but is not saying what he said and that has caused an integrity issue”. He did tell you what he said. He said he used the “effing” word but not the word “plebs”.

DS Stuart Hinton: This is why I come back to what I said originally around not giving ourselves time to consider what had been said in the meeting. We came out and gave media interviews. I said it as I saw it as I came out of that meeting.

Q219 Mr Clappison: You are saying that your chief investigating officer, who says that you did not give

an accurate and proper account of this, is getting it wrong and so is Deborah Glass?

DS Stuart Hinton: What I am saying is, yes, I think that those opinions are wrong, because when Ken and Chris and I came out of that meeting, what we said is what we understood had happened in the meeting, and gave a reasonable reflection of what we understood had been said in the meeting.

Q220 Mr Clappison: You have apologised for the choreography. You said that this was just a clear-the-air meeting. Were you surprised when you saw the media outside?

DS Stuart Hinton: No, because I knew they were there when we were travelling to the meeting.

Q221 Mr Clappison: You travelled to the meeting in the company of your PR adviser.

DS Stuart Hinton: That is correct.

Q222 Mr Clappison: Were you aware that your PR adviser had tweeted, two days before the meeting, “Breaking news. Andrew Mitchell’s fate will be decided when he meets the PC Plebs of West Midlands, Mercia and Warwickshire on Friday”?

DS Stuart Hinton: I personally was not aware of that tweet, which is what I said during my misconduct interview.

Q223 Chair: But of course you are now.

DS Stuart Hinton: I am now, yes.

Q224 Chair: the meeting, as you have told this Committee, was not just about Mr Mitchell, it was about the cuts that were going on. Is that right?

DS Stuart Hinton: Yes. If I may, part of—

Q225 Chair: Could I ask Mr Jones? Because I would like to give you all a fair hearing. Mr Jones, this was about the cuts, wasn't it? You were going as Federation representatives about the cuts?

Sgt Chris Jones: The whole campaign at the time was about the cuts, yes.

Q226 Chair: It was about the cuts, indeed. The reference in the transcript to, “That woman in the Conservative Party” was whom? Who was that woman?

Sgt Chris Jones: I don't think it was me that said that.

Q227 Chair: I think it was in the transcript. You will find it.

Sgt Chris Jones: Can you direct it to me?

Q228 Chair: We can find who said, “That woman”. Is it right, Mr Mackaill, that you received a letter from the chairman of the National Police Federation asking you to stop this campaign because it was getting extremely personal? He says in his letter to you of 26 September, “While we understand the sentiment and anger, such wording, the personalised nature of your campaign, we urge you to withdraw this particular campaign as a matter of urgency and in the best interests of our members”. Did you receive a letter

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from Paul McKeever telling you not to carry on with this campaign?

Inspector Ken Mackaill: We received a letter. It was not within the national chair's power to tell us to stop doing it. We are an autonomous body.

Q229 Chair: But it is clear that the reason why you went there was to also be part of a political campaign to do with the cuts.

Inspector Ken Mackaill: Yes, that is correct.

Q230 Chair: You replied to Mr McKeever on 27 September. Do you remember what you said?

Inspector Ken Mackaill: I do not, no.

Q231 Chair: Here is a copy of the letter for you to see, and a copy of Mr McKeever's letter. It is right, is it not, that the Police Federation, of which you are all members, and that was the locus for you being there, was very concerned about the personalised nature of this visit and the personalised nature of the campaign. Is that right, Mr Mackaill?

Inspector Ken Mackaill: I am sorry, I was reading the letter. Could you just ask the question again, please?

Q232 Chair: The National Police Federation was very concerned about this.

Inspector Ken Mackaill: That is correct, yes.

Q233 Chair: You felt you had the backing of your local members and the public?

Inspector Ken Mackaill: Yes, I think so, yes.

Q234 Chair: This was a campaign meeting more than anything else?

Inspector Ken Mackaill: No. That was certainly part of the issue, but not in its entirety, no.

Q235 Chair: Why was it drawn to a close at 5.45pm? You did not really get on to the cuts issue. Although one of you had talked about the cuts, at exactly 5.45pm the meeting came to a close. It has been suggested that that is because you were there to deal with the 6.00pm news. Is that right?

Inspector Ken Mackaill: That is not correct. I was not instrumental in bringing the meeting to a close.

Q236 Chair: Who was, of the three of you?

Inspector Ken Mackaill: If I can say my own part, I did feel the meeting had come to a natural conclusion, that we were beginning to—

Q237 Chair: Even though you had not discussed the main purpose of your visit?

Inspector Ken Mackaill: That was a secondary part. We felt unable to move on to the second part because the first part had been unresolved.

Q238 Steve McCabe: Gentlemen, as we have heard, prior to this incident the Police Federation were running a high-profile campaign against cuts to police funding and changes to officers' terms and conditions. Do you think that your behaviour has undermined that campaign and damaged the reputation of the Police

Federation and undermined public confidence in the police?

DS Stuart Hinton: Our campaign was designed to highlight the public concerns around the cuts, and nothing more. I think we need to emphasise this to you all today.

Q239 Steve McCabe: I understand what the campaign was about. I am asking if your behaviour effectively undermined it, because nowadays I am not getting too many people contacting me about police cuts, but I am getting an awful lot of people contacting me about what happened at this meeting and subsequently.

Sgt Chris Jones: I think our poor judgment showed in using the incident in Downing Street as a hook to gain media attention to our cuts campaign. That is regrettable, in hindsight and, yes, I do think that has had an effect on the Police Federation.

Mr Winnick: Can I just interrupt and ask if we have seen the letter?

Chair: I am getting it copied, Mr Winnick.

Q240 Mark Reckless: Sergeant Hinton, you referred to the investigating officer only concluding that there was an issue of judgment. Who do you understand that investigating officer to be?

DS Stuart Hinton: Mr Reakes-Williams.

Q241 Mark Reckless: Was it his conclusion that, "By giving a misleading account of what took place at the meeting, I believe the officers have a case to answer for misconduct and bringing discredit on the police service"?

DS Stuart Hinton: I do not accept that we intentionally gave a misleading account of the meeting.

Q242 Mark Reckless: Was that not the account of the investigating officer, as properly appointed?

DS Stuart Hinton: I would disagree with that.

Q243 Mark Reckless: That is what it says here in black and white.

DS Stuart Hinton: I do not disagree that he said it; I just disagree with the conclusion.

Q244 Mark Reckless: You refer to the investigating officer's judgment, but is it not the case that the investigating officer we are referring to there is merely an Inspector Smith who was not appointed for that role in any formal sense at all?

DS Stuart Hinton: My understanding was—I am assuming, I have to say, because I was subject to the investigation but not involved in it, if I can put it that way—that Chief Inspector Reakes-Williams was the senior investigating officer and Detective Inspector Smith was the deputy SIO, which is the way a lot of police investigations are managed.

Q245 Mark Reckless: But the issue is as far as the IPCC or the legislation concerned, it is Chief Inspector Reakes-Williams who has that role and it is him who said there was a case to answer for misconduct, and only Mr Smith, who does not have

any formal role in this, who said it is merely a question of judgment. I just wondered if you were aware of that.

DS Stuart Hinton: No, I was not.

Q246 Mark Reckless: Can ask all three of you, when you were having this interview with Andrew Mitchell at his constituency offices, was that on Police Federation time?

DS Stuart Hinton: Yes.

Q247 Mark Reckless: Who was paying you in respect of that time?

DS Stuart Hinton: All full-time Federation officials are obviously employed by their respective forces and are given that facility time to perform their roles as Federation officials.

Q248 Mark Reckless: So your activities at Andrew Mitchell's office and with the media afterwards were funded by the taxpayer. Do you consider that to be appropriate?

DS Stuart Hinton: It is appropriate in the context that that is not all that we do as Federation officials. We are there to represent the interests of our members, represent them when there are allegations of misconduct and that sort of thing, represent them when they are—there are quality issues and all sorts of things like that we do. We were not doing that on that particular occasion, but that is why there is facility time given generally.

Q249 Mark Reckless: I understand the circumstances, and you refer to the facilities agreement, but I understand that Chief Constable Sims has said that this facilities agreement is being changed to prevent this sort of activity every happening again.

DS Stuart Hinton: That is Mr Sims' prerogative.

Q250 Mark Reckless: You do not support that change? You would like to have the Federation continue being able to do this sort of thing with taxpayers' money?

DS Stuart Hinton: We should be able to represent our members, as police officers do not have the normal industrial rights, if you want to put it that way.

Q251 Mark Reckless: This sort of behaviour is okay, paid for by the taxpayer?

DS Stuart Hinton: The behaviour of all of us in representing our members and their concerns is okay, yes.

Q252 Mr Winnick: I am correct, am I not—and I speak as a West Midlands MP, moreover one very much opposed to the Government's policies regarding the police cuts—there is and continues to be a campaign by the Police Federation in the West Midlands against the cuts?

Inspector Ken Mackaill: Not one that I am involved in. My colleague from the West Midlands may be. The campaign came to an end at the conclusion of that meeting with Mr Mitchell, and I think you will find we have not done much—

Q253 Mr Winnick: But there was a high-profile campaign, perfectly legitimate, which the Police Federation, representing their members, felt was necessary in view of the cuts that were due to take place. Am I right?

Sgt Chris Jones: Our view was that it was a legitimate campaign, yes. There had been other previous campaigns before that. You may remember the postcard campaign. You probably received postcards from our members.

Q254 Mr Winnick: No. The rest of us, apart from the Chair, are somewhat at a disadvantage, because we have not seen the letter from the National Police Federation to you. That letter apparently suggested a different approach in the campaign against the cuts. Am I correct?

Sgt Chris Jones: My understanding of the letter from Paul McKeever is that it was not about what was happening with Mr Mitchell at the time.

Q255 Chair: Mr Jones, it predates the meeting with Mr Mitchell, so it could not be about him.

Sgt Chris Jones: At the time of the Tory Party conference that year, we brought some billboards around the conference arena, and it was about the fact that one of the posters that we put up contained a picture of Mr Cameron. If I remember right, it said something along the lines of, "Say hello to David, wave goodbye to your police force" or words to that effect. Paul McKeever felt that using Mr Cameron's first name was inappropriate and it was a personal attack on Mr Cameron, and we had a disagreement around that.

Q256 Mr Winnick: On reflection, do you think it was a mistake to confuse or link the two, namely what was alleged against Mr Mitchell—of course a West Midlands Member of Parliament—and the campaign against the cuts?

Sgt Chris Jones: On reflection I think perhaps we would do things fairly differently, yes.

Q257 Mr Winnick: Would it not be right to say that as a result of the two being linked, this has been very useful ammunition for those who believe that the campaign against the cuts was wrong from the beginning and therefore, to put it bluntly, you have done a disservice to your members who continue to feel that the cuts is a policy that is wrong?

Sgt Chris Jones: I think a number of things have been taken out of context around all this.

Q258 Mr Winnick: Taken out of context or otherwise, you do agree that it was wrong to link the questioning of Mr Mitchell, as a West Midlands Member of Parliament, over what he did or did not say at Downing Street over being refused permission to take his bicycle, and the general policy of the cuts being imposed by the Government?

Sgt Chris Jones: If we were to do it again, I think we would probably do it a different way.

Q259 Mr Winnick: A different way. To that extent it could be argued that a disservice has been done to

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your members who feel, as I have said, that the cuts are wrong?

Sgt Chris Jones: Our members at the time were very supportive of what we were doing. We were representing them; that is what they wanted us to do.

Q260 Mr Winnick: Presumably it is your wish to serve your members as best you can.

Sgt Chris Jones: As you do, sir.

Q261 Mr Winnick: You recognise a mistake, perhaps a major mistake, was made?

Sgt Chris Jones: Yes.

Q262 Chair: Mr Hinton, it was you who said at the meeting, “We have said today that it is time to move on. We, as you know, as a Federation, have issues with the reform of this woman that the Conservative Party have”. Who were you referring to?

DS Stuart Hinton: I think that is a typo, to be perfectly honest.

Q263 Chair: It is a typing error?

DS Stuart Hinton: I do not know why I would say “this woman” in the middle of a sentence like that.

Q264 Chair: No, because I stopped. “We, as you know, as a Federation, have issues with the reform of this woman that the Conservative Party have. I am sorry, we are just moving on here and I do not know if Ken or Chris have anything to ask around the issue of Downing Street. Chris, have you got anything?” Do you remember who “that woman” was?

DS Stuart Hinton: I do not remember saying “that woman”.

Q265 Chair: So the transcript is wrong?

DS Stuart Hinton: In that particular I would suggest it is, yes.

Q266 Chair: The transcript is wrong?

DS Stuart Hinton: I do not recall using the words “this woman”.

Chair: Let’s see if we can find it and send it to you, Michael Ellis.

Q267 Michael Ellis: Is that not a classic example of the disrespect and your disgraceful conduct on that day? You are clearly referring to the Home Secretary in that conversation, are you not?

DS Stuart Hinton: No.

Q268 Michael Ellis: The Home Secretary, the Deputy Prime Minister, the Prime Minister have all said there should be an apology for this. You have repeatedly been asked whether you ought to give an apology. You are saying you ought not give an apology to Andrew Mitchell for the way you conducted yourselves on that day. Mr Jones, is that right?

Sgt Chris Jones: I don’t think we can give an apology at the moment.

Q269 Michael Ellis: I suggest you can give an apology for spinning a yarn to the press that afternoon

to get someone out of high public office, because that is clearly why you were motivated to do, is it not?

Sgt Chris Jones: I would disagree with that. That is not what we were motivated to do and that is not what we were trying to do.

Q270 Michael Ellis: You disagree with a 13-year veteran of the IPCC when she said, “The police officers had a responsibility to present a clear and accurate picture. Their motive seems plain. They were running a successful, high-profile, anti-cuts campaign and the account that Mitchell provided to them did not fit in with their agenda”. You disagree with the IPCC and you disagree with the Chief Inspector of Police who said that you had misconducted yourselves. You are saying that you were completely innocent of this matter.

Sgt Chris Jones: What was my state of mind at the time when this happened? My state of mind at the time was that there was no intention to mislead. I do not feel that I lied about what went on in the meeting. There was no conspiracy to unseat Mr Mitchell. I believed at the time that the officer on the gate that had the interaction with Mr Mitchell had provided a truthful account. I can give you my reasons if you want to hear those why I feel that.

Q271 Michael Ellis: Mr Jones, can I just stop you there? I suggest to you that that is not the case. We have already heard that a media relations company was advising you about an anti-cuts campaign that was in progress at the time. That is correct, is it not?

Sgt Chris Jones: That is correct.

Q272 Michael Ellis: You are all three members of the Police Federation, so you can confirm that is correct.

Sgt Chris Jones: Yes.

Q273 Michael Ellis: A representative of that media relations company drove with you in the car to that meeting. Is that correct?

Sgt Chris Jones: Yes.

Q274 Michael Ellis: Is it also not correct that during the course of that journey he was receiving telephone calls from the media about your forthcoming meeting?

DS Stuart Hinton: He was receiving telephone calls from the media, yes.

Q275 Michael Ellis: He was receiving telephone calls from the media. Is it also not correct that you were advised by that media relations company, “Make sure you finish the meeting in time for the 6.00pm news bulletins”? The meeting finished at 5.45pm

DS Stuart Hinton: yes.

Q276 Michael Ellis: You acted in concert with a view to discrediting a senior Cabinet Minister. Is that not right, Mr Jones?

Sgt Chris Jones: No, that is not correct. We did not do that.

Q277 Michael Ellis: The media company had sent a tweet prior to the meeting that indicated that Mr

Mitchell's fate would be decided at the meeting. I suggest to you again that you acted with a view to establishing his future. You thought that collectively you could bring down a Member of the Government in penalty for what you thought was a bad policy. Mr Mackaill?

Inspector Ken Mackaill: I absolutely refute that suggestion.

Q278 Michael Ellis: When you, Detective Sergeant Hinton, said at the end of the meeting to Mr Mitchell, "I appreciate your candour and we appreciate you have gone beyond you said in the media", then in interview with BBC Midlands afterwards you said, "He has come out with what he has not said but he is not saying what he did say and that has caused an integrity issue". I suggest to you, therefore, that when you spoke to BBC Midlands afterward you were not telling the truth.

DS Stuart Hinton: No, I was telling the truth. I was telling it as I saw it happen. I had come out of the meeting. There had been a fair deal said during the meeting. Mr Mitchell's account with regard to saying things under his breath and so on was said at the beginning of the meeting. Later on the meeting he was reiterating that he had not gone beyond anything he had said previously and—

Q279 Michael Ellis: You had said that he spoke with candour in the meeting. How can you go from saying he was candid in the meeting, to what you said to the BBC outside?

DS Stuart Hinton: I explained that earlier. Prior to the meeting, my understanding was that Mr Mitchell had only ever said, "I do not agree with the words attributed to me". The candour I was referring to was the fact that during the meeting he came out and said, "I did not use the specific words 'pleb' and 'moron'" and suchlike. After the meeting, when I did give some media interviews, I was at pains to point out that he had apologised, and not using those words, those specific words. That is the context in which my other comments should be viewed.

Q280 Michael Ellis: How did the press find out about this meeting? It was supposed to be a private meeting, was it not?

DS Stuart Hinton: It was.

Q281 Michael Ellis: It was supposed to be a private meeting, so how did they find out? I presume you are not going to suggest that Mr Mitchell would encourage a media circus around himself at this time, so how did the press come to find out? Was it from the media relations company that was acting for the Police Federation, was it from you?

DS Stuart Hinton: The Gaunt Brothers were under instructions not to release the meeting. I have a letter here, an email, from Mr Mitchell where he agrees to the meeting and says that he does not want the location disclosed. We agreed we were not going to disclose the location. This was all done—

Q282 Michael Ellis: Yet there was a media circus outside.

DS Stuart Hinton: There was, and can I—

Q283 Michael Ellis: I have nothing further.

DS Stuart Hinton: There is something really important to say. In the investigating officer's report, the investigators asked certain quarters of the media how they knew about where the meeting was going to take place, Channel 4 in particular, I think, and they refused to tell the investigators how they knew where the meeting was happening, on journalistic grounds.

Q284 Mr Clappison: I think, Mr Hinton, you were a little bit more helpful when you were talking to the investigating officer about this, because you told the investigating officer, and I will read it to you exactly, "DS Hinton confirmed that he understood that the meeting with Mr Mitchell would be private. He stated however that the three Federation representatives travelled to the meeting with John Gaunt and that during the journey Gaunt had been receiving calls from the media asking him when they were going to arrive". So you must have expected the media to be there.

DS Stuart Hinton: During the journey to the meeting we clearly were expecting the media to be there, because John Gaunt was getting the calls from them asking where we are.

Q285 Mr Clappison: We know Mr Gaunt is not exactly a shrinking violet, but were you not a bit cross that he told the press that you were going to be there.

DS Stuart Hinton: If indeed he has told the press, and he was under instructions and I don't think he has.

Q286 Chair: We will be asking him to give evidence.

DS Stuart Hinton: I would be cross, yes.

Q287 Mr Clappison: As far as the choreography of this was concerned, your request for a meeting, that fact that you were travelling with your media adviser, that there were tweets going in advance, that the press were there and you went straight out to see them in time for the 6.00pm news, the choreography, you have to accept, was that of you and your Federation and your adviser, was it not?

DS Stuart Hinton: To a degree. I have to accept that as Federation representatives we were engaging in a campaign against the cuts and that we had no experience around really engaging with the media, which is why we employed a PR agent, and it was John Gaunt, who we were introduced to by the National Federation, who had used him in the past. So it was not like we just plucked him out of the air. Can I just finish, because it is important?

Q288 Chair: Just on John Gaunt, were you aware that the National Federation had terminated their contract with him in July?

DS Stuart Hinton: Yes.

Q289 Chair: When you have just said to this Committee now you used him because the National Federation have used him the past, they had terminated the contract with this company.

DS Stuart Hinton: That is why I said in the past, yes.

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Q290 Chair: Because they had not been following the instructions of the client, yet you continued to employ them.

DS Stuart Hinton: I did not know the reasons why they had terminated his contract.

Chair: We need to move on, if we may.

Q291 Chris Ruane: A question for Mr Mackaill. When you were asked last year by Channel 4, “What do you think should happen next to Mr Mitchell”, you said, “I think Mr Mitchell’s position is untenable. I think he has to resign, and if he doesn’t resign then I think the Prime Minister has no option but to sack him”. Mr Mitchell succumbed to this pressure, your pressure, and he resigned. Was Mr Mitchell right to resign?

Inspector Ken Mackaill: Let me state first of all it was not just my pressure. There were calls from all sorts of quarters for Mr Mitchell’s resignation.

Q292 Chris Ruane: It was you who was quoted on Channel 4.

Inspector Ken Mackaill: Yes, but you said succumbed to my pressure, just to clarify that point.

Q293 Chris Ruane: It was you who was asking for him to resign. Was he right to resign?

Inspector Ken Mackaill: What I saw was a very casual dismissal, a very public dismissal, of police officer integrity.

Q294 Chris Ruane: But was he right to resign?

Inspector Ken Mackaill: I think so, yes.

Q295 Chris Ruane: He was. Do you not feel any sympathy, pity or compassion for the man? I think he lost about two stone in weight in about two or three weeks. Do you not feel any pity, sympathy or compassion for what he has gone through over the past year, and do you not think that you owe him a personal apology for what has gone on?

Inspector Ken Mackaill: Since them, of course, we have seen all sorts of developments at Downing Street, or the Downing Street incident, which I had no way of knowing would happen. But my mind at the time was, as I have said, a very casual dismissal of police integrity.

Q296 Chris Ruane: And he was right to resign?

Inspector Ken Mackaill: I think so, yes.

Q297 Chair: Doctor, before we come to you, on that issue all three of you—I think you in particular, Mr Jones—in answer to Mr Mitchell said, “We have got bad apples but we have got bad apples in our barrel”, referring to the Metropolitan Police. It is in the transcript and we will send you it if you do not have it. Mr Mitchell replies, “I am not comfortable to comment on that. I wouldn’t”. You replied, Mr Jones, “It does not feel right that the officers have attributed those words to you if that’s not true”. West Midlands, which was also you, “They don’t wish to have a misconduct hearing in the Met”. You were going to report those officers, were you not, after the meeting,

for what they had done to Mr Mitchell? Did you end up reporting them?

Sgt Chris Jones: In the meeting it felt right to do that at the time. When the meeting was over and we considered it—

Q298 Chair: This is after the press briefing?

Sgt Chris Jones: Yes, this is probably during the course of the following week. The times are a little bit hazy.

Q299 Chair: You decided not to report them?

Sgt Chris Jones: When we reflected on it, there was actually nothing new that had come out of that meeting that was not already in the public domain, and the decision had already been made, as we understood it, by the Metropolitan Police not to conduct an investigation at that stage. So there was a general feeling that this had come to an end. That meeting, as far as we were concerned, was the end of the campaign.

Q300 Chair: It would have been pretty explosive if you, having had a meeting with Mr Mitchell, would then go off and report your own colleagues in the Met, would it not, bearing in mind what you have said to the media?

Sgt Chris Jones: There was nothing new that we had discovered from that meeting that was not already known, so the view was would we be taken seriously if we tried to complain. Basically we were saying that Mr Mitchell was saying—

Q301 Chair: But you told him that you thought there should be a complaint.

Sgt Chris Jones: We told him that, yes.

Q302 Chair: At the meeting?

Sgt Chris Jones: yes.

Q303 Chair: Giving him the impression that you were going to do something about it.

Sgt Chris Jones: Did he disagree with that?

Q304 Chair: No, he said he could not comment on it because he did not want to fire fight other and it was a decision for you.

Sgt Chris Jones: He did not wish to impugn the officer’s integrity.

Q305 Mr Clappison: Just on what Mr Mackaill said a few moments ago about Andrew Mitchell’s attitude to a police officer at Downing Street, it would be right and fair to say that in the meeting with you he was absolutely contrite about what he had said. He said, “I should never have said it and I will never do it again. I think we all of us in our lives occasionally let go”. His attitude was contrite, was it not, and it was trusting towards you, as representatives of the police who had worked within his constituency over many years?

Sgt Chris Jones: Yes.

Q306 Dr Huppert: Sergeant Jones, would it be fair to say you were expecting the media when you arrived at this meeting?

Sgt Chris Jones: By virtue of the fact that we were receiving phone calls on the way to the meeting, yes.

Q307 Dr Huppert: Have any of the three of you had media training in the police service or the Federation? Did you do any preparation about how you would deal with the media when you came out?

DS Stuart Hinton: This is one of the times where clearly we have demonstrated poor judgment.

Q308 Dr Huppert: You have each had over 20 years' service, you have dealt with the media on a number of occasions, you have had training, you knew there were going to be lots of media on an issue of national interest and you decided not to discuss it. Is that what you are saying?

DS Stuart Hinton: No, what I am saying is first of all your first question was had I ever received media training. No, I have not.

Q309 Dr Huppert: But your two colleagues have. Yes.

DS Stuart Hinton: John Gaunt gave us some media training on how to deal with questions generically, but not formal media training, as I believe you are suggesting.

Q310 Dr Huppert: You had not had any training but the rest of you had. Inspector Mackaill, having looked at the transcript, one of the fascinating things that comes out is that you do not say a word in it. Is that right?

Inspector Ken Mackaill: That is right, yes.

Q311 Dr Huppert: You sat there listening the entire time. You have the highest rank of the three officers here?

Inspector Ken Mackaill: Yes.

Q312 Dr Huppert: You were completely silent and then when people came out you were the person who spoke to the media initially. Was that planned in any way?

Inspector Ken Mackaill: Yes. As we became aware that there were media there, we thought someone would need to be a spokesman, and that was me. Because of that, I thought that I needed to concentrate on what was going on in the meeting.

Q313 Dr Huppert: So you did have a discussion about how to deal with the media before you started the meeting?

Inspector Ken Mackaill: On route there, once we knew there were media.

Q314 Dr Huppert: That is not quite what Sergeant Hinton was saying. You did set up a media plan before you started the meeting. You discussed who was going to talk to the media, but that is all you did.

Inspector Ken Mackaill: Yes.

Q315 Dr Huppert: I find that somewhat surprising. On a more general issue, there are many, many excellent police officers that serve all of us, that do a fantastic job, work very hard. Their honesty is, of course, very important. Many of them will have to testify in court, people have to be able to trust what police officers say. We do not want complaints that police officers mis-describe what has happened. But all these fantastic police officers around the country, if any of them have the chance to watch this, how do you think they will be reacting to your evidence today. Sergeant Jones?

Sgt Chris Jones: I have no idea.

Q316 Dr Huppert: You would not like to hazard a guess?

Sgt Chris Jones: No.

Q317 Dr Huppert: Any of you like to hazard a guess?

DS Stuart Hinton: I would not like to say. What I would like to say around the issue of honesty and integrity, which I think was implicit in our brief statement that we put out, is honesty and integrity is central to the values of the police service and it is central to my values and I know it is central to Ken and Chris' values as well. I personally have over 21 years' service, unblemished service. I would not engage in the sort of behaviour that is being suggested that I engaged in.

As I came out of the meeting, I recognised, and my colleagues recognised, that there was a potential honesty and integrity issue here that had been identified as a result of the meeting, and that was the thing I was at pains to emphasise. During the media briefing I was saying honesty and integrity is core to the police service. What we have now that the full story has come out is two such disparate versions of the events that one cannot be mistaken for the other.

Q318 Dr Huppert: That is why it is very helpful that we have a transcript. You refer to unblemished conduct. Can I take it as read that none of the three of you have had any complaints about anything to do with this? Is that correct? It would be good if you could all say yes or no.

DS Stuart Hinton: Yes.

Inspector Ken Mackaill: I have had one complaint for a member of the public that was not upheld.

Q319 Dr Huppert: About what sort of thing? Was it related to this?

Inspector Ken Mackaill: Yes.

Q320 Dr Huppert: Thank you. But none from the other two of you? Thank you.

Q321 Nicola Blackwood: Following on from Dr Huppert's comments about the impact that this is having on local officers who see questioning of police integrity in newspapers on a daily basis, it is having a dramatic effect. I think the nature of your apology at the beginning of this session will be confusion to them.

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Reading this transcript, the last 15 minutes are devoted to your concern about the potential of bad apples within the police force and the difficult position that this now puts you in, because you, in order to meet professional standards and your codes of conduct, will need to report this to the Met. I think Andrew Mitchell can be forgiven for believing that you, Sergeant Hinton, said you had appreciated the meeting, appreciated his apology, accepted that he had apologised absolutely but what you still needed to get past, unfortunately—to use the political expression—was that you may still have bad apples that need to be addressed. That, as a summary of the meeting, does not imply that you still had unanswered questions about his conduct.

If I had had a meeting with any official in my constituency or with any other body in which that was the conclusion of my meeting, and then they went out and made a public statement calling for my resignation, I would be completely confused, because this is just not the nature of what was said. I do not understand why, even if you did not mean it, you would not apologise to Mr Mitchell.

Sgt Chris Jones: Sorry, can you say that again? I am not sure we fully understand.

Chair: I am afraid we cannot play it back.

Q322 Nicola Blackwood: During the last quarter of your meeting, you implied that your only remaining concern with Mr Mitchell was the fact that you had bad apples in the police force, that perhaps you had an integrity issue with an officer at Downing Street. This is what the last quarter of the meeting was about. For 15 minutes that is what you discussed, the fact that you were now going to have to report this to the Met and it put you all in a difficult position.

At that point Sergeant Hinton commented that you appreciated the meeting, you appreciated his apology, you accepted the apology absolutely, but now you needed to deal with the fact that perhaps you had bad apples. You did not say, “We are not satisfied with your account”, with Mr Mitchell’s account. You said you needed to deal with the fact that perhaps there was a problem with the officer’s account. You then went outside and said, “We are not satisfied with Mr Mitchell’s account and he needs to resign”. I do not understand how that is not very confusing for Mr Mitchell, and it obviously has had a very detrimental impact on his career. There may be all sorts of reasons why you might have unintentionally done that, but why would you not apologise to him?

Sgt Chris Jones: If I refer to something that appeared in the *Daily Telegraph* on 24 September, there is an account that is apparently given by the officer on the gates.

Q323 Nicola Blackwood: Yes, but that is not what I am asking you. I am asking you why, having had a meeting with Mr Mitchell where you gave him the impression that your only remaining concern was about the officer’s integrity and then you went straight out of that meeting and gave a completely different account, you would not apologise for having misled him in that way. That is the conclusion of the IPCC; it is the conclusion of the first draft report of the

investigating officer. Why would you not apologise? What we have at stake here is the integrity of police officers and their word, and you accept the fact that when you look back at the transcript and what you then went out and said to the media are two very different things. I just do not understand why you would not.

DS Stuart Hinton: This is the point that we were making to the media—

Q324 Chair: Forget about the media. If you just answer Nicola Blackwood’s question. She had put it three times. Can somebody give an answer to Nicola Blackwood as to whether or not it was right to have said to Mr Mitchell, “There is only one issue outstanding” and then going off to the media? We understand that you should have had a pit stop and you should have taken advice and then spoken to the media. But on the substance of what Nicola Blackwood has put to you three times, can someone just give her answer so we can move on? Mr Jones.

Sgt Chris Jones: In my state of mind at the time we came out, I am not too sure that I felt that was the position.

Q325 Nicola Blackwood: Not at the time but now, having reflected, understanding all the circumstances and understanding the massive impact it has had on Mr Mitchell, and also understanding the impact that this ongoing investigation and the media uproar is having on other police officers, like those working hard in my constituency, why would you not do what Mr Mitchell did when he apologised, and apologise for your part?

Q326 Chair: Mr Mackaill, perhaps we can start with you, because Ms Blackwood has asked this now four times. What is the answer?

Inspector Ken Mackaill: We have often been asked to apologise for misleading, and I absolutely do not accept that we did anything deliberately to mislead. The apology we have made is for the way we handled the media, which I think is what it really comes down to. We have given that apology.

Q327 Chair: We have that point. That was the first answer you gave. Mr Hinton, do you have anything to add? A yes or no will be fine.

DS Stuart Hinton: Yes. In hindsight and in view of the fact of what we know now, not what we did then, then as part of the apology that we have already given, Mr Mitchell should have been included in that apology. But that is an apology that, if we are going to give, we should give to Mr Mitchell personally and not in this forum.

Q328 Chair: You are planning to see Mr Mitchell to give him an apology?

DS Stuart Hinton: If there is one due with regard to—

Q329 Chair: Mr Hinton, this is not a television game show, this is a serious question about serious issues that have detained three chief constables, three assistant chief constables, a chief inspector, two inspectors, two sergeants and a lot of other people and

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a great deal of money. Is that an apology, Mr Hinton? Have we moved from whenever you came in at 4.30pm?

DS Stuart Hinton: Mr Mitchell should be included in the apology that we have already given, yes.

Q330 Chair: Because he is a member of the general public and is walking around and therefore the apology should fall on his head?

DS Stuart Hinton: Because it should be anybody who was involved in what had gone on.

Q331 Chair: Are you apologising to Mr Mitchell or do you think he should just accept this as an apology because he is a member of the human race?

DS Stuart Hinton: No. What I mean is I cannot apologise for something I have not done. I understand that what Mr Mitchell—

Q332 Chair: That is fine. You do not have to say Mr Mitchell should be included because he happens to be a member of the public; that does not make sense. Mr Mackaill, have you changed your position at all in 45 minutes?

Inspector Ken Mackaill: No, I have not.

Q333 Chair: Mr Jones, you do not want to apologise for anything, apart from not having a chat before you saw the media, correct?

Can I remind you, as I have reminded all witnesses, that giving false evidence to a select committee is a prima facie contempt of the House. Can I say on behalf of this Committee that we have found your evidence most unsatisfactory? You are welcome to stay and listen to what the chief constables of your three authorities say. Thank you very much. We are very grateful.

Inspector Ken Mackaill: Can I just clarify one question that Dr Huppert asked, and it was on the conduct matters? I thought his question was relating

to this incident. I think it was, on reflection, probably in general, is that right? Yes, I have a written warning from eight years ago. I was answering out of context.

Q334 Dr Huppert: Just in case there was a lack of clarity, do any of the others have anything? No, just one from eight years ago.

Chair: Before you go, Ms Fullbrook is bursting to ask a question, so we must let her do so.

Q335 Lorraine Fullbrook: I would just like to clarify from each of you. You accept that you gave misleading statements but you did not do it deliberately, is that correct?

Sgt Chris Jones: I still do not feel that we gave misleading statements, no.

Q336 Lorraine Fullbrook: Did you give a misleading statement to the press, following the meeting with Mr Mitchell? You did not?

Sgt Chris Jones: No.

Q337 Lorraine Fullbrook: And you do not agree with the findings of the investigating officer?

Sgt Chris Jones: That is correct, yes.

Q338 Chair: Is that right that you do not agree with the findings?

Sgt Chris Jones: We do not agree with the findings, or I do not.

Q339 Lorraine Fullbrook: None of you agree, is that correct?

DS Stuart Hinton: That is correct.

Sgt Chris Jones: I do not agree with it, yes.

Q340 Chair: Thank you very much, gentlemen.

Could we have the chief constable so West Mercia first, please?

Examination of Witness

Witnesses: Chief Constable David Shaw, West Mercia Police, gave evidence.

Q341 Chair: Mr Shaw, I apologise for keeping you waiting so long. Mr Shaw, I have to tell you this Committee has been sitting since 2.45pm considering what has been happening in your police force and that of the chief constable of Warwickshire and West Midlands, and it seems to be very much of a car crash that has happened. We have evidence from the IPCC about the way in which your authority had conducted this investigation, the process that was used. We have had evidence from one of your officers. We have had evidence also from the investigating officer. Is there something you would like to say at the start concerning this matter? I understand in the written evidence that you wish to make an apology to Mr Mitchell for what has happened. Is that the case?

Chief Constable David Shaw: Sir, there are a number of things I would like to say. I have already written to Mr Mitchell. I wrote to him on Monday. That has not been in the public domain before now because I

thought it was important that it was a personal apology from me and that he should receive it personally.

In the normal course of events, that apology will have come at the end of the process, but I am acutely aware that the timing is just as important as what is said. It is a profound, unreserved apology for the impact what has happened has had upon him.

Q342 Chair: You sent that to Mr Mitchell earlier this week?

Chief Constable David Shaw: On Monday, yes.

Q343 Chair: On Monday. I have now received a copy of your letter. We will be publishing all the letters at 5.30pm.

As far as you are concerned, you have had 693 complaints in 2011, 2012 against police officers in

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West Mercia. This looks to me like a complete lack of leadership of this particular police area. How does it get to a stage that so many people are involved in this issue and a chief constable has to come here and explain and apologise for what has happened? How did it get to this point?

Chief Constable David Shaw: I think that is probably a point that many people who have already given evidence are probably wondering at this point. Obviously the main thrust of your question is about leadership. As chief constable I have an enormously privileged job and one I love doing, but clearly the buck stops with me and I have to be accountable for a huge range of things that go on. This narrative I am about to give you is not going to distance myself from anything that has taken place. I have to be accountable for everything that happens. It is unedifying and it hurts the force, it hurts me personally because it goes against everything I have stood for for 34 years. Most critically, it affects the public's confidence in us. I think that from what we have heard already there are lot of people going away from today to reflect on what needs to be done.

Q344 Chair: We will come on to the next steps in a moment, but in terms of integrity and in terms of honesty in your police force, this must be having a very damaging effect, not just on morale but also on the way in which people view your force and—we will hear a little later from other chief constables—the other forces, over the way in which it has been handled and the things that have been said.

Chief Constable David Shaw: I am not going to for a minute minimise the impact this has had and is having, not in any sense, but I personally believe that the men and women I have the privilege of leading, and there are fantastic men and women out there, do a brilliant job in nearly incident that they deal with. I think the public that come into contact with them, when they are out there protecting them every day, turning up to scenes of crimes, finding lost children, tend to judge the police not just on things like this. I accept fully it has an impact but I think they tend to judge them on how the individual around the corner looks after them or how the individual officer responds when they turn up.

I would not want to separate them and I realise the crossover between the two, but I don't think—I accept completely there is a dent in confidence and there will be for some time, but I can absolutely reassure you that both myself and all the leadership in this force and across the country will be doing everything they can, from chief constable downwards, to rebuild it.

Q345 Chair: Can I say on behalf of the Committee I welcome what you have just said in terms of your unreserved apology to Andrew Mitchell? I hope that you will have an opportunity to give that apology to him in person, but I am glad that you are able to say that to the Committee today. I think that is the right approach.

Just on the issue of public trust in your own force, one of you local Members of Parliament, Mark Pritchard, had a debate in Westminster Hall about public trust exactly two years ago, almost to the

date—it is very odd—before the meeting between Mr Mitchell and the three representatives of the Federation. Did that not ring alarm bells in your head about the need to handle this highly sensitive issue very carefully?

Chief Constable David Shaw: I would maintain that I did show grit right from the beginning. I do not intend to overplay the point about me seeking it to be referred independently, because I think that has played out for a long time in front of Anne Owers and Deborah Glass, but I have to reinforce that point. In the letter that was sent to the IPCC I expressly made the point about public interest and concern and the need to bring transparency into it, because I knew how this might play out.

Q346 Chair: Yes, but was there a fault on your part?

Chief Constable David Shaw: I need to finish this, if I could. The issue about resources is not necessarily true either, because there are other tiers of investigation which would have required no different levels in resourcing, but I will leave that point for where it is.

Thereafter, my involvement was pretty regular and pretty routine with my deputy. I am not for a minute suggesting I fired this letter off to the IPCC and then forgot about it until September. Of course you may judge at the end of this that I have not showed enough grit, and I have to reflect on that. But I picked up right from the first incident that this needed me to be on top of it. Although it does not feature in the papers greatly, I did discuss this case with DCC Chesterman at several points. I am not in any sense trying to distance myself from his decision-making.

So I have that conundrum. On one side I believe I have showed grit, but of course you are then going to say, “During that grit, did it not cause you concerns?”

Q347 Chair: The grit was not as firm as one would have liked, because this is the situation we have. We have a draft report. Thank you for sending us those draft reports, even though you were advised by the head of legal services not to send them to us. We will be writing to her to ask her where she gets this interpretation.

Chief Constable David Shaw: I would like to clarify that point, if I could, at the end of this question.

Q348 Chair: You certainly can. A draft report was sent with very clear conclusions; that is that there was a case for misconduct. We have heard from Deborah Glass—you have seen the evidence, you have been in the room and you have watched the evidence and we will not repeat it for you—that in her view she found the decision amazing when she got the final report, which had no conclusions that there should be a case for misconduct. In fact, Deborah Glass, with her 13 years of experience, to whom you wanted to send the case in the first place—and you regret the fact that she did not take on the case and this Committee probably regrets the fact that she did not take on this case—thinks there is a case for gross misconduct. What are you proposing to do to get out of this very difficult situation? In written evidence to us you have suggested that there were procedural irregularities,

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which allows you to refer this to another Chief Constable.

Chief Constable David Shaw: That is correct.

Q349 Chair: Can you just explain to us what those irregularities are and what is your thinking about trying to find a solution to this problem?

Chief Constable David Shaw: Yes, certainly. This gets complicated but I think it is worth exploring this point just briefly. The Committee may be aware that, following your invitation for me to attend here, Deborah Glass wrote a letter, which I fully understand why she wrote it, where she alluded to two versions of a report. That triggered investigation by me as to what that meant because there was a huge furore about that and although Deborah Glass I don't think ever meant to impugn anybody by it, it was certainly interpreted that way. I was massively aware of how that would play out here and also in the public arena so I did a forensic review of the process that led to that decision and I believe I have identified a flaw, which means that decision should be reviewed.

Q350 Chair: Tell us the flaw?

Chief Constable David Shaw: Yes, basically the flaw, and you have sort of touched upon it today, albeit you may not have realised this was the flaw that triggered my seeking—

Q351 Chair: We are keen to know about flaws.

Chief Constable David Shaw: Yes, the flaw is that when, let us call it the original report, was presented to—

Q352 Chair: The draft with the conclusions?

Chief Constable David Shaw: The report that was presented to Simon Chesterman, Neil Brunton and the Chief Inspector.

Q353 Chair: The second report?

Chief Constable David Shaw: Yes. That report did not have any recommendations on it at all and it should have done. My judgment then was, do I believe that materially changes that decision or does it so suggest that the process could be flawed that it should be reviewed, and I took the decision that it caused me enough concern that it should be sent for a redetermination.

Q354 Chair: A redetermination of what, the conclusions or the evidence?

Chief Constable David Shaw: No, sir, what I am saying is that the complete report with all the evidence and recommendations needs to go before someone else.

Q355 Chair: So version A?

Chief Constable David Shaw: No, sir, version A is incorrect because it includes no recommendations.

Q356 Chair: Version A is the draft report, which we have as version A.

Chief Constable David Shaw: That is right, yes, which is flawed because it has no recommendations.

Q357 Chair: No, that has recommendations. Maybe you marked it incorrectly or we have. We have three reports, version A is the draft report, let us call it the draft report, because obviously there have been procedural problems in the past and we do not want them to be continued. So the draft report is what we call version A; that has Chief Inspector Reakes-Williams' recommendations that there should be a misconduct hearing. Version B and C have no such recommendations.

Chief Constable David Shaw: Apologies if I have confused. The critical element here is, if I get my versions wrong I will—

Q358 Chair: It is the draft report, let us call it the draft report, we do not want to confuse you, Chief Constable.

Chief Constable David Shaw: It is the report that went before Mr Chesterman.

Q359 Chair: That is B, without recommendations.

Chief Constable David Shaw: Yes, I am not surprised the public are confused if—

Q360 Chair: No, we are not confused; you just appear to be. The draft report is A and I would not want you to refer to the last one, the wrong one, because otherwise we will all be back here next week, and I am sure you have better things to do. The draft report is A; let us call it A.

Chief Constable David Shaw: I have nothing more important than clarifying this point.

Q361 Chair: Yes, the draft report is A. What is going to the new Chief Constable?

Chief Constable David Shaw: The report that went in front of Mr Chesterman and the other Deputy was a report with no recommendations.

Q362 Chair: That is B.

Chief Constable David Shaw: Because I feel that it is required in law, as I think Mr Reckless has touched upon, because it is required in law that must form part of the decision-making process, I have taken the decision that the decision-making process should be revisited and I have sought that to be done independently.

Q363 Chair: So you are taking A, the draft report, with Chief Inspector Reakes-Williams' conclusions, and you are doing what with it, who are you going to?

Chief Constable David Shaw: I have spoken to the HMIC because I think it would be wrong for me to approach a particular Chief Constable and I think it is part of their role and a useful part of their role to be overtly transparent and open about this, and they are in the process of trying to identify a suitable Chief Constable. In law arguably it is possible for me to revisit that.

Q364 Chair: Why can you not, because if you accept that here is a report that everyone thinks is properly investigated but the conclusions were missing, if you accept that, why are you not making this decision,

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why are you prolonging the agony of Mr Mitchell who you so eloquently apologised to a few moments ago?

Chief Constable David Shaw: I wished it was not prolonging the agony of Mr Mitchell, let me say that.

Q365 Chair: This might go on for another six months.

Chief Constable David Shaw: Pardon?

Chair: This might go on for another six months.

Chief Constable David Shaw: I can assure you everybody will do everything they can to make this happen as quickly as they can within the regulations.

Q366 Chair: You have gone to HMIC, you have taken the draft report, you have said, "Look at this again", to reopen the issue of misconduct, or are you ordering a misconduct hearing?

Chief Constable David Shaw: No, sir, I cannot order that, because it is about the decision.

Q367 Chair: You can make the decision, but you choose not to?

Chief Constable David Shaw: I could, but I choose not to. I also brought—

Q368 Chair: Could you also, instead of going to a Chief Constable, could you send that to the IPCC?

Chief Constable David Shaw: I have explored that.

Q369 Chair: And?

Chief Constable David Shaw: I am told that they cannot.

Q370 Chair: Is that because of the advice of Penny Fishwick?

Chief Constable David Shaw: No, sir.

Q371 Chair: Whose advice did you seek?

Chief Constable David Shaw: I have had discussions with different parties about whether or not another route is possible.

Q372 Chair: Thank you. So let me just conclude, you are now sending draft A, the first version, you have rung up HMIC, you have said, "Find me a Chief Constable; I want new conclusions or determinations on this", is that right?

Chief Constable David Shaw: Yes, sir.

Q373 Chair: Does that open you up to the possibility of a judicial review?

Chief Constable David Shaw: I really do not know, it is a risk of course, I have been told that it is a risk. What I would stress though, and I appreciate why neither yourself or the public necessarily want to get into the law, the regulations are quite clear that I am allowed to delegate this to a member of a police force and as long as they are of appropriate rank.

Chair: We know.

Q374 Mark Reckless: Chief Constable, I think one of the issues perhaps IPCC see is the report they were given was version C and the legal advice they have had appears to have been on the understanding that when that report refers to the IO, the investigating

officer, that is the investigating officer they appointed. But is it not the case that IO referred to is not Chief Inspector Reakes-Williams because he said that at no point was he pressurised or made to change his report and what happened between the draft and the final report was, instead of it being Reakes-Williams' conclusions that were put forward, the IO referred to was just Inspector Smith?

Chief Constable David Shaw: I cannot really comment on the process in terms of what was in those officers' minds. I obviously have the facility to hear what was said—

Q375 Mark Reckless: Let us look at C here and the final page of the conclusion, it refers to, "For these reasons, on the balance of probabilities, the IO does not consider that the officers have a case to answer of misconduct". Is that IO not Inspector Smith, because in the previous report Reakes-Williams was referred to as the SIO?

Chief Constable David Shaw: The nomenclature is important here. In legal terms Jerry Reakes-Williams, the Chief Inspector who appeared before you today, was always the investigating officer.

Q376 Mark Reckless: But this is not his report, final C, the IO referred to is Inspector Smith.

Chief Constable David Shaw: I believe it is done by both of them and he cannot cease to be the investigating officer because there is an "S" or an "I" in front of their name.

Q377 Mark Reckless: It is signed by both of them but the IO referred to is Inspector Smith because Chief Inspector Reakes-Williams was SIO.

Chief Constable David Shaw: No, Jerry Reakes-Williams was the investigating officer throughout. I think I heard him say that sometimes the term "S" in terms of Senior Investigating Officer sometimes slips in because it has a particular resonance in terms of the investigation, but he was always the investigating officer in terms of this as an IPCC supervised complaint.

Q378 Mark Reckless: But the final report does not reflect his views, the conclusions are not his. The final report needs to reflect the view of the Appropriate Authority and it appears that of the IO, Inspector Smith, who disagreed with it.

Chief Constable David Shaw: I think this is where the timeline becomes very important and it again comes back to my decision to seek a redetermination. When Mr Chesterman made his decision, it was premature, because it was not a complete report, it had no recommendations. You have heard Deborah Glass say very clearly she has never heard of a report without recommendations appearing in front of an Appropriate Authority. So Mr Chesterman has made a decision based on an incomplete report, which is why I am seeking a redetermination, and at the end of that I think what has happened, and I stress "I think" because I have not had time to look at every detail of this, is Mr Reakes-Williams' report, because he can never cease to be the IO in respect of this investigation, has reflected what he believes is now

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the decision of his DCC because he has been told he can only put in one set of recommendations. I am not saying that is easily explainable but there is I think a rational narrative that can explain that.

Q379 Mark Reckless: But it does not reflect his view as the officer appointed to investigate.

Chief Constable David Shaw: I agree completely, there is tension between a report at the start that says he believes there is a case to answer for misconduct and something that turns out at the other end that says not. But, Chair, could I just say something?

Chair: Yes.

Chief Constable David Shaw: I think this is very important. Two things, I have spent pretty well every hour since this issue became live trying to first of all understand what has happened and trying to ascertain if there is anything improper. I think it is also important to stress that I believe that I have not found anything at all, and I think it is also important to point out that neither has the IPCC. Of course, had they done so, they would be completely within their powers to initiate an investigation into that. However, this is important, having found nothing improper or anything that caused me concern about integrity here, it is clearly clumsy and it is clearly unfortunate about the way it has played out, which is why I have chosen to have the decision reviewed.

Chair: Which we welcome. We think that this is the right approach, whether or not it should be done by another Chief Constable or by the IPCC, given what has happened, we do not know, and I think advice needs to be taken. But the Committee welcomes the fact that you have moved forward on this rather than the position that you had, and the other two Chief Constables, after Deborah Glass' report, which we felt was quite negative. Given that the Prime Minister and the Home Secretary and the public are concerned, this is the right way forward, whether it is absolutely the right direction we do not know yet. Mr Reckless wants to just conclude.

Q380 Mark Reckless: For clarity, can I just confirm that the reconsideration by another Chief Constable will be on the basis of version A that includes Chief Inspector Reakes-Williams' conclusion that there was a case at least for misconduct to answer and not either B with no conclusion or C with which Mr Reakes-Williams says he does not agree?

Chief Constable David Shaw: Whichever version it is, it is absolutely critical that the contrary views are included in that report.

Q381 Mark Reckless: It is Mr Reakes-Williams' report, as required by law.

Chief Constable David Shaw: As the investigating officer, yes.

Q382 Mark Reckless: Indeed, and just one final question, can you confirm that this review that you have undertaken, which this Committee welcomes, was the review that Police and Crime Commissioner Ron Ball for Warwickshire requested you undertake?

Chief Constable David Shaw: That is what triggered it at that particular point, yes.

Q383 Lorraine Fullbrook: I would just like to clarify for the record, for version C to have been produced with a different conclusion, what evidence did you have available to you that was not available to the investigating officer to produce the draft report?

Chief Constable David Shaw: I do not believe there was any new evidence. All the evidence had been gathered at that point and, as we have already heard, the IPCC had full faith in that investigation, so I cannot envisage a situation whereby new evidence had been—

Q384 Lorraine Fullbrook: So there was no new evidence; you just had a difference of opinion as to the conclusion of the evidence?

Chief Constable David Shaw: I am not distancing myself from any of this, but it was not my judgment at that point, no. I think you—

Q385 Chair: It was Mr Chesterman's?

Chief Constable David Shaw: Mr Chesterman's decision, yes.

Q386 Lorraine Fullbrook: Who does Mr Chesterman report to?

Chief Constable David Shaw: He reports to me; he is the Deputy Chief Constable.

Q387 Lorraine Fullbrook: So who is the fall guy?

Chief Constable David Shaw: I don't think there is a fall guy here; I think there is a job to be done to find out what has gone on. I think this Committee is doing part of that. My review has certainly kick-started that and I have commissioned and have written to IPCC, commissioning a full review of how we have got to where we are.

Q388 Lorraine Fullbrook: If you were a member of the public today in West Mercia, watching this Committee and the evidence we have received today from the three officers who have been under investigation for misconduct or gross misconduct, would you be, if you were a member of the public under investigation by the West Mercia Police, would you be a happy man today?

Chief Constable David Shaw: I think as I have sort of said before, and I am not trying to dodge your question at all, I think this works at two levels. I think the public will sit and watch this play out and be frustrated and exasperated and feel a little bit let down, if I am honest. But I think that, if I look at where I police and where I live in West Mercia, people judge the police service on their local cop and what happens when they call for help, and I believe that is what the men and women out there doing that job now will focus on and will continue to do a brilliant job doing it.

Q389 Mr Clappison: I think we are all very well aware of that, if I may say, Chief Constable, both in West Mercia Police and Hertfordshire where I am, and generally, we appreciate the great job the police do. But something needs to be looked at here, does it not, with what has happened, because it is worth bearing in mind we are talking here, not about a final

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determination of whether there was misconduct or gross misconduct or what the penalty should be for that, but whether or not there is a case to answer. What is concerning me is that we have heard evidence from Mr Reakes-Williams, who is the head of Standards and he was the Chief Investigating Officer in this case, he is an officer of high rank, a Chief Inspector, who he had a meeting on 1 August where he made plain his view that there was a case to answer for gross misconduct, probably on a favourable set of assumptions to the officers, rather than gross misconduct, but misconduct, and that the decision was taken not to refer this at all. Was that meeting held before the decision was taken?

Chief Constable David Shaw: Yes, it was. Just to clarify, speaking about my Deputy, that meeting definitely preceded the decision. Of course that decision has turned out to be premature because it was based upon our report—

Q390 Mr Clappison: I would like to come back to that. The point I want to know is, if the decision was taken after that meeting with Inspector Reakes-Williams, which I believe it was?

Chief Constable David Shaw: Yes.

Q391 Mr Clappison: So his view was on the record?

Chief Constable David Shaw: Yes, it was.

Q392 Mr Clappison: Then we have the view of Deborah Glass as well of the Independent Police Complaints Commission, who has told us that she thought it should have been a case to answer of gross misconduct. Was that known to the police before the decision was taken?

Chief Constable David Shaw: No, to my understanding, and this is critical, her views were made after the decision had already been made.

Q393 Mr Clappison: Did you consider that the decision should be reconsidered?

Chief Constable David Shaw: At which point, sir?

Mr Clappison: After her views had been made known.

Chief Constable David Shaw: I certainly believe, as far as I am aware, that at that point, because I had no reason to believe the process had not been followed properly, I concur with Anne Owers, I think at that point effectively it was closed.

Q394 Mr Clappison: I am concerned about whether it was done properly or not, but there is a question of judgment. What worries me in listening to this is that you have the views clearly expressed of the Chief Investigating Officer that there was a case to answer and yet the judgment is reached that there is not a case to answer. Do you not think that the member of the public who heard that would be concerned about the judgment, not just the procedure, the judgment of the person who took that decision that there was not even a case to answer?

Chief Constable David Shaw: Just for a second, take it outside this specific case, I know there may be views that the police are some sort of monolithic structure where everybody agrees with everybody, depending on how much gold braid they have on. Nothing could be further from the truth. In fact one of the things I think should be admired about the police, it is disciplined, but you do have more junior officers standing up to more senior officers and sometimes making the better decision as a result of it. It is not a democracy and that is right and proper. We live in a culture, without putting too fine a point, sometimes if you end up with a debate people get killed. I will just come back to this point if I could, so any sense that people were slavishly following senior officers because they had an inkling that it was going to go the wrong way, I could not disagree with more, and every day decisions are challenged and sometimes decisions are changed as a result of it.

Q395 Mr Clappison: This is the man who is the head of Standards for the police force.

Chief Constable David Shaw: Yes, but also my Deputy has been head of Professional Standards in his own force, Thames Valley, for a considerable period. He is an incredibly experienced detective. Also, I would point out that three very senior police officers in three separate police forces independently reviewing this, all came to the same conclusion, and disagreed —

Mr Clappison: These were—

Chief Constable David Shaw: Sir, excuse me, if I could just—and they disagreed with Reakes-Williams, so there is, I appreciate, a tension, there is not a consistency of flow, but I know how this is playing out, but I would rather we see an organisation where people can challenge and give contrary views than simply always all agree. Chair, I would also suggest as well, this is important, Jerry Reakes-Williams' report went to the IPCC, the contrary view, there was no attempt to somehow submerge that—

Q396 Chair: You keep raising that, Mr Shaw, I can assure you that nobody on this Committee has suggested that there was bad faith, you use the word “conspiracy”, nobody has suggested there is.

Chief Constable David Shaw: Maybe I am over-egging that, but when you see yourself accused in the Sunday papers of covering up a cover-up, believe me you would not miss opportunities such as this to try and clear your own name.

Q397 Mr Clappison: I completely understand you have acted in good faith, but I am asking about the judgment on this, because it was not the final determination, as I said, it was whether there was a case to answer or not. The decision that was being taken was whether there was a case to answer, not whether they were guilty of misconduct or not, just whether there was a case to answer, and the Chief Investigating Officer clearly through there was. Who took the decision not to?

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Chief Constable David Shaw: Three very senior officers took the decision not to.

Q398 Mr Clappison: They were the forces concerned representing the three officers involved?

Chief Constable David Shaw: Yes, sir, that would be West Mercia, West Midlands and Warwickshire.

Q399 Chair: Mr Shaw, in an unminuted meeting, a meeting of that importance where you said you had a grip on what was going on that was in the public domain, these three officers, two plus one, because they did not all meet together, had a meeting that was unminuted. This is extraordinary.

Chief Constable David Shaw: Two things on that, sir. When you say it was unminuted, people have kept notes, and I know that you have asked for those, and also, sir, this is critical, that meeting, that was a briefing session, it was not a decision-making forum, it was an opportunity for the investigating officer—

Q400 Chair: With respect, Mr Shaw, we have been told that the Appropriate Authority were those three Assistant and Deputy Chief Constables. Mr Reakes-Williams could not then walk off and write his own conclusions. As he has told us in evidence today, at the end of the day the decision was for the three ACCs and the DCCs, is that not right?

Chief Constable David Shaw: Absolutely.

Q401 Chair: So it is not a briefing meeting, it sounds as if they were given advice, at the end of the day it was not his decision, was it?

Chief Constable David Shaw: No, but the issue about whether there should be minutes of this meeting, I just want to just explain what I understood about what was taking place there.

Q402 Chair: But it was unminuted; we do not need to go into why, it was an unminuted meeting. But there are notes?

Chief Constable David Shaw: As far as I know, yes.

Chair: All right, we will get the notes.

Q403 Mr Clappison: You are telling us that at that stage you were not aware of the view of Deborah Glass that there was a case to answer?

Chief Constable David Shaw: As far—

Q404 Mr Clappison: When that meeting was held and the decision was taken, were you aware that Deborah Glass thought there was a case to answer, the IPCC?

Chief Constable David Shaw: I genuinely do not know. I believe not but I cannot state categorically, but of course that can be clarified. I do know in fairness that the meeting did know about Jerry Reakes-Williams' view.

Q405 Mr Clappison: We do know that after that Deborah Glass was so concerned about it she came out in public with her statement of 15 October.

Chief Constable David Shaw: Yes, she came out with that, she came out with her concerns in writing

sometime after the decision had been made by the DCCs, two of the DCCs.

Q406 Mr Clappison: Am I right in thinking that we would not have found out, I mean correct me if I am wrong about this, but on the papers we have been given, would we have found out about the original decision of Chief Inspector Reakes-Williams if she had not come out in that way?

Chief Constable David Shaw: I have to be careful here because the Chair has warned me not to over-egg the point around whether things were suppressed. The IPCC knew about Chief Inspector Reakes-Williams' contrary report and the senior colleagues in that room knew about the contrary review.

Q407 Mr Clappison: Would this Committee have known, would the public have known, would anybody had known, if Deborah Glass had not taken the decision to come out and speak publicly because she was so concerned?

Chief Constable David Shaw: I genuinely do not know.

Q408 Dr Huppert: There are a huge number of issues mixed up here: that it has so far taken over a year to even work out if there is a case to answer, which strikes me as slow; the competence with which the investigation appears to have been run; the very questionable evidence we have heard in the previous session. It seems to me that the one underpinning one, which is a broader issue than just the details, is about the role of police officers. Police officers often have to give evidence in court where their honesty, their correct description of what has happened, are absolutely essential, juries have to be able to rely on this. It seems to me that one of the big problems with this is that it strikes at that very issue right to the heart. I would be concerned that as a result of some of the things we have heard people could be asking for convictions to be looked at again. It will certainly make it much easier for people to question police officers. The vast majority of police officers of course are absolutely honest. What will you do to try to restore the reputation for the police force at least in West Mercia?

Chief Constable David Shaw: Firstly, I want to distance myself greatly from what took place around this whole campaign. I think that it was highly inappropriate. In fact I would say it stronger, it was wrong. I think the Federation, and I will come to the crux of your point in your question in a moment, sir.

Q409 Chair: Could you speak up? We got to "distance yourself from the campaign".

Chief Constable David Shaw: Yes, I do. I understand, and it is quite right and proper that there is a Federation to look after members' views and have campaigns; they have no right to strike and they do need a voice. But I think you have to watch your boundaries of what you say and how you act and how you conduct yourself while doing that business, and I believe they breached those boundaries. Had I known one of my colleagues, Inspector Mackaill, was going to get involved in that, I would have sought to prevent

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him from doing so. I now come right back to the crux of your question, which is what do I do to help build and restore faith? First thing is get to the bottom of this, because I accept that if we do not bottom this out it will be there and getting in the way of things. Secondly, people that know me, and I would like to think that most people in West Mercia that I look after and serve have a sense of what I stand for, I think they would expect me and hope that I could go back and rebuild the confidence, or the knock this confidence has taken, and provide the leadership that my men and women will be looking for. Part of that is about putting right what has gone wrong and making sure that they are sent out with the right sort of leadership, sense of purpose, values, equipment, training, and so on, to do the job properly. So, what do I do? I do my job the best I can.

Q410 Dr Huppert: I think it was interesting to hear about Inspector Mackaill's written warning, we will hear more about that, but there are many, many police officers who will need to know that when they go and deal with a case they will not just have anybody questioning everything they say; that there will be some respect for their honesty. I think it is a big job for the police force now.

Chief Constable David Shaw: Yes, sir, if I could just comment on that.

Chair: Briefly.

Chief Constable David Shaw: Not a speech I promise. Many organisations, particularly public sector organisations, that go through a difficult phase like this, they do take a knock, but fundamentally I think though that the men and women out there are doing a good job and we will recover from this one definitely.

Q411 Michael Ellis: Chief Constable, you just said in answer to an earlier question that, if you had known about one of your colleagues you would have sought to dissuade him?

Chief Constable David Shaw: Yes.

Q412 Michael Ellis: But it was not one of your colleagues, it was one of your subordinates, it was someone for whom you are responsible as Chief Constable and you could have directed that and you are responsible for knowing what your officers are doing.

Chief Constable David Shaw: Could have directed what, sir?

Michael Ellis: Well you say that one of your colleagues you would not have wanted to engage in this exercise, this publicity exercise, with Andrew Mitchell in the Sutton Coldfield office, if you know what I mean, so why do you think you ought not to be criticised for not knowing what your officers were doing? They are engaged in a super high publicity exercise with media gurus and nine camera crews outside, do you not think that you ought to have known about this?

Chief Constable David Shaw: No, I do not. I am prepared to take responsibility—

Q413 Michael Ellis: All right—

Chief Constable David Shaw: No, if I could just—I am prepared to accept ultimate responsibility for most things that have taken place here, but the Federation, they have to tread a difficult line because they are police officers first but they are acting for the members second, and I would not expect them to account for every single minute and every single action that they undertake, I think that is—

Q414 Michael Ellis: They are warranted serving police officers acting—

Chief Constable David Shaw: Yes, but there is a fundamental difference between a warranted serving officer out there protecting the public, doing things very much on behalf of the public, and a Federation Officer conducting themselves entirely properly on Federation business. I would not expect to know every single movement or everything that they are doing.

Q415 Michael Ellis: A Federation Officer is still subject to the disciplinary procedures, therefore the point that you make is irrelevant, is it not?

Chief Constable David Shaw: No.

Q416 Michael Ellis: They are one and the same.

Chief Constable David Shaw: No, not in terms of what I should know in advance. I think there is a profound difference between whether I should know every single movement and every single utterance that they are going to make—

Q417 Michael Ellis: This is not every single movement. This is a major event. This was on the news, it was top story on the news, it was all over the press.

Chief Constable David Shaw: It was retrospectively.

Q418 Michael Ellis: No, on the day, before the meeting took place, there was no media period of purdah on this, this was highly broadcast.

Chief Constable David Shaw: I have to take issue with your fundamentally that I should have known about what those officers—

Michael Ellis: Can I move on?

Chief Constable David Shaw: No, sir, if you want—

Michael Ellis: You have made your point, Chief Constable, you have made your point, you take issue with the point that I have made.

Q419 Chair: Could the Chief Constable just finish, if you want to finish?

Chief Constable David Shaw: You are trying to land a point that I should have known what they were doing beforehand. I think you are completely wrong in that assertion.

Q420 Michael Ellis: You have referred to an officer as one of your colleagues. I am suggesting that he was one of your colleagues but he was also a subordinate to you.

Chief Constable David Shaw: I recognise he was a subordinate.

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Q421 Michael Ellis: All right, so as far as the crux of this matter is concerned, as it relates to yourself, that is these changed reports, this report, and the circumstances around that. First of all, can I ask you why it is that this 150-page briefing document that Members of this Committee received, we received only about 5.00pm last night or after 4.00pm last night when the Committee asked for these documents to be presented by noon on Monday? Do you know why there was a delay for that reason?

Chief Constable David Shaw: Actually you are incorrect when you said that you asked for the documents to be presented by noon on Monday. The Chair's request was for the two versions that stemmed directly from Deborah Glass.

Michael Ellis: Why were they not provided by noon on Monday?

Chief Constable David Shaw: No, can I please explain? I cannot answer your questions if they are interrupted. Chair, you will be aware I informed you literally just about 11.45am to say there was a slight delay. On the Monday afternoon I wrote a letter explaining why there was going to be a delay in returning these documents to you. The reason for that was the two versions of the report in themselves with no context around them you would have been completely baffled about what had taken place. I had by then commissioned a supplemental review to try and understand how the versions had been introduced. I fully understand why it meant that the time constraint had been very tough.

Chair: I think we have them now.

Michael Ellis: No, I want to pursue this point because as far as you are concerned you are providing an explanation for why you did not provide these two versions by noon on Monday. They were provided late yesterday, a substantial set of documents. Did you seek legal advice which told you that you ought not to provide the two different versions of that document to this Committee? Did you seek that advice and did you receive such advice?

Chief Constable David Shaw: No, sir, I received legal advice about the risk, and I will explain why, of putting those documents out into the public arena when potentially doing so could prejudice the further decisions that now need to be made following my decision around predetermination. Not to put a finer point on it, Chair, and this is important the wrong documents at the wrong time in the public arena could prejudice an outcome that I was trying to put right.

Michael Ellis: You did seek legal advice. You were not trying to obstruct this Committee?

Chief Constable David Shaw: No, absolutely not, and in fact I think it is important to put on record I accept fully the delay in two reports arriving in your office. I have tried to explain why that is. All the other

documents were not as a direct request from your Committee. They were documents that I had commissioned because I thought they might bring light to this matter.

Q422 Michael Ellis: Moving on, do you accept that it was not lawful under the Police Reform Act to send the investigator's report to what are known as the Appropriate Authorities, the Chief Officers for want of a better phrase, without a conclusion? Do you accept that that was not in accordance with proper practice or for that matter statute?

Chief Constable David Shaw: I think it is a matter of record that I accept it is a breach in procedure which was why I have sought a new determination.

Chair: Indeed.

Q423 Michael Ellis: In your statement to us you say it was wrong as a matter of law, do you still say that?

Chief Constable David Shaw: Clearly I do. That is in my letter.

Q424 Michael Ellis: It is also right to say that there is no framework for Chief Officers such as yourselves to settle differences in an investigator's report. That is right, is it not? If there is a difference between the Chief Inspector that we have heard from and his Inspector about what this report should say you do not have any standing in law to settle the difference between those two, do you?

Chief Constable David Shaw: No, I do not.

Q425 Michael Ellis: No, so why did you and other Chief Officers have a meeting to discuss this report and its various versions if you had no standing to do anything about it anyway?

Chief Constable David Shaw: Which meeting are you referring to?

Chair: The briefing meeting.

Michael Ellis: You had a briefing meeting. Why did you have such a meeting if there was no purpose to it, if there was nothing you could have done anyway?

Chief Constable David Shaw: I think I am a little confused with your question. I may have missed your point, I do apologise, but the investigating officer is expected to submit their report and their recommendations. The Deputy Chief Constable at my force here is entirely within his powers to accept or not accept those recommendations and that is entirely permissible. So I do not know if I have answered your question.

Chair: Thank you. On that point what I am going to do now, Mr Ellis, is to invite the two other Chief Constables since you have raised the issue of this to the dais if I may call them forward.

Examination of Witnesses

Witnesses: **Chief Constable Andy Parker QPM**, Warwickshire Police, **Chief Constable David Shaw**, West Mercia Police, and **Chief Constable Chris Sims QPM**, West Midlands Police, gave evidence.

Q426 Chair: When we initially invited you, Mr Shaw, to give evidence Mr Sims and Mr Parker both said that they wished to also give evidence to the Committee and they are here now. I am going to call Mr McCabe next but could I begin? Obviously we do not want to go through the whole evidence again so we are going to confine our questions to new issues concerning your two authorities. Can I say first of all to you, Mr Sims, to congratulate the local West Midlands force on the excellent work they did in the Pavlo Lapshyn case. The way in which you went out and caught this man so quickly, those responsible for what would have been a disastrous attack on a number of mosques and individuals. They deserve our thanks for what they did in such a very quick way.

Mr Winnick: Can I join in the congratulations?

Chair: Of course.

Mr Winnick: The police are certainly to be warmly congratulated in respect of what they have done and it is certainly appreciated by the public of all kinds, whatever our political differences or politics. It does not alter the fact there is a general recognition that the police have done an excellent job of work.

Chair: That may be the nicest thing we say today. Please pass on our thanks.

Chief Constable Chris Sims: Thank you.

Q427 Chair: I am going to try and concentrate and then switch onto Mr McCabe. First of all, Mr Sims, are you going to do what Mr Shaw did? Is there going to be an apology from you to Mr Mitchell and would you like to tell us about that?

Chief Constable Chris Sims: First of all, good evening. I don't think this is the right medium to make a proper apology so I have written to Mr Mitchell today. If Mr Mitchell is gracious enough to see me because I appreciate what he has been through then I would look to say that I am sorry and hopefully also to try to clear up some of the issues raised here before.

Q428 Chair: Do you wish you had done this slightly earlier?

Chief Constable Chris Sims: I think we get trapped in these processes and I cannot remember which Member made the point that this has gone on so, so long and once it is in motion it is really difficult to break out and probably say the sort of common sense things that we would want to.

Q429 Chair: I welcome what you have said. The Committee welcomes what you have said. I hope that you will get the opportunity of apologising to Mr Mitchell. Mr Parker, are you in the same boat or are you rowing in another direction?

Chief Constable Andy Parker: No, quite clearly the Federation should not have got involved in this overtly political campaign.

Q430 Chair: We will leave the Federation for a second. As far as Warwickshire is concerned would you like to join your colleagues at the dais in apologising to Mr Mitchell?

Chief Constable Andy Parker: Yes, I would. My officer has got involved in a political campaign which was ill thought through and has led to a lot of public confidence issues for us and yes, I would certainly like to apologise to Mr Mitchell because obviously this added to the already big impact that this plebgate campaign was having on him. It is embarrassing that my force was involved in the way it was.

Q431 Chair: Will you be doing the same thing that Mr Shaw has just said which the Committee welcomes, referring this for another determination in respect of the officer who is in Warwickshire, Mr Hinton? Will you be doing that as well?

Chief Constable Andy Parker: No, that is not my position. Clearly there was a procedural error but my Deputy Chief Constable who in this case took the decision that there was no action he had all the evidence available to him when he made that decision. While there has been a procedural error in that he did not have the conclusions of the investigating officer, he was aware of what those conclusions were and he had all the material evidence in making his decision. There is actually no new evidence that another determination would have before them.

Q432 Chair: You disagree with what Mr Shaw is doing?

Chief Constable Andy Parker: Yes.

Q433 Chair: Do you not accept having listened in another room to the evidence that has been given by Mr Reakes-Williams, the questioning of this Committee as well as what Deborah Glass has said, and it may well be that the IPCC should have handled this matter at the start but the best way to get closure is to put this as Mr Shaw has, in our view, correctly done to another Chief Constable to get the matter resolved?

Chief Constable Andy Parker: I think it is really important that we follow a proper process and you have talked about the meeting, I think, on 1 August. Bearing in mind this was investigated by West Mercia and supervised by the IPCC the first time my Appropriate Authority Neil Brunton got any detail was on that meeting on 31 July. At that meeting he was told that there were two separate opinions, one from the Inspector who thought there was no action and one from the Chief Inspector who thought there should be some action. He felt it best that he took away all the evidence rather than have a conclusion guide him in any direction and look at all the primary evidence and come to his own conclusion.

Q434 Chair: We really ought to hear from him in evidence. Mr Sims, are you going to get a redetermination?

Chief Constable Chris Sims: I think I am in a rather simpler position than my colleagues.

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Chief Constable Chris Sims QPM

Q435 Chair: Is that why you have moved away from them?

Chief Constable Chris Sims: We are just not good friends. I think I am in a simpler position because my—

Chair: Mr Jones.

Chief Constable Chris Sims: No, leave Mr Jones for a bit.

Q436 Chair: Is Mr Jones your man?

Chief Constable Chris Sims: Yes, he is. In process terms, my officer who is making the decision, ACC Gary Cann, received the final report that had gone to the IPCC, a report interestingly signed by both the Inspector and the Chief Inspector and with a conclusion. Mr Cann has, I believe, made a proper decision and at the end of this meeting I shall release into the public domain the 25 page decision note that Mr Cann made.

Q437 Chair: Is this what you have sent us?

Chief Constable Chris Sims: Yes.

Q438 Chair: We will be releasing it into the public domain.

Chief Constable Chris Sims: Thank you very much. I believe that that decision has been properly made, objectively made and I see no reason to move from that decision.

Q439 Chair: Mr Sims and Mr Parker, this leaves me totally confused. I mentioned a car crash before you gave evidence, Mr Shaw, but I am confused because why are you apologising. If you don't think this should be looked at again and you think you had a grip on all this and you think your ACCs and DCCs have acted properly, what on earth are you apologising for?

Chief Constable David Shaw: I am very clear why I am apologising. I am apologising for the campaign that you heard about, the hurt that it gave to Mr Mitchell, the impact that it had on his family, the way that I think in an absolutely terrible way a police officer went before a camera and demanded the resignation of the Minister. I listened to that. I was horrified. It should never have happened and that is why I am making an apology. But my task, sorry, is to make a much narrower legal decision on the allegation that has been made against Sergeant Jones and the allegation is very tight, very specific. It relates to not what he said but what he did not say. It relates to his apparent inability to interfere in the press conference and that decision has been properly mapped out, is rationally taken. That is why I am where I am.

Q440 Chair: Mr Parker, your Mr Hinton was not standing by at the press conference. There is a lot of stuff that Mr Hinton said in the transcript. You have presumably read the transcript by now.

Chief Constable Andy Parker: Yes, I have.

Q441 Chair: Are you satisfied that the two versions are compatible because Deborah Glass thinks they should be done for gross misconduct?

Chief Constable Andy Parker: I disagree with that. The terms of reference are quite narrow that he gave a false account and that he deliberately attempted to discredit Mr Mitchell.

Q442 Chair: You do not see any of this in there?

Chief Constable Andy Parker: No, I do not. I understand why people may come to that conclusion and I have to say that if I read the transcript of the meeting with Mr Mitchell and then just listened to the comments they made outside I would absolutely agree that there was a case to answer.

Q443 Chair: What happened in the middle then?

Chief Constable Andy Parker: I have had the ability to read the interviews and all the information surrounding this case and it is quite clear where Stuart Hinton's head was. He genuinely believed that Mr Mitchell had used the words "pleb" and "moron" and he explains that by the fact that the officers had written down those words in their pocket notebooks. That was his belief. I am not saying it was right but that was his belief. When he came out and said, "He did not say what he said", what he is meaning there is he did not say the words "pleb" and "moron" which I might not agree with that but that was his honestly held belief and we have to take a view.

Q444 Chair: Mr Parker and Mr Sims, you are both leaders of your profession. You will attend leadership conferences. You give speeches on the issue. You have enormous power over the lives of ordinary citizens. You are aware of the public concern about this. You are aware of what the Prime Minister has said, what the Home Secretary has said, what the chair and the deputy chair of the IPCC has said but this does not seem to have any impact on either of you.

Chief Constable Chris Sims: It has had an enormous impact.

Q445 Chair: It does not seem to.

Chief Constable Chris Sims: I have a duty to look at this as a legal decision and I think so much of the debate today has not been about the narrow legal issue relating to the officer. It has been around the whole event. I utterly condemn the event but going back to the narrow question, the allegation served on my officer I think early April because he was not part of the initial investigation, if it is helpful I could refer to part of the decision.

Q446 Chair: No, no, because we are looking at decisions and then a final question from Mr Reckless. Mr Parker, how many people have been dismissed from Warwickshire force for gross misconduct? Sorry, Mr McCabe, you are next.

Chief Constable Andy Parker: I believe in the last five years we have dismissed nine people.

Chair: Nine people?

Chief Constable Andy Parker: We are the smallest force in the UK.

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Chair: Nine people in five years? How many have been done for misconduct?

Chief Constable Andy Parker: We have had 25 hearings for gross misconduct and I believe 33 hearings for just misconduct.

Q447 Chair: But how many decisions have been made for misconduct?

Chief Constable Andy Parker: I understand there are about 100, I am not sure. I think it is around 130 completed cases around misconduct over those years but I would need to get the exact figure.

Q448 Chair: Mr Shaw, how many people have been dismissed from West Mercia for gross misconduct or misconduct?

Chief Constable David Shaw: Since I have been Chief six.

Chair: Six, and that is how many years?

Chief Constable David Shaw: Two, two and a bit years.

Q449 Chair: Mr Sims?

Chief Constable Chris Sims: Twenty-one in the past 18 months.

Q450 Chair: For gross misconduct?

Chief Constable Chris Sims: Yes, you can only be dismissed for gross misconduct.

Q451 Chair: How many have had a notification?

Chief Constable Chris Sims: I do not have that.

Chair: If you could write to us and tell us.

Q452 Steve McCabe: I wonder if you can just help me with this part of this. Am I to understand that if a police officer falsely represents the position what his superior officer, in this case the Chief Constable believes that he did that because his head was in the wrong and that it was not a deliberate action then that does not constitute misconduct in any circumstances? Is it possible that there are officers in all three forces who are going around their respective areas misrepresenting fights in relation to members of the public, maybe people who are ending up in court but providing their defence is that their head was in the wrong place they are not guilty of any misconduct? Is that seriously what we are supposed to believe?

Chief Constable Andy Parker: No, not at all. We are talking about a specific incident.

Q453 Steve McCabe: I am talking about he said about his head, I really want to know.

Chief Constable Andy Parker: I understand that but we are talking about a specific incident and my officer was referring to the incident involving the Metropolitan Police where the words "pleb" and "morons" were used. It was not very charitable of Stuart Hinton because I am quite sure that unless the Minister had said he used those words he was always going to say he had not said what he said.

Q454 Steve McCabe: What does constitute misconduct? What kind of test of evidence, what is the threshold for you guys? It is a difficult thing, I accept that and you do not want to have your officers unfairly maligned but what would constitute misconduct as far as you are concerned?

Chief Constable Andy Parker: I mean, certainly if someone deliberated lied in my view that is gross misconduct. Integrity is a big issue, and if you listen to the interview with Mr Mitchell my officer had talked nothing but about integrity because there is difference of view between the Metropolitan officers and the Minister.

Q455 Steve McCabe: Did you listen to the evidence that the three officers gave here today?

Chief Constable Andy Parker: Yes, I did.

Q456 Steve McCabe: Were you persuaded? You found that very convincing?

Chief Constable Andy Parker: No, I thought it was not convincing in the context of some of the answers they gave but I have had to look or should I say the appropriate officer has had to look at the evidence before him and make a decision. It would be quite improper if he was influenced by the politics of it or media opinion. He has to look at the evidence and make a decision.

Q457 Steve McCabe: I am not suggesting they should be influenced by the media position. I am curious. Obviously eight days ago all three of you were very clear that there was not sufficient evidence and you have explained that you are now locked into a legal process and two of you would not risk reversing that. Mr Shaw obviously has some doubts because he has found a device which means it can be looked at again so that would imply that he has some doubt.

Chief Constable Chris Sims: I am not saying that. I believe that a proper, objective, rational decision was made.

Q458 Steve McCabe: Yes, I know, and you are going to stand by it. You believe your officer is not guilty of misconduct.

Chief Constable Chris Sims: In terms of the allegation made against him it would be impossible to prove that at a gross misconduct hearing. That is what I believe.

Q459 Steve McCabe: It would be impossible?

Chief Constable Chris Sims: That is the decision that we are making as to whether the officer should stand at a hearing and the decision we are taking is that there is nothing.

Q460 Steve McCabe: I just want to be clear that I have understood this correctly. What you are saying is the decision that was taken was correct because in your professional judgment this investigation has not produced sufficient evidence to justify misconduct proceedings and you are standing by that as is Chief Constable Parker.

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Chief Constable Chris Sims: That is correct, thank you. Yes.

Q461 Steve McCabe: Mr Shaw has some doubts because he has found a device to look at it again. That is fair, is it not?

Chief Constable David Shaw: I would not call it a device.

Q462 Steve McCabe: Yes, you have identified a flaw in the proceedings, I apologise, but if you had the same view as your two colleagues you would not be seeking a redetermination, would you?

Chief Constable David Shaw: No, we have a difference of view then.

Chief Constable Andy Parker: Yes.

Steve McCabe: Absolutely.

Q463 Mark Reckless: I might just summarise. The difference of view is quite extraordinary. Mr Shaw is saying that this has not been done according to the law, and I agree with you, Mr Shaw, but you are saying that another Chief Constable is going to have to look at it and look at it on the basis of report A that had Chief Inspector Reakes-Williams and his conclusion in it. Mr Parker is saying that he is absolutely happy because his delegated Appropriate Authority decided on the basis of report B.

Chief Constable Andy Parker: Can I be quite clear here? The Appropriate Authority in my force made a decision on the investigating officer's report but without the conclusions. It is whether or not not having those conclusions made any material difference to his decision making. He has since seen the report from Chief Inspector, his conclusions, and the report from the Inspector, his conclusions, and he confirms that would have made no material difference to his decision making.

Q464 Mark Reckless: With respect I am not sure that is correct because the Appropriate Authority whether you delegate that or not are required to do is to operate on the basis of schedule three of the 2002 Police Reform Act, and Mr Shaw again has had his review and determined that that has not happened and is therefore asking the decision to be taken again hopefully lawfully. You are telling us you are happy for this decision to be made on the basis of report B that did not have any conclusion, any findings from the investigating officer properly.

Chief Constable Andy Parker: He had the report of the investigating officer. He had all the summary by the investigating officer. He had all the primary evidence. What he did not have was the opinion.

Q465 Mark Reckless: I am sorry that was from Inspector Smith. The investigating officer, the person appointed to investigate the complaint and approved by the IPCC was Chief Inspector Reakes-Williams. He had written his conclusion, his findings that there should be a misconduct and they were taken out.

Chief Constable Andy Parker: The understanding of my Appropriate Authority was that it was the Inspector who was the investigating authority. That is what his belief was. He was told at that meeting on 1 August that he thought there was no case to answer. He was also made aware at that meeting that the Chief Inspector said there was a case to answer. He decided knowing those two opposing views to go away independently and look at all the evidence and come to his own conclusion. We have since been told because he did that in good faith and thought that was the correct procedure at the time because as you have heard West Mercia police thought that the IPCC had directed him not to give the conclusions. He made his decision in good faith. Since then he has found that that is actually incorrect procedure. We have been informed of that.

Q466 Mark Reckless: Surely it is unlawful procedure.

Chief Constable Andy Parker: What I have asked him to do is to look at the conclusions to see if that would have affected his determination and it would not.

Q467 Mark Reckless: Which conclusions? Which report?

Chief Constable Andy Parker: Of both reports.

Q468 Mark Reckless: Which report, A, B or C?

Chief Constable Andy Parker: A and B.

Q469 Mark Reckless: But not C, the one that has been—

Chief Constable Andy Parker: No, all the reports. He has seen all the reports and that would make no material difference to his decision making. I would not want to spend any more public money revisiting this case when he has made the decision with all the evidence before him.

Q470 Mark Reckless: He is making his decision on the basis of what he describes as the investigating officer, that is Inspector Smith who was not the individual who was appointed under 17(2) to investigate this complaint and approved by the IPCC.

Chief Constable Andy Parker: He has seen reports from both the Inspector and the Chief Inspector.

Q471 Mark Reckless: But there is only person who is appointed to make this report.

Chair: Who was that?

Mark Reckless: That was Chief Inspector Reakes-Williams.

Chief Constable Andy Parker: I understand that but I can absolutely assure you it was—

Q472 Chair: Sorry, Mr Parker, if you understand that then surely you accept Mr Reckless' point. If you understand that he has looked at the report of the wrong person in effect then it needs to be looked at again. Sorry, just for the record when did this review take place?

Chief Constable Andy Parker: Sorry, which review?

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Q473 Chair: When did he look at all this evidence?
Chief Constable Andy Parker: Okay, on 1 August.

Q474 Chair: This is Mr Cann is it?
Chief Constable Andy Parker: No, this is Mr Brunton.

Q475 Chair: Mr Brunton, when did he do it?
Chief Constable Andy Parker: On 1 August he had what he thought was the investigating officer's report which was Inspector Smith and his summary. He thought he was the investigating officer at that time.
Mark Reckless: Quite. So why did he look at it again? Why do you not do what Mr Shaw is doing?
Chief Constable Andy Parker: He had all the evidence in front of him to make a rational decision based on all the evidence.

Q476 Chair: No but, Mr Parker that is the point that Mr Reckless is making. He had a report written by someone who was not the investigating officer.
Chief Constable Andy Parker: I absolutely understand that point.

Q477 Chair: He also not had the benefit of the wide experience of the IPCC who West Mercia initially wanted to do the whole investigation themselves which came out in the letter from Deborah Glass. He has had new evidence now and new matters which he should consider. Do you not think as the Appropriate Authority you should step in now and do what Mr Shaw has done and show a bit of leadership and make the decision?
Chief Constable Andy Parker: There is no new evidence. My Deputy Chief Constable looked at two summaries, one by the investigating officer which we are now calling the Chief Inspector and the Inspector. They were summaries of the evidence that he saw and he has now seen both of those and he has confirmed that they would have made no difference to his decision making.

Q478 Chair: We understand that but he obviously has not done it since last week. Mr Reckless, Mr Ruane and Mr McCabe.

Q479 Mark Reckless: The question is not whether it made a difference but whether it was done lawfully under schedule three of the Act and I think you have it clear that the investigating officer was not that one who had been appointed under 17(2). If I can move on now to Mr Sims who has a different and conflicting legal argument. His seems to be that the action was lawful at West Midlands because it was based on report C. You, I understand, have heard the evidence that was given by Chief Inspector Reakes-Williams and he has stated to this Committee that he does not agree with that report. They are not his findings.
Chief Constable Chris Sims: I am sorry, he signed it.

Q480 Mark Reckless: Yes, but he has stated here he does not agree with it.
Chief Constable Chris Sims: This is something outside of my experience that the IPCC refused to

release to us that second report but we now have it. My officer has reviewed the content of that report which is opinion not information. You will find that as an addendum to the material that is going to be released by you after the meeting.

Chair: It has just been released.
Chief Constable Chris Sims: I think he has probably again objectively, with some legal advice as well taken into account the opinion that is in that additional report and has found that it does not alter his original decision.

Q481 Mark Reckless: The Chief Inspector or your assistant?
Chief Constable Chris Sims: My ACC.

Q482 Mark Reckless: But what you have heard from the Chief Inspector who is appointed as the authority to investigate this and as the only one law is he does not agree with the report, the conclusions.
Chief Constable Chris Sims: I did not hear him say that he disagreed.

Q483 Mark Reckless: The record will show.
Chief Constable Chris Sims: He did not disagree with the right of the decision makers to make their decisions.

Q484 Mark Reckless: Indeed, what he said but do you recall him saying that the final report needed to reflect the views of the Appropriate Authority?
Chief Constable Chris Sims: Yes.

Q485 Mark Reckless: Is it not the case that under the law it says at 22(3), "A person appointed under paragraph 17 or 18 shall submit a report on his investigation to the Commission and send a copy of that report to the Appropriate Authority"?
Chief Constable Chris Sims: In this case the IPCC stopped that process happening. When we got the report eventually which was only last week we did the process that I have just described. It was reviewed as an addendum to our decision making and I think it is an objective decision.

Q486 Mark Reckless: Finally, Chair, if I may, did you hear that Chief Inspector say that his report was not compliant with 22(6) that I asked him was it not the case that a person submitting such a report under 22(6) that it had to include all such matters in his report as he thinks fit, and he admitted to this Committee it did not do so contrary to law. Yet you are relying on that.
Chief Constable Chris Sims: We have worked on the version of the report and I have lost track of A, B or C that was approved by the IPCC. It is their supervised inquiry. They approved the report. They sent us the report and my officer properly made a decision based on that decision.

Q487 Mark Reckless: With respect surely it is the job of the Chief Inspector, Reakes-Williams. He has been appointed as the person to investigate it but who

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approves it? He approves it. He sends to the IPCC, copies it to you and that is what happens.

Chief Constable Chris Sims: No, it is a supervised investigation.

Q488 Mark Reckless: Indeed, not a managed one, not a managed one.

Chief Constable Chris Sims: Not a managed one so the IPCC approves the report which they did.

Q489 Mark Reckless: It is not going to make any difference if they are not happy. There is nothing they can do about it. It is a managed investigation where they approve the report.

Chief Constable Chris Sims: No, no, be clear. They are approving the investigation and I heard Ms Glass say that she was very happy with the investigation.

Q490 Mark Reckless: But not with its findings and those findings are not those of the—

Chief Constable Chris Sims: Not with—

Chair: Could we just have one Member speaking? Mr Reckless, could you conclude?

Mark Reckless: She did not approve the finding. She thought it should be gross misconduct. The officer she approved to investigate this, the only one in law, said it should misconduct, yet you have approved it on the basis of the report saying there is no case to answer.

Chair: Can I just say to my colleagues that we have now been sitting for a long time? Could we have quick, short and sharp questions starting with Mr Ruane?

Q491 Chris Ruane: Following on from this, we have had Mr Shaw, who does want a re-determination, Mr Sims, who does not want a re-determination, and Mr Parker, who does not want a re-determination. How do we go forward? Who has the final say? Is it two against one or does Mr Shaw have seniority over—

Chief Constable David Shaw: If I could help there—

Q492 Chair: If you can do so quickly.

Chief Constable David Shaw: Very quickly. I think it is evident that we are three Chief Constables who are entirely independent of thought and deed and we are entitled to, and as you can see we will occasionally, make different decisions.

Q493 Chair: Indeed.

Chief Constable David Shaw: The decision for my officer's case to go for re-determination is mine and mine alone.

Q494 Chair: Do any of you all want to send this to the IPCC again?

Chief Constable Chris Sims: I don't think that is a possibility.

Q495 Chair: No. Mr Parker?

Chief Constable Andy Parker: I don't think that is a possibility as well.

Q496 Chair: Mr Shaw?

Chief Constable David Shaw: I don't think it was but I wish that it could because I always wanted it to go there.

Chair: You did. You are very consistent.

Q497 Steve McCabe: Can I just ask if Mr Shaw is successful and a fourth separate independent Chief Constable recommends that there should be misconduct proceedings against Mr Shaw's officer, where is that going to leave us? That is going to mean that in one force the chap will face misconduct proceedings and the two other people who took part in the same event are going to escape. Are you going to be comfortable with that state of affairs?

Chief Constable Chris Sims: Let us be frank that the IPCC did not produce a decision. They produced a narrative of the events. When—

Q498 Chair: Mr Sims, can you answer Mr McCabe's question?

Chief Constable Chris Sims: Yes, very directly.

Q499 Chair: Yes, please.

Chief Constable Chris Sims: The decision has to relate to individual officers. You might well expect—in fact, if you look closely at the evidence, I think you would almost certainly expect there to be a different decision for the three officers because their involvement and the specifics of the allegations made are very, very different.

Chair: Fine. Mr Ruane, you wanted to have a comeback?

Chris Ruane: That was the exact question I was going to ask.

Q500 Mr Clappison: Sir, can I have the attention of the Chief Officers? I appreciate the attitude with which you have come to the Committee this afternoon, perhaps not agreeing on every particular piece of evidence but can I ask you this? You have been listening to this evidence this afternoon. What you have heard, what the public have heard about this, do you think it will engender confidence in the way in which complaints against the police are investigated? Perhaps if you can, each of you, tell me yes or no will do.

Chief Constable Chris Sims: No and I am a firm supporter of independence within complaint investigation. It should have happened in this case from the start and, no, I think if you were sitting dispassionately listening, I do not suppose for a minute following your understanding of the tangled events, it would absolutely not for you have gone through at all.

Chief Constable David Shaw: No, and if some good is going to come out of this, we might see some significant change that will help the investigation of police complaints become even more open and even more transparent.

Chief Constable Andy Parker: No, this should have been independently investigated.

Mr Clappison: Very helpful. Thank you very much.

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Q501 Michael Ellis: After all that, do you really think, Officers, that the police should investigate themselves? Would you not find that chief officers will be understandably naturally pre-disposed to support your officers because what your officers do reflects on yourselves? So do you think, as a point of principle, that it is appropriate for police to investigate themselves?

Chief Constable Andy Parker: My view has always been that investigations should be independently done not because police do not investigate things well. I think they do and I certainly do not agree with your comment that we would not prosecute our own officers because we do regularly, and we expect high standards of behaviour, but I think in terms of public confidence it is really important that investigations are seen to be independent. Had this been independent, we would not be sat here today.

Q502 Michael Ellis: Can we remind ourselves—did you want to say—Mr Sims, yes.

Chief Constable Chris Sims: Yes, I think there is a scale of offences, is there not? There is a scale of complaints. At the lower end, I think it is appropriate that they are dealt with speedily and locally. At the more serious end and where there is public interest, yes, definitely, there needs to be independence but I do think one needs to look at our decision-making. It would have been very much easier for us to have made a different decision and not spend a lot of time here but our decision-making is legal. It is objective and that is what we offer the public.

Q503 Michael Ellis: You say it is legal but as Mr Reckless was exploring, is it not unlawful for anyone other than the investigating officer, namely, in this case the Chief Inspector, to raise a decision in this case and this whole saga gives the impression that the Chief Inspector's views, which were that the misconduct proceeding should follow, were usurped by others and therefore that his views as the investigating officer were not followed?

Chief Constable David Shaw: I have to come in on that. I know you heard Jerry Reakes-Williams say he has come under no pressure whatsoever to change his view, and you have also heard the IPCC say there is no evidence of anything untoward—

Chair: I don't think Mr Ellis was suggesting that.

Michael Ellis: That is not what I was saying.

Chief Constable David Shaw: No, I think the suggestion of usurping does suggest some form of influence and I think that influence—

Q504 Michael Ellis: Ms Glass, Mr Shaw, is a lady with 13 years' experience and she said to this Committee more than once she was amazed—"amazed", that was her word—by the decision that there will be no action in this case. It is her job, even more so than yourselves as Chief Officers, to deal specifically with complaints because you have other things to be doing.

Chief Constable David Shaw: Yes.

Q505 Michael Ellis: Yet she thought that she could be amazed by this decision. Does that not give you considerable cause for concern? Does it not look as though, effectively, the two versions of this report that you happened to have seen, the Inspector's and the Chief Inspector's, one version has been picked and chosen over the other?

Chief Constable Andy Parker: Can I just make the point—it is really important—when my officer made his determination, he had not seen either of those reports in terms of the conclusions? So it is not a question of ignoring it or usurping it or any other words. He had not seen it. He made an independent decision without reference to that so he was not—apart from knowing that the Chief Inspector had a contrary view, he had seen nothing in writing supporting that. He made his own view, which I think is very important, based on all the evidence.

Q506 Michael Ellis: But it was irregular for him to have seen a report without conclusions, was it not?

Chief Constable Andy Parker: It was irregular and I think his position was he made that decision in good faith. He believed he was doing it correctly, that is, there were two different conclusions, he had best look at it on his own so he was not influenced by either, and he came up with a very reasoned decision.

Chief Constable Chris Sims: I would just add, Mr Ellis, I think it would have been interesting and instructive if Ms Glass had had to have the rigor of making a decision. In actual fact, what she has provided is a really public-facing narrative about the event but she has not—and has chosen not to because of the decision to have it as a supervised investigation—had to make a decision. I stand by the officer in West Midlands, who has reviewed all the evidence against the allegation and come up with an objective decision.

Q507 Michael Ellis: I respect that, Mr Sims, but did you not say that it raises serious concerns about the judgment of those who took part in this meeting and has been immensely damaging to the reputation of the whole police service? Those were your words.

Chief Constable Chris Sims: Yes.

Q508 Michael Ellis: Yet you say that, frankly, this is the IPCC's fault.

Chief Constable Chris Sims: No, not at all. I am saying that, in a sense, there are two parallel processes here. There is a narrow investigation into a discipline misconduct issue and there is a much wider public issue about the behaviour of the three officers. The campaign that the Federation was running, I utterly abhor that and I apologise to Mr Mitchell for that, but my job legally is to look at the allegation made and, objectively, we have done that and found that there is no evidence to support against that allegation.

Q509 Michael Ellis: Thank you, Mr Sims. Mr Parker, did you want to add anything? I saw you nodding.

Chief Constable Andy Parker: Yes, basically, my officer should never have got involved in this political

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campaign and it is embarrassing for Warwickshire Police that they did, and this has brought nothing but discredit on the force. It is that aspect particularly that we have concern about and, certainly, I can assure, and I think I have put it in my report, officers from Warwickshire Federation will not be campaigning politically in that way again. It was ill-conceived and misguided but that does not mean that Stuart Hinton gave a deliberate false account or deliberately tried to discredit Mr Mitchell.

Q510 Chair: Yes, Mr Sims? We are coming to the end now.

Chief Constable Chris Sims: Just one very quick point, which I made in the submission to you, and that is about the Federation. I think the Federation is in a very ambiguous position and in an inappropriately ambiguous position. I welcome the review that Sir David Normington is carrying out. I utterly recognise that where there are no trade union rights, there needs to be very visible representation but the 1969 legislation gives no guidance at all in terms of what campaigning could look like. I think Mr Reckless referred a little bit earlier, as part of my management action, which follows the conclusion of the investigation, I have looked at the facilities currently given to my Federation officers and I will use those facilities to be able to curtail any such future activity. I think if one is looking for any positive outcome from this, I think that is the positive outcome.

Chair: Of course. Yes, thank you.

Q511 Mr Winnick: Chief Constable, let us be absolutely clear on this. You are not questioning, I hope, the right of police officers to campaign? This is a democracy. Police officers or no police officers, there is a right to campaign against what they consider to be unjust and in this case in the West Midlands, the cuts in the police force, which you may or may not agree with as regard to their protest, they have a legitimate position.

Chief Constable Chris Sims: Yes, I think the cuts are for another hearing but what I do say is that Mr Reckless' point is absolutely right. There is public money that is being used by the Federation and what I should do is to make sure that any attempt to spend that money in a way that is novel or contentious has to come through the force and for us to agree to it.

Q512 Mr Winnick: Would it be right, Chief Constable, to come to the view that the feeling in the West Midlands—as Chief Constable, you have a pretty good knowledge of what is happening in the other parts of the country, also no doubt adversely affected by the cuts, but in the West Midlands, because of the impact of the cuts, which you yourself have spoken about in the previous Home Affairs Committee, it has brought a particular form of added anger because the West Midlands has been hit hardest?

Chief Constable Chris Sims: I think it has adversely affected officers but I would not attempt to build that into today's proceedings because my officers are working very hard. They kept their motivation and the

majority will look at today's proceedings and be as, I think, disappointed, let us say, as the rest of us.

Q513 Mr Winnick: Yes, their right to protest, whether we really are sympathetic or not, you have admitted it is certainly not in question anyway. Therefore, would you accept that what is unfortunate in this whole sorry saga, which has gone on for too long, cost far too much money, taxpayers' money by the way, and of course the reputation of the former Cabinet Minister, I do not challenge that for one moment but the whole sorry business is that it has been caught up unfortunately with the linking at the time between the questioning of Mr Mitchell over what occurred at Downing Street, when he was refused permission and used certain words that you would not consider or any of us consider appropriate, and the position over cuts? Would you accept that that is the unfortunate aspect as far as West Midlands are concerned?

Chief Constable Chris Sims: It is, yes.

Chair: Thank you. Mr Ruane has a very quick question.

Mr Winnick: Very quickly, you are agreeing?

Chief Constable Chris Sims: Yes.

Q514 Chair: Do you all agree with that?

Witnesses: Yes.

Q515 Chris Ruane: Further clarification from Mr Sims: if I understood you correctly, if you as Chief Constable sanction your local Federation's campaign and their methods of campaigning, they will get their facilities.

Chief Constable Chris Sims: Yes.

Q516 Chris Ruane: If you as Chief Constable do not personally sanction their campaign or campaigning methods, they will not get their facilities. Did I hear you correctly?

Chief Constable Chris Sims: No.

Q517 Chris Ruane: Can you elaborate on what you actually said?

Chief Constable Chris Sims: I have no intention of being the decision-maker because it needs to be independent. It needs to be a matter for the Federation but I do think it is appropriate that where there 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. I will say this, and I am sure the others will think this as well, you have not seen the best of the three Federation representatives today. Mine, in particular, is a good officer put in a difficult position, and they have no desire whatsoever to harm the confidence of the public in policing.

Chair: Let us end by saying this: we would like as a Committee to obviously pass on our thanks to all the very hardworking police officers in the forces.

Chief Constable Chris Sims: Thank you.

Chair: I mentioned the Lapshyn case. You have come here with an apology for Mr Mitchell, all three of you,

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which we are glad to hear. Mr Shaw, you have decided to re-determine. I think the feeling of the Committee is that you have done the right thing. Irrespective of what has gone on, there is certainly a desire to end this by showing the public that there is a willingness to conclude and to have fresh eyes look at it. I am afraid, Mr Parker and Mr Sims, we think that you made the wrong decision and we feel that you all should have done the same thing by having a re-determination, but we will publish a report. In the meantime, I would be most grateful if you could send

us the note of the briefing meeting because we have not seen them and any other information that is relevant, but we are extremely grateful. We noted the fact that in my request for these matters to be dealt with at the Committee, all of you respected that. As I said earlier, we are not a mediation point here. We are fact-finding and we will produce a report based on facts but I thought it was right to tell you our feelings so far. If you have any information that could change those feelings, please write to us. Thank you so much for coming. Thank you.

Tuesday 29 October 2013

Members present:

Keith Vaz (Chair)

Mr James Clappison
Michael Ellis
Lorraine Fullbrook
Dr Julian Huppert

Steve McCabe
Bridget Phillipson
Mark Reckless
Mr David Winnick

Examination of Witnesses

Witnesses: **Professor Shirley Pearce CBE**, Chair, College of Policing, and **Alex Marshall**, Chief Executive Officer, College of Policing, gave evidence.

Q518 Chair: I call the Committee to order and ask all members present to declare any items that they wish to declare that are not on the Register of Members' Interests, and I welcome Professor Shirley Pearce, the Chair of the College of Policing, and Alex Marshall, the Chief Executive Officer of the College of Policing, as part of our ongoing inquiry into leadership and standards of the police.

I should say at the start that we will be looking at the work of the College of Policing and will produce a report to coincide with your first anniversary, so this is part of the evidence gathering for that.

Mr Marshall, you offered to give evidence to the Committee last week but we were not able to take you because of our busy schedule. I am sure you want to specifically give us your views on the evidence that was given to this Committee last week. Sir Hugh Orde, the President of ACPO, was on television at the weekend and said that the session last week on the Andrew Mitchell affair was not a very good day for policing. Do you agree with him?

Alex Marshall: Yes, I do.

Q519 Chair: Why?

Alex Marshall: I think the term "unedifying" was used by one of those who attended. I would agree with that, and I do not think the police service looked as professional as it should in dealing with the serious matter that it was dealing with.

Q520 Chair: I am sure you have taken an interest in these matters. What do you think ought to have been done that was not done? We know that the three chief constables have apologised to this Committee and to Mr Mitchell. Mr Mitchell has accepted the apologies, which we welcomed, but do you think there should have been a redetermination of the cases against these three officers?

Alex Marshall: It is clear that the behaviour of the officers concerned fell below the standard that would be expected of police officers. I think it is absolutely right that the chief constables apologised and I think the officers concerned should apologise as well.

Q521 Chair: Do you think that they should go that step further—which has been authorised by David Shaw in one case—that they should face misconduct hearings? This is the view of the Home Secretary, the Prime Minister and, indeed, some members of this Committee.

Alex Marshall: Each case has to be judged on the full facts relevant to each of the three officers, each one from a different force, each must be judged by the appropriate authority, the chief constable or the person they delegate. They had access to all the information and all the facts and came to their conclusions. Certainly, in the case of Chief Constable Shaw, I support his action in looking to take that forward.

Q522 Chair: So the Prime Minister and the Home Secretary are wrong? They have made it very clear that there should be an apology but that there should also be misconduct hearings. So they are wrong?

Alex Marshall: I am equally clear there should be an apology but I am not in possession of all the facts of these cases to know about each individual officer and what level of sanction, if any sanction should be applied to them. In the case of Chief Constable Shaw, I note that it was his officer who made the public declaration after the meeting and that Mr Shaw has referred to an irregularity in the procedure and has, therefore, referred it to another chief constable to investigate.

Q523 Chair: Yes, but you seem to know a lot about one case and not the others, even though the same information has been in the public domain. I understand that you are in charge of ethics now, a code has been produced has it not? Do you not think that it would be in the public interest? Bearing in mind the fact that you think the officers should make an apology, which they have refused to do, to Mr Mitchell or to this Committee, I cannot see why they should be treated any differently. Is that not in the best interests of everybody to put this matter at rest, that everyone should be facing a misconduct hearing?

Alex Marshall: The chief constables have to make a decision on each of the people in their own force based on the detail of those circumstances. I do not have access to the full detail of these cases. I have not sat in their positions listening to the detailed briefings and the full history of these cases.

Q524 Chair: But you have just told us that you thought David Shaw was right. I find this a very odd position to be in. You seem to be backing the chief constables, none of whom had management of this case. This was not managed by them. If you watched the evidence, which you claim to have done—and I am sure you have done, and you said it was a bad day

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for policing and it was an unedifying experience—why is it not in the public interest, since you are now the guardian of this code of ethics, that this matter should go to someone independently to consider it? Surely that is the right course of action, otherwise why on earth should the officers apologise? What should they apologise for?

Alex Marshall: They should apologise, as I understand the facts based on reading the transcripts. I saw some of the hearing but I was doing other work on the day. I couldn't watch all of the hearing, so I read the transcripts. It is clear that the conduct of the officers fell below the standard that was expected and they misrepresented what had been said by Mr Mitchell, and therefore they should apologise for that.

Q525 Chair: Mr Marshall, unless I am on a different page here, if they have fallen below the standards expected of a police officer and therefore would fall foul of your code of ethics, and if they have misrepresented Mr Mitchell to the public, surely therefore they have to face misconduct hearings? If you are basically finding them guilty of those two issues, is that not the next step?

Alex Marshall: I am not finding them guilty. Their own chief officers have said the standard of their behaviour fell below what was expected. Based on all the facts available in the case, they have to judge what is the appropriate sanction to take or what action should be taken against each of those officers individually.

Q526 Chair: As the Chair of the College of Policing, this is a very odd position to be in, is it not, Mrs Pearce, that your Chief Executive Officer, who has control of the ethics, wants to always back the chief constable? Did you see what the IPCC said about this and did you see what the Deputy Chair of the IPCC said about this?

Professor Pearce: Yes, I have. Where I think we are is it is a difficult position looking backwards. What the whole process has done over the last couple of weeks—from the position of a member of the public and now very concerned about standards in policing—is raise questions about the process and the way in which issues of this seriousness are investigated by the police. I would be supportive of the view that issues of this nature should be dealt with independently by the IPCC and the move that is happening there.

At the time that all of these things were happening we had not produced this code of ethics. We were in the process of producing it. We are now going out to public consultation about it.

Q527 Chair: We will come to the code of ethics in a second. I asked you your views because two of the people who have been publicly quoted are sitting on your board. Bob Jones, who defended the West Midlands Police and severely criticised the IPCC, is sitting on your board, and Sir Hugh Orde, who on Sunday said that there ought to be an apology given by the police officers. I find it very odd. You are now the keeper of this code of ethics, so you need to know and need to tell the Committee whether you think the

officers should apologise and should face misconduct hearings. Because if you like the IPCC as an independent body, they have suggested in evidence to this Committee that the officers should have a hearing for gross misconduct not even misconduct.

Professor Pearce: Where we are is that it is very, very clear that some wrongdoing has taken place. I am not sure about the process that we have in place. We have a process in place and this is what has happened and this is the outcome of it. What we are talking about now is changing the process and I simply—

Q528 Chair: I understand that. But from the public's point of view, since the public interest is very important, if the college does not exist for anything it must exist in order to reassure the public that something is being done. Is it not best done as suggested by the Prime Minister, the Home Secretary, members of this Committee and others, that basically these three officers should all face misconduct hearings? Mr Marshall is saying that the other two shouldn't, only Inspector Mackaill should because he made a statement.

Professor Pearce: I do not think this is the College of Policing's responsibility. The College of Policing—

Q529 Chair: No, I know that. I am asking for your views on it, as the Chairman of the College of Policing, since you said that there has been wrongdoing.

Professor Pearce: My views are that the process by which we have arrived at these outcomes seems to be very flawed. I would want that to change so that we would not be in this position in the future, and I would like to see apologies. But I would just—

Chair: That is very helpful. We will come on to the code of ethics.

Professor Pearce: Sure.

Q530 Dr Huppert: I do not know about other members of the Committee, but after our sessions last week I was struck by the number of police officers who wanted to come up to me and talk about it, who expressed great concern about what they saw. One of them said that he was ashamed to be wearing the same uniform as the people who had come to see us. There have been a range of comments. As individuals, they made suggestions that if the three officers involved had any decency they would resign. But that is obviously a matter for them. If the outcome of this, after the wrongdoing—which, Professor Pearce, you just accept has happened—is that no action is taken what message do you think that would give to the public? What message do you think it would give to the vast majority of decent, honest police officers who are trying to do their jobs and feel tarnished by this whole episode?

Professor Pearce: This is one of a number of areas where we would like to see change in order to be able to deliver the kind of professional standards that the public expect to see. We do not want to build everything that we do around one particular case. What we are talking about here is creating a culture where best behaviour is delivered at all times, where we have a culture that is open to questioning and open

to discussion about what is best. What we do see is a great willingness across the police—probably many of the people who spoke to you last week—for some significant changes in the way that professional standards are assessed and measured and in which continuous professional development is delivered. I think that is the mission for the college. It is something that we are getting a lot of support for within the police and from the public at the moment.

Q531 Dr Huppert: Perhaps this is a question for you, Mr Marshall; I do not really mind. If one of the first things that happens after you have set up is a case where the message could get across that the consequences for saying things that are untrue as a police officer is that there is a complex procedure and nothing happens, does that not make your job almost impossible if that is how it starts? Wouldn't it be helpful for you if it were made very clear at this stage that there were consequences for telling untruths as a police officer? That is what most police officers would expect.

Alex Marshall: Absolutely. If anyone knowingly tells an untruth you would expect them to be held to account for that. The code of ethics is very clear indeed on that. I would also say that in a case of serious misconduct or a serious allegation, where there is a level of public interest, that should be investigated by an independent body with the powers and resources to conduct that investigation away from the police.

Q532 Dr Huppert: Has the Taylor report done enough?

Alex Marshall: I think the Taylor report moved things forward. I think the code of ethics sets out for policing a very clear picture of what is expected, a mechanism for making decisions in difficult circumstances and absolute clarity around what is unacceptable.

Q533 Dr Huppert: If the code of ethics were fully in place and an incident like this happened, there would definitely be consequences?

Alex Marshall: There would be consequences. It would be a breach of the code of ethics.

Q534 Dr Huppert: And what would happen?

Alex Marshall: It would depend on the level of the breach, the seriousness and the intent behind it, and it could range from management advice or it could move into formal regulations and misconduct or gross misconduct.

Q535 Dr Huppert: In this particular context, will all of your work have made any difference?

Professor Pearce: Absolutely, it will have made a difference. Let's just come back to the code of ethics. A piece of paper saying these things on its own is no good. It has to be lived, it has to be embedded in everything that the police do. We have to see this code of ethics being something that is considered when people are recruited to the service, in all parts of the service, because let us not forget that we are concerned about this influencing the behaviour not just of warranted officers but of the whole police

service. It needs to be there on recruitment. It needs to be there at progression. It needs to be discussed at PDRs on an annual basis.

We would like to see chief officers explaining to the public how they are embedding this code of ethics in their day-to-day work, how it influences the way in which they discuss operations they are going to conduct and how it influences how they conduct debriefs after operations. It has to be there in everything that they think about. If it isn't there then it is not worth the paper it is written on. All of the good codes of ethics that one sees operating well in other professions are ones where it is worked at all of the time with everybody. That has not been the case. That has not happened. So I cannot say, hand on heart, it would never have happened had the code of ethics been well established for the last five years, but I think there is a very great chance it would be a lot less likely.

Q536 Mr Winnick: We have seen the draft code of ethics that is out for consultation and the consultation period ends on 29 November. Is this code necessary because of what has happened to the police in recent years? Honesty and integrity, standards of professional behaviour, equality, diversity and so on, is this because it is felt by the college that in some instances the police have not carried out their duties according to this proposed code?

Professor Pearce: Can I start?

Mr Winnick: If you could keep your voice up, please.

Professor Pearce: Yes. A very clear part of our mission is to raise professional standards and raise the professionalism in the police. That means setting educational standards, accrediting providers, creating the knowledge base and increasing partnerships, but also developing integrity and a code of ethics. It is not unusual in developing a respected profession to have a code of ethics.

Q537 Mr Winnick: Which has never happened before.

Professor Pearce: Which has not happened, but this is part of a number of things that we feel are important about raising professional standards and creating a respected profession.

Q538 Mr Winnick: At the moment before this draft code is improved and enforced, a police officer does what when he is recruited successfully into the police? He swears an oath or signs or whatever?

Alex Marshall: Yes, certainly on joining the police service an officer swears an oath. There are regulations covering misconduct and standards of behaviour. What the code of ethics does is it brings together a code for everybody who works in policing. There have been separate regulations and policies covering police officers and police staff. It sets out the requirements on chief officers and supervisors and everyone in policing in very clear terms, and it makes a positive obligation on everyone who works in policing to report wrongdoing should it occur.

On your earlier question about why should this be necessary, there have been failings in policing and there have been people in policing who have not lived

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up to this code. The vast majority of people who work in policing would live up to this code, do live up to this code, and I am sure will feel very comfortable in reading it and signing it and accepting it as the right way to do their work.

Q539 Mr Winnick: The cases that have occurred in the past, where the police have acted in a way that we know was totally unacceptable and have been the subject of endless inquiries and judicial cases—the Birmingham Six, the Guildford Four, Hillsborough, of course, a more recent inquiry that has been totally accepted by the Government, the Lawrence case and all the mistakes that were made that led to another inquiry, and more recently Ian Tomlinson’s case—therefore, would you say that the chances of that occurring again would be less as a result of police officers agreeing to the code? It is a bit difficult to imagine, isn’t it?

Alex Marshall: If the code was properly understood, properly implemented, lived to by the people who work in policing, and tested at the point of being recruited, promoted, specialised, going into a specialist role, at the point at which they become chief officers, and it creates the right, positive atmosphere about working in an ethical way, even when making very difficult decisions, if it was being lived to in that way it should make a difference. It can never prevent individuals going against what they should do as police officers.

Q540 Mr Winnick: That is interesting because on honesty and integrity in the consultation document there is a reference in 1.4 about covert policing, “In policing it is sometimes necessary to use covert tactics. Covert tactics may be appropriately authorised and any deployment must be shown to be proportionate, lawful, necessary and ethical”. We have had female witnesses before us who have said undercover police agents have started sexual relationships with them, in some cases children have been born, without any knowledge on the part of the women that they were entering into an intimate relationship with police officers. In their view—as I think one of them described it—it was a form of sexual deceit by the state itself. Do we take it from this proposed code that I have just quoted, that undercover police agents will not enter into such relationships?

Alex Marshall: They should not. I will not comment on the individual case because I understand it is still under investigation. They absolutely should not. They would be breaching the code if they did. With regards to the undercover world, since the College of Policing has started we have introduced a new training programme for the persons who authorise that undercover work. It will be a requirement of the next group of people to become chief officers that they have to pass that course before they can become chief officers. We explicitly include within that course that while undercover sexual activity is not allowed.

Q541 Mr Winnick: If I can put this to you: there are those who would argue otherwise within the police force—and there must be quite a number who do, very

senior officers—and like other colleagues I do not deny there are circumstances where a certain course of action is appropriate. We may disagree which organisations should be the subject of such operations, but for myself I certainly accept that, when you are dealing with terrorism and the rest, and there is a great danger to the state and so on, it may be necessary to have such operations. Whether it has been so in the past is another matter. It could be argued that if undercover police officers make it clear in their disguises as fellow members of this particular group, which may well be criminal or not as the case may be, that they are not going to enter into any form of relationship, won’t those other members who are the actual members of the group be very suspicious and immediately say, “Oh, he’s a copper all right”?

Alex Marshall: There are both operational and legal difficulties for that individual working under cover. They have to be given clear guidance and the guidance should come from the authorising officer. The authorising officer should make it clear that sexual activity is not allowed while working under cover.

Q542 Mr Winnick: Totally banned?

Alex Marshall: Yes, and that should be made clear by the authorising officer.

Q543 Mark Reckless: In that case, would members of that group simply test the officer on that basis and would that not undermine the effectiveness of covert policing?

Alex Marshall: With regard to the legal and operational difficulties I described, perhaps there could be extreme circumstances where somebody might try to apply that test. But the advice given to those authorising the undercover operation is that they must not take part in sexual activity while working under cover.

Q544 Mark Reckless: But it could happen in extreme cases you are now saying?

Alex Marshall: There is a legal argument about the difficulty that somebody could face. But in the last few months what we have done, through the College of Policing, is introduce the authorising officer training, which states that when authorising this type of operation they must make it clear to the undercover officer that sexual activity is not allowed.

Q545 Mark Reckless: It is a legal argument, is it, not an argument about policing effectiveness?

Chair: It is not legal. It is operational, isn’t it? How could it be a legal argument?

Alex Marshall: It is an operational consideration and one around which legal advice is being sought.

Q546 Chair: You mean you have had legal advice from people who have told you that this cannot be done?

Alex Marshall: No. The legal position of the officer working under cover and whether or not, for example, you could legislate to prevent this happening is a legal consideration.

Q547 Chair: It does sound very confusing, Mr Marshall. Perhaps you should go away and look at it again, because the Commissioner and senior members of the Met said something different to us when they came to give evidence. Unless you are pronouncing on something new. Are you saying to Mr Reckless and Mr Winnick that, “No, they cannot engage in sexual activities at all,” or are you saying there are exceptional cases and you have gone to some barrister to seek some legal advice as to whether it is allowed? Which is it?

Alex Marshall: I am restricting myself to the authorising officer.

Q548 Chair: No, which is it? Which of the two? Is it, “No, you are not allowed to do this” or, “Yes, you can in extreme circumstances because we have sought legal advice”? What is the answer to Mr Winnick and Mr Reckless?

Alex Marshall: I am not saying you can in extreme circumstances. I am saying it is activity that should not be allowed.

Q549 Chair: At all?

Alex Marshall: At all.

Q550 Chair: No justification?

Mr Winnick: As I said earlier on, definitely banned.

Alex Marshall: The authorising officer must make it clear that sexual activity should not happen while the officer is working under cover.

Chair: I think you probably need to tell the Commissioner that and also the Minister, because the last time the Minister gave evidence he said it was allowable in certain circumstances.

Q551 Lorraine Fullbrook: I would like to ask if the draft code of ethics is applicable to subcontractors who are commissioned to carry out duties on behalf of police forces?

Alex Marshall: Yes.

Q552 Lorraine Fullbrook: I see in section 5 of the draft code, Orders and Instructions, the top line says, “I will only give and carry out lawful orders and instructions. I will follow all reasonable instructions and abide by force policies”. But at 5.3 it does not say very much about what those force policies are. Would a force’s policy override the code of ethics? If a force has a specific policy would that be of a higher level than the code of ethics as laid down here?

Alex Marshall: No.

Q553 Lorraine Fullbrook: So what exactly do you mean by this?

Alex Marshall: In terms of orders under section 5 it is reminding officers that, as well as national guidance and standards—

Lorraine Fullbrook: It says, “This standard also includes abiding by the provisions of all legislation, instructions, standards, guidance, policies and procedures relevant to policing”.

Alex Marshall: Yes.

Q554 Lorraine Fullbrook: But if different forces have different policies, does the code of ethics override a police force’s policy or does the police force’s policy override the code of ethics?

Alex Marshall: The code of ethics will be laid as a code of practice and it will apply to all forces and it overrides local policies. There should not be a conflict between a local policy and the code of ethics, but there could well be local policies about local issues that an officer or member of staff should be aware of in addition to national guidance.

Q555 Lorraine Fullbrook: So the code of ethics will always take precedence over local police forces’ own policies?

Alex Marshall: Yes.

Professor Pearce: We intend it to be set as a code of practice, yes.

Q556 Lorraine Fullbrook: Where do you intend that to be set as a code of practice?

Alex Marshall: When?

Lorraine Fullbrook: Where, because it is not laid down here as a code of practice.

Alex Marshall: We intend that this will become a code of practice that all chief officers have to pay due regard to.

Q557 Lorraine Fullbrook: So it will override their local policies?

Alex Marshall: Yes, it will.

Q558 Mark Reckless: Will the code of ethics apply to officers and civilian staff working for the Police Federation?

Alex Marshall: Yes.

Q559 Mark Reckless: In exactly the same way as it would if they were engaged in the usual business of their force?

Alex Marshall: Yes.

Q560 Mark Reckless: What role will the Police and Crime Officers have with the college in the context of this code of ethics?

Professor Pearce: The Police and Crime Commissioners have been consulted in the preparation of this, and of course we have four Police and Crime Commissioners who sit on our board who have been involved in watching it develop. This will apply to all of their staff as well as the staff in the force.

Q561 Mark Reckless: Do you have a Police and Crime Commissioner who takes, say, a lead role in respect of this code of ethics?

Professor Pearce: We have had a group. Do you want to give the detail?

Alex Marshall: Yes. We have met with Police and Crime Commissioners and discussed the code of ethics with them. Then ACC Karen Daber—who is sitting directly behind me—consulted widely with a group of Police and Crime Commissioners to take their views as we were forming the draft document.

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Q562 Mark Reckless: As they have been elected by the public, do you consider that they may have something to offer police officers and staff, in terms of developing and perhaps enforcing and overseeing a code that is acceptable to members of the public and brings the police and public together as we would like?

Professor Pearce: Absolutely. They have a very important role there, yes.

Q563 Lorraine Fullbrook: I would just like to go back to an answer that was given to me under the coverage of the code. Professor Pearce, you said that the code of ethics will become a code of practice. A code of ethics and a code of practice are two different things.

Professor Pearce: No, I am talking about a code of practice in police terms.

Q564 Lorraine Fullbrook: You said the code of ethics will become the code of practice.

Professor Pearce: Will be laid down as a code of practice.

Alex Marshall: We will be seeking that the Home Secretary lays the code of ethics as a code of practice in Parliament.

Professor Pearce: There are a number of codes of practice that are laid down in policing, which police officers have to deliver. It is a—

Q565 Lorraine Fullbrook: Yes, but what you actually said to me—and I am sure the record will show—is that this code of ethics will become a code of practice.

Professor Pearce: Yes.

Q566 Lorraine Fullbrook: That is not actually correct because they are two separate things. A code of ethics must underline all codes of practice, surely.

Professor Pearce: This will become a legal code of practice, not a code of practice for the police. It will be laid down as a legal code of practice.

Lorraine Fullbrook: Okay. That is fine.

Q567 Chair: Instead of the code of practice. Obviously it is important to have ethics. As Mr Winnick has pointed out, we already have some of these principles. You are pulling them all together in a code.

In an article on Saturday, the Minister for Policing and David Davis, a former Shadow Home Secretary, have suggested that police officers wear cameras and have recording equipment on them, that the best way to know what the truth is if we record everything. What do you feel about that, Professor Pearce?

Professor Pearce: There have been some interesting studies that have shown that body worn video does change everybody's behaviour. When you are watched your behaviour changes. Generally speaking that is for the better, but there are risks about everybody wearing a video. It could be seen as intrusive and the real question is how it is then edited and used and how it stands up in a court of law. Since everything we are trying to lay down as advice to the service should be

based in evidence, we are supporting trials of body worn video.

Q568 Chair: So you like the idea to pilot it?

Professor Pearce: We think the idea should be piloted. We think we should understand what the benefits and problems of it are and then we can make an informed recommendation. I do not think anybody should see it as a solution to all ills, but it is a very interesting development.

Q569 Chair: Mr Marshall, if the code is accepted and is part of the DNA of police officers in future, why do we need to put cameras and microphones on them?

Alex Marshall: The starting point for cameras or body worn video—as they tend to be called—was obtaining better evidence in cases where it is difficult to give evidence, particularly for the victim or witness who might be vulnerable. For example, I introduced them in Hampshire in 2008. Body worn videos have been used for many years in many forces, particularly to strengthen the evidence from vulnerable victims. So there has already been use of them. The most recent technology makes it an even better way of capturing what is going on when an officer is on duty. The trial that we are looking at is based on a trial I looked at in America where—

Q570 Chair: Is this Rialto?

Alex Marshall: In Rialto in California. I went over to see the chief, Chief Farrar, and he explained that the use of body worn video had seen a significant reduction in both the use of force by his officers and the number of complaints made about his officers during the year that he trialled it.

Q571 Chair: So you like the idea? You think it should be used?

Alex Marshall: I like the idea. As Professor Pearce says, I think there are issues about privacy, and there are issues about data storage and how we use that evidence in the criminal justice system but as a principle I like it.

Q572 Chair: You mentioned Hampshire. In your last year as chief constable how many people were dismissed for gross misconduct in Hampshire?

Alex Marshall: I know the number for the period I was chief constable, 20 people.

Q573 Chair: Twenty, and those done for misconduct?

Alex Marshall: A much higher number. I think about 84, sir.

Q574 Michael Ellis: If I could just move on to the Police Federation. The Police Federation have said some time ago that they want to review their role and their control mechanisms, as recent unifying examples have shown them that their mechanisms are perhaps not what they would like. In that respect, have the College of Policing had any input into the review of the Police Federation's controls? That is the first

element of my question. Have you had any such input?

Alex Marshall: Yes, I have.

Q575 Michael Ellis: Could you tell us about that, what type of input have you had?

Alex Marshall: I am one of a number of people Sir David Normington has spoken to in conducting his review.

Q576 Michael Ellis: And Professor Pearce?

Professor Pearce: No.

Q577 Michael Ellis: It is felt by many that the conduct of certain Police Federation members has been reprehensible. For example, the event where the Home Secretary was invited to give a speech and was required to stand in front of hostile slogans at a Police Federation event. The most recent example was in Sutton Coldfield where one of the Police Federation members apparently referred to the Home Secretary as “that woman”. This is at least a reflection of dysfunctionality in the Police Federation. Would you not agree, Mr Marshall?

Alex Marshall: There have been several examples—including the ones you quote—where the Federation has not acted in a professional way in the way that the code of ethics would expect them to do. They are police officers and must adhere to the rules of being police officers. The Federation do have a role in representing the views of their members, and police officers are not allowed to join a union, cannot go on strike and, therefore, their representatives should be able to express their views.

Q578 Michael Ellis: Would you not say that—to some people at least—the Police Federation may not legally be a union but it acts like a rather militant trade union movement? We have heard evidence on this Committee that the Police Federation engaged a public relations firm in respect of the Sutton Coldfield incident, and that the representative of that PR firm travelled with warranted serving police officers in the same vehicle, that press were at the scene at a supposedly private meeting and that arrangements were made with the media by mobile phone. Either it is an independent body or it is a pressure group. There is something to be said for the College of Policing having some real input, is there not, on the conduct of the Police Federation going forward?

Chair: Mr Marshall?

Alex Marshall: Yes, sir, I think that the Federation officials find themselves in a position where they need to represent the views of their members, but they must absolutely remember that they are police officers and if they are local officials they work to a Chief Constable. When I was a Chief Constable in a local force I would expect my Federation officials to act professionally, act honestly and refer to me should there be a difficulty that they needed to deal with in a public arena.

Q579 Michael Ellis: Professor Pearce, do you have anything to add to that?

Professor Pearce: Yes. Our business is about supporting the individual member’s professional development and professional standards. I would like to point out that this is for the whole of policing. So there are other unions that we should be concerned about if there are problems. I would hope that this could be seen in the round. But we have a responsibility to the individual members. We are not policing the bodies that support members of our college.

Q580 Michael Ellis: A final point from me on this. Is it not the case—I think this has been raised before in this Committee—that they receive taxpayers’ money to carry out what is effectively political campaigning, do they not, the members of the Police Federation? It is taxpayers’ money that is being expended on this, isn’t it? It is clearly a situation that has become untenable, isn’t it, Mr Marshall?

Alex Marshall: My experience of working with the Federation locally was that they performed a very useful role. They gave a voice to their members on important issues. They were able to assist with misconduct and discipline matters. They were a body to speak to about significant changes, the closing of police buildings or the change of shift patters, or other issues that were going on locally. It was a healthy relationship where they remembered that they were police officers and that they worked for a police force and to a Chief Constable. I think Sir David Normington’s review of the Police Federation needs to iron out some of the issues that you have raised, and quite rightly so.

Q581 Chair: Would your code of ethics cover Jon Gaunt, the advisers to the Police Federation and the Andrew Mitchell affair? Would it cover people like that or is it just for the police officers?

Alex Marshall: No. It would cover those police officers in their dealings with him or anyone else.

Q582 Chair: But not any third party who might have come into contact with them?

Alex Marshall: Not an adviser to them, no, sir.

Q583 Mr Winnick: To clarify matters, would the draft code of ethics in any way stop police officers carrying out their activities in the Police Federation?

Alex Marshall: No, it would not prevent them being members of the Federation.

Q584 Mr Winnick: Do you accept entirely—as far as the college is concerned, the two of you—that police officers are perfectly entitled not only to be members of the Police Federation but for the Police Federation to be able to conduct its business and campaign if it so wishes?

Alex Marshall: As I have said before, members of the Federation must be able to articulate the views of their members. There could be issues of pay and conditions, or the local issues that I have mentioned around where they work or their shift pattern, and they should be able to express them.

Q585 Mr Winnick: That is quite acceptable?

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Alex Marshall: Yes.

Q586 Mr Winnick: Since we do not live in Leninist state, fortunately, if Police Federation officials who are off duty at that particular moment when they are conducting Federation business refer to somebody—which I myself would not wish to do, I would find other words if I disagreed politically with a person—as “that woman” should that be somewhat illegal or subject to some disciplinary code?

Alex Marshall: The code applies whether a police officer is on or off duty.

Q587 Lorraine Fullbrook: What training will be carried out by those who are required to sign up to the code of ethics?

Professor Pearce: We are looking at the training at the moment and working out exactly what we need to do, but we hope that everyone will sign up to the code of ethics. Clearly people with leadership responsibilities have a greater responsibility to see that there is a culture in which all of this is delivered, so they need particular support. But the details of the leadership training programme are being developed as we speak.

Q588 Lorraine Fullbrook: How do we train agents who are temporary staff, casual staff or consultants to any of the police forces to abide by the code of ethics? How will training be done for those people?

Alex Marshall: We would expect anyone coming into policing to sign that they have read and understood the code of ethics. The very minimum is a declaration by them that they have read and understood the content of it and the opportunity to discuss it with someone more familiar with it in the organisation. In terms of people joining policing, for example, new recruits, the code of ethics will form an important part of their initial training and for everyone in policing there will be a detailed programme of everyone gaining a full understanding of it and it being part of selection processes, promotion processes and continuous professional development in the future.

Q589 Lorraine Fullbrook: Will the training be overseen by, for example—and I am particularly thinking in terms of agents, casuals, temporary staff and so on—the professional standards department or would they just be serving police officers?

Alex Marshall: It could be any manager who has responsibility for that temporary member of staff or it could be the HR department. Although in my experience the professional standards departments are very good and professional parts of an organisation, the code of ethics is for everyone in policing. It is not a misconduct document. It is about how to behave and it includes a decision-making model for dealing with dilemmas in an operational situation. So it is not a document for professional standards departments. It is a document for everyone in policing.

Q590 Lorraine Fullbrook: Who would be the ultimate arbiter of ensuring that the training is carried out and to a professional standard? Would that be a chief constable or—

Professor Pearce: Yes, the chief constable. We will be asking chief constables to report openly to the public and to us about what they are doing on a day-to-day basis to support this. The induction is one part of it, but it is how it is used in day-to-day work that is probably the most important thing. So training is only one bit.

Q591 Dr Huppert: First, just to follow up on the earlier discussion to make sure that I understand, if a police force were to hire a media adviser they would be covered by this code, and if the Police Federation hired a media adviser that would not be covered. Is that correct?

Alex Marshall: It is for all police officers, police staff, volunteers, temporary staff, contracted staff working within policing.

Q592 Dr Huppert: Is that a yes or a no?

Alex Marshall: My understanding of the scenario you are describing it is an outside organisation advising the Federation, not working within policing in any way.

Q593 Dr Huppert: So it is a no then? Two yes/noes. One question. If a police force hired an adviser on the same contractual basis would that person be covered?

Professor Pearce: Yes.

Q594 Dr Huppert: If the Police Federation hired somebody on exactly the same contractual basis that person would not be covered. Is that correct?

Professor Pearce: Probably, yes. What we have to do is—

Q595 Chair: Sorry, “probably” or “yes”?

Professor Pearce: Yes, is the answer, because we have to make sure that we only lay down expectations that we can deliver. We can deliver this through the Chief Constable’s report. We do not have control over the Federation, so it would be unwise—

Q596 Dr Huppert: I am not necessarily disagreeing with you, I am just trying to make sure we know what the boundaries are.

Alex Marshall: Yes. It would be unwise for us to extend our risk where we couldn’t manage it.

Q597 Dr Huppert: It will be interesting to see what the final format of this is and presumably you will respond to the consultation. One issue that is often raised with me is police officers requiring information from people, where people are not legally required to provide that. Do you think that would count as a breach of the rules about orders and instructions if an officer demands a name or address when there is no requirement? Would you expect officers to make it clear when something is being given voluntarily and when something is being given compulsorily?

Professor Pearce: From my perspective I think I would, yes.

Alex Marshall: Yes. If an officer is using a power they should make it clear which power they are using and why.

Professor Pearce: That is sort of the essence of it.

Q598 Dr Huppert: Thank you, I am very pleased to hear that clarity. Once this is all in place how will you judge its success? What do you think the impact will be?

Professor Pearce: That is an interesting question and one that we have thought about a lot. It might mean in the first instance that there were more complaints, that there was more exposure, because there is a climate created where speaking out if you see something going wrong is more acceptable. So it might not mean that everything got better immediately. But one would hope if this is implemented—as we hope it will be implemented across all the forces—that the number of incidents that we see, which make us feel so unhappy about what happens in the police, would be reduced.

Chair: Mark Reckless.

Alex Marshall: Sorry, could I just add to that?

Chair: Yes.

Alex Marshall: We will be conducting a baseline exercise in each force to see what the current position is in terms of misconduct, complaints and so on, plus we have the Independent Police Complaints Commission's data. So over a period of time, in terms of data, we would hope to see a difference in the number of complaints and the number of issues of misconduct, as well as seeing the code of ethics becoming used in a day-to-day basis in operational decision-making and all those selection and promotion processes that I mentioned earlier.

Q599 Mark Reckless: A general question. Has the College of Policing taken up roles and activities that were previously undertaken by ACPO?

Alex Marshall: One significant area is the business areas that used to be ACPO business areas. People volunteering from around the country to take responsibility, for example, around crime or public order or particular issues in policing. Those business areas now report into the College of Policing's professional committee.

Mark Reckless: I am glad to hear it. Thank you.

Q600 Chair: Let us just be clear if we may. Mr Marshall believes that if somebody breaches the code—in answer to questions put by Mr Winnick—that it should be under the current system where you go to your chief constable and the chief constable will discipline you. The Appropriate Authority will then do whatever is necessary. Professor Pearce, you seem to indicate that you would like these complaints to go to a fully well resourced IPCC. You want to take them out of the hands of the police. Is that right?

Professor Pearce: Serious misconduct cases?

Q601 Chair: Any breach of the code. Who should police the police? Quis custodiet ipsos custodes? Who should do it? Are you in favour of the chief constables doing it or do you think this should just go outside, that professional standards departments should all be part of the beefed up IPCC? That is what the Home Secretary was talking about at your event last week.

Professor Pearce: Yes.

Chair: Give them more money, give them more powers. Let the IPCC do it.

Professor Pearce: I suspect it would be impractical to have every complaint dealt with outside of the force. Certainly serious misconduct, where there are sensitive or serious issues would be wise to be in the new enlarged IPCC.

Q602 Chair: The rest of it would then be held locally because some of the problems and some of the points that they make about the current system—and you have been a teacher, you have been a professor, you have run a university very successfully—if you look at the way in which people complain about professors and teachers, one of the complaints is it is handled locally. If somebody complained at Loughborough about a professor it would end up with you the Vice Chancellor, wouldn't it? You would have a disciplinary process—

Professor Pearce: You would.

Chair:—but at the end of the day you would decide. It is not that different, is it, to what you are suggesting here. That if there is a breach of the code it is kept by the police, and the public perception is, "Well, this is just a club because the same people are going to look at the same problems".

Professor Pearce: No, I think with the IPCC we should look at the whole process. As I said, I think it is impractical for all of it to go to the IPCC. With minor things it is just not appropriate, and one would hope that a standards department would be well able to cope. One of the things is perhaps the transparency and openness about it. That has to be maximised because that is the way of keeping the highest quality in the smaller—

Q603 Chair: Yes. Mr Marshall, you want to keep it with the police. You want to keep it with the chief constable because, even though you have said to this Committee today, on the Andrew Mitchell affair, that you believe that the standards had fallen below what one would have expected, you accept the judgment of the chief constables in two of the cases. You do not think it should go outside.

Alex Marshall: My view is the same as Professor Pearce. We need a strong, well resourced, independent body to investigate complaints, and I think all complaints that are serious and sensitive and have public interest to that extent should go to that independent body. I said that earlier.

Q604 Chair: That is why I cannot understand the answer you gave me to the first question. When I put it to you that this really ought to go outside, you know that there is huge public interest in the Andrew Mitchell case but you still think the judgment of Chris Sims and Mr Parker is fine. That is what I find very puzzling.

Alex Marshall: The investigation should have gone to an outside organisation and should have been dealt with independently, and it would have been much better. It would have been better in the public eye and better for all concerned if it had gone outside to an independent investigator. I have always thought that and I have been consistent in saying that.

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Q605 Chair: Yes, but given the current situation you do not think it should go any further. You think it all should rest, despite the fact that you think the three officers should apologise?

Alex Marshall: I am recognising that the process has come to an end in two of the places and that, therefore, as far as I understand it, the IPCC no longer has any power to take that investigation back. I think it would have been much better for the IPCC to have taken the entire investigation.

Q606 Chair: Professor Pearce, a couple of questions about your board. Have you now been able to choose any members of your board? Of course you inherited members of your board. Has the Home Secretary allowed you to choose any new members?

Professor Pearce: The board is developing in a very strong way. We have created a nominations and remuneration committee, which will be looking at the skills that are needed around the board for the next phase of our development. We have an agreement that that nominations and remuneration committee—which is chaired by Millie Banerjee, the chair of British Transport Police—will look at creating a matrix of skills and it is already doing so. We know that we have a need to bring greater educational expertise on to the board and we know we have a need to bring greater commercial expertise on to the board. That process is in place.

Q607 Chair: I am just counting the number of police professionals who are on the board. With the police and crime commissioners you have Anne Barnes, Katy Bourne and of course Bob Jones. You have four police officers, chief constables. You have a couple of professors. You have one member of the ethnic minority community, but you seem to have nobody from the public.

Alex Marshall: We have four people.

Q608 Chair: Who are your public people because—
Professor Pearce: Police and crime commissioners.

Q609 Chair: They are supposed to be the public?
Professor Pearce: Yes.

Q610 Chair: But the guys and people who walk around the streets, members of the public. I am thinking of the way that the Appointments Commission for judges is now done. You have lay members on there. You have professionals here, paid professionals. You have no members of the public on here.

Professor Pearce: The way the Home Secretary set it up was to have three independent members, and there are three independent members. We do not have a larger group, but they are independent so there is—

Q611 Chair: You are talking about the Police and Crime Commissioners?

Professor Pearce: No, I am talking about Louise Casey, Professor Sherman and Sir Denis O'Connor who are not in police roles.

Q612 Chair: Sir Denis O'Connor is a former Chief Inspector, so he is not a lay person.

Professor Pearce: Indeed.

Chair: Louise Casey is a Government employee.

Professor Pearce: Professor Sherman is quite an expert in criminology.

Chair: Professor Sherman meets all the Chief Constables, although a very distinguished professor from Cambridge University.

Dr Huppert: I should just say that I do know Larry Sherman well.

Chair: Yes, we all know Larry Sherman.

Professor Pearce: Yes.

Q613 Chair: I am talking about those outside, your average person walking around Walsall, for example, you wouldn't get them on the board, would you?

Mr Winnick: Like myself.

Professor Pearce: Looking at the skills and experiences that we need round the board for the future, given as you say that this was a board that was already established. We are taking that into account, absolutely.

Q614 Chair: Good. Finally, I know you had your inaugural event last week. I do not think this Committee and Members of Parliament were invited. Please feel free to invite this Committee to all events. Treat us as your friends.

Professor Pearce: Thank you.

Chair: We are going to watch the development of the college very carefully. We support the concept of a college. We would like you to be a Royal College, and Parliament wants to support what you are doing but if we do not know what you are doing it is very difficult for us to suddenly find out. So please keep us informed.

Professor Pearce: Yes, thank you.

Chair: Mr Marshall, Professor Pearce, thank you very much for coming.

Tuesday 5 November 2013

Members present:

Keith Vaz (Chair)

Ian Austin
Nicola Blackwood
Mr James Clappison
Michael Ellis

Paul Flynn
Dr Julian Huppert
Mark Reckless
Mr David Winnick

Examination of Witnesses

Witnesses: **DS Stuart Hinton**, Warwickshire Police Federation, and **Sgt Chris Jones**, West Midlands Police Federation, gave evidence

Q615 Chair: Could I call the Committee to order and refer all those present to the register of members' interests, where the interests of members of this Committee are registered, and acknowledge the appointment of two new members of the Committee, Mr Ian Austin and Mr Paul Flynn.

Mr Hinton, thank you very much for coming in to see the Committee today. I am most grateful to you for accepting our request to attend. Your presence here today relates to evidence that you gave to this Committee on 23 October, and this session will not cover the events that occurred in Sutton Coldfield, in that they are part of the misconduct hearing that the IPCC will now be investigating. We are concerned with what you said to the Committee only, so this is going to be a brief visit, hopefully, to the Select Committee, where you can correct the record as to what was said, if you choose to do so.

Can I just remind you that it is a prima facie contempt of Parliament to mislead Parliament, and that is one of the reasons why you have come here today, because we believe in the evidence that you gave on the last occasion that you misled this Committee, so it is your opportunity, if you choose to take it, to put this matter right? If we are not satisfied with the explanation that you give, we will make a report to the House, and if the House accepts our report, it will then be referred to the Standards and Privileges Committee, so I hope very much that we can deal with this matter today and we can then proceed to other business.

The point I want to put to you relates to the evidence you gave in respect of comments that were made in a transcript, so we are referring to the transcript, and I put to you some comments that were in the transcript relating to the use of the words "this woman in the Conservative Party". Do you understand what I am saying?

DS Stuart Hinton: I do, yes.

Q616 Chair: So far, do you understand the process that I have outlined?

DS Stuart Hinton: Absolutely, yes.

Q617 Chair: I put to you on three occasions that the reference to "this woman in the Conservative Party" in the transcript was a reference to the Home Secretary and the reason why we put that to you was that it was relevant to the evidence you were giving about the reason why you were having the meeting with Mr Mitchell. That is why it was raised in the

transcript. You responded that, "It was a typo, to be perfectly honest." Those were your words at question 262. At 263, I asked you again, "Is it a typing error?" and you replied, "I do not know why I would say 'this woman' in the middle of the sentence." At question 264, I explained that I had taken a section out of the sentence, but I read the whole sentence to you, which consisted of 20 words, and you said, "I do not remember saying 'that woman.'" I asked you at 265, "So the transcript is wrong?" and you replied, "In that particular case, I would suggest it is, yes." At 266, I said, "The transcript is wrong?" and you said, "I do not recall using the words 'this woman.'" Mr Ellis, at 267, asked you again whether this was a reference to the Home Secretary and you said, "No."

You have subsequently written to this Committee on 29 October and you said this, "In context, I accept 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." Would you like to confirm that that is what you said in your letter?

DS Stuart Hinton: It is important that I give you a narrative about my explanation of all this, so if I may, Chair, I have a short statement to read out to you, which should cover all of the things that you have mentioned.

Q618 Chair: How long is the statement?

DS Stuart Hinton: It should take a couple of minutes at the most.

Chair: Okay.

DS Stuart Hinton: The statement reads, "I am grateful to the Committee for affording me this opportunity to appear before it again to address part of the evidence I gave on 23 October. Subsequent to that hearing, I have listened to the recording of the meeting with the Right Honourable Andrew Mitchell MP that occurred on 12 October 2012, and I have written a letter to the Committee apologising for inadvertent inaccuracies in my oral evidence. I adopt the terms of that letter, which is appended to your report, in apologising to the Committee today.

When asked about 'this woman' at the previous hearing, I gave evidence to the Committee that I did not remember using the words either 'this woman' or 'that woman'. That was accurate. For the reasons set out in my written apology, the passage did not appear to make much sense, which is why I thought it was an error of transcription. I had not listened to the tape

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for many months and this passage was not raised in either my interviews or subsequent investigation reports. As stated, since 23 October, I have listened to the recording. Having done so, it is clear to me both that I did say 'that this woman' in a sentence and was obviously referring to the Home Secretary when I did so.

It follows that I inadvertently gave an inaccurate answer to the Committee on 23 October. There was no intention to mislead the Committee. I repeat my unqualified apology to the Committee for this inaccuracy. I also repeat the unequivocal apology I made in writing as part of that same document to the Home Secretary. Whilst I believe at the relevant point of the meeting on 12 October, I appear to have failed to bring the Home Secretary's name to mind, I fully accept that this does not excuse the form of expression that I used in the meeting with Mr Mitchell and I apologise for that accordingly."

Q619 Chair: Thank you, Mr Hinton. So you wish to apologise to the Committee for saying that it was a typing error, because you did not realise you said this?
DS Stuart Hinton: I did not remember saying it.

Q620 Chair: You did not remember saying it. You would like to apologise because you felt that at the time you did not know it was the Home Secretary, is that right?

DS Stuart Hinton: Yes, I did not remember saying it, so I did not remember in what context it was said, and as I have already said—and I think I said to you on 23 October as well—it did not seem to make sense to me at the time I was appearing before you then. Having reviewed it, obviously I am correcting myself. I made an honest error.

Q621 Chair: Indeed. You would like to apologise to the Home Secretary for using such words?
DS Stuart Hinton: Yes, I would.

Q622 Chair: Because we have received a letter from your Chief Constable, Mr Parker, who said this was quite obviously a disrespectful term that should not have been used by anybody, particularly a serving police officer, and that there was no excuse for the terminology and that he would be taking this up with you.

DS Stuart Hinton: I am sure he will be.

Q623 Chair: Has he done so?
DS Stuart Hinton: Not yet, no.

Q624 Chair: But you expect him to?
DS Stuart Hinton: I am sure he will do.

Q625 Chair: So there is no qualification on your apology to the Committee today for what you said to us?

DS Stuart Hinton: No. It was an inadvertent error. I did not intend to mislead anybody in this Committee.

Q626 Chair: And you apologise for it?
DS Stuart Hinton: I do.

Q627 Chair: Thank you very much. Is there anything else you would like to say, Mr Hinton, to this Committee, about any of the events?

DS Stuart Hinton: If I may, very briefly. Could I add the following, and this statement is on behalf of the three officers, myself, Ken and Chris—

Chair: We would prefer you to speak on your behalf because we are dealing with the officers separately.

DS Stuart Hinton: Okay. "Our position so far as the meeting with Mr Mitchell is concerned has not changed. While the Committee appears to believe that we are indifferent to Mr Mitchell's predicament and the distress caused to him and his family since the original incident in Downing Street, we are not." I am not. "Each of us fully recognises and regrets the fact that such distress has been caused. We share the belief that the investigation into the original incident in Downing Street has already taken a disproportionate amount of time and should be resolved in the interests of all parties without delay."

Q628 Chair: Mr Hinton, that is a different position from the position you gave to the Committee on the last occasion, because when you talked about an apology to Mr Mitchell, you said that it was a general apology to all those who had been affected. Are you telling the Committee now that you specifically wish to apologise to Mr Mitchell and his family for the distress caused?

DS Stuart Hinton: For the distress caused. I cannot apologise for something I have not done, and a number of accusations have been raised that I totally refute and I was not party to, so I cannot apologise for something I have not done, but I certainly regret any distress caused. It was not our intention or my intention.

Q629 Chair: To Mr Mitchell and his family?
DS Stuart Hinton: Yes.

Q630 Chair: Is there anything else you want to say to us in terms of the evidence that you gave that you may wish to correct? In respect of your previous allegations of misconduct, there is nothing you wish to tell the Committee?

DS Stuart Hinton: No.

Chair: You are absolutely certain?

DS Stuart Hinton: Absolutely.

Q631 Chair: Thank you very much, Mr Hinton. Mr Jones, thank you very much for coming in and accepting the Committee's invitation to attend this afternoon. I will not repeat what I have just said to the other witness, but you have heard it.

Sgt Chris Jones: Yes.

Chair: If indeed we find that there is a contempt of this Committee, we will refer it immediately to Mr Speaker and the House. We will prepare a report that will then go to the House of Commons and from then, if the House agrees to it, it will then go to the Committee of Standards and Privileges. You understand that?

Sgt Chris Jones: Yes, I do.

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Q632 Chair: What would you like to say to the Committee today?

Sgt Chris Jones: Again, as per my colleague, Mr Hinton—

Chair: You will need to speak up, Mr Jones, I am afraid.

Sgt Chris Jones:—I have prepared some words that I would like to present to the Committee, please, “I gave evidence to the Committee on 23 October 2013. Earlier today, I submitted a written response to the Committee’s report of 30 October 2013. I adopt that as my evidence to the Committee, without repeating it orally. I am disappointed that I was not at least given the opportunity to address such serious and hugely damaging criticism on merit before the Committee published its report. It will be seen that on a proper analysis, I do not believe that my answers misled the Committee. My interpretation of the meaning of the questions has not changed. If, however, I failed to recognise the meaning of the questions I was asked, then I apologise. If the Committee was misled by my answers, then this was wholly unintentional. I also adopt what has just been said to the Committee by my colleague, Detective Sergeant Hinton, in relation—”

Q633 Chair: Mr Jones, I do not know what your legal advisers have told you, but we do not have the American system of adopting other people’s evidence, I am afraid.

Sgt Chris Jones: Okay.

Chair: This is not the way Parliament works in the United Kingdom. You cannot go around adopting what other people have said, otherwise we would be here all day. We would prefer to hear from you. You are Mr Jones and you must tell us what you feel. No adoptions are necessary.

Sgt Chris Jones: “While the Committee appears to believe, however, that we are indifferent to Mr Mitchell’s predicament and the distress caused to him and his family since the original incident in Downing Street, we are not. Each of us fully recognises and regrets the fact that such distress has been caused. We share the belief that the investigation into the original incident in Downing Street has already taken a disproportionate period of time and should be resolved in the interests of all parties without delay.”

Q634 Chair: Do you wish to take this opportunity, before I deal with what you said, to apologise to Mr Mitchell and his family—as Mr Hinton has done—for the distress that has been caused?

Sgt Chris Jones: Again, I cannot apologise for something that I have not done, but I do recognise the disproportionate—the stress that it has caused his family and I would urge that the CPS report and the investigation into that matter are concluded as speedily as possible.

Q635 Chair: So you are not wanting to apologise to Mr Mitchell and his family for the distress, as Mr Hinton has just done?

Sgt Chris Jones: I am saying that I recognise the stress that has been caused and I think it will be best if the investigation into the matter is concluded.

Q636 Chair: I think the answer is no, you are not prepared to apologise.

Sgt Chris Jones: I cannot apologise for something that I have not done.

Q637 Chair: Right, so you do not believe that you had anything to do with any distress that was caused?

Sgt Chris Jones: I believe a number of people have had—

Chair: But not you?

Sgt Chris Jones: Yes, I come back to the point that I cannot apologise for something I have not done. That is, yes—

Q638 Chair: No. That is fair, and I am not getting you to apologise for something you do not want to apologise for. You do not want to apologise for any distress?

Sgt Chris Jones: At the moment.

Q639 Chair: At the moment, because that is what you said last time.

Let me just turn to why you think that you did not know what the question was. I refer you to the transcript at question 333, which I am sure you have, because that is the only issue that affects this Committee today. I am sure your legal advisers have pointed you to it. It was a question that Dr Julian Huppert put to Inspector Ken MacKaill, who can I say for the record has been very open and transparent about his own record of misconduct and allegations made against him, and he had no notice of this when he appeared before us either. Inspector MacKaill said this, “Can I just clarify one question that Dr Huppert asked, and it was on the conduct matters. I thought his question was relating to this incident. I think it was, on reflection, probably in general. Is that right?” So a general question to all three of you about conduct. He then replies, “Yes. I have a written warning from eight years ago. I was answering out of context”. Dr Huppert then asks at question 334, “Just in case there was a lack of clarity, do any of the others have anything?” and none of you indicated you had anything to say about the issue of misconduct. Dr Huppert says, “No, just one from eight years ago?” and at that stage, you did not correct the record, but today you are trying to correct the record. What is your record in respect of misconduct allegations?

Sgt Chris Jones: My record, I direct you to paragraph 15 within the statement.

Q640 Chair: We cannot all see this letter, so I am sure you have read it in preparation. Perhaps you would like to tell the Committee what your disciplinary record is.

Sgt Chris Jones: I have no findings of misconduct against me. However, if you asked the question have I received any complaints—

Chair: Well, that was the question.

Sgt Chris Jones:—13 complaints have been made against me, but none has resulted in any misconduct or disciplinary finding.

Q641 Chair: Thirteen disciplinary investigations. The breakdown is two—I am trying to get the record

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right so you do not have to come back again, Mr Jones—were local resolution, three were closed by dispensation, five were unsubstantiated and in two occasions, action was taken. Your Chief Constable wrote to us on 30 October and he said, “I can confirm from police records that Sergeant Chris Jones has been the subject of 13 disciplinary investigations during his service”. Of this, two were subject of a local resolution with the complainant, three were closed by dispensation, five were unsubstantiated and two resulted in action being taken against you, Sergeant Jones. Is that an accurate reflection of your record?

Sgt Chris Jones: The information provided by the Chief Constable is accurate, yes, and that is all dealt with in the statement that I submitted to this Committee—

Chair: Yes, we understand that, but your—
Sgt Chris Jones:—dealt with it in detail.

Q642 Chair: Of course, but you are here before us and referring to statements is helpful, but does not give us the answer. The two cases where action was taken against you, Sergeant Jones, what were they in respect of? You will remember them, of course.

Sgt Chris Jones: I was given advice—and again, advice is not a misconduct sanction, it is management advice—and all I can do is refer you continually back to the statement, because it is all given in detail in the statement that I have submitted to the House.

Q643 Chair: No, I am asking you. You cannot rely on the Chief Constable, who is not here.

Sgt Chris Jones: I am not relying on the Chief Constable.

Q644 Chair: I am asking you now. You know what those two related to and the Committee wants to try to deal with this matter today. Mr Jones, you are not being helpful with the Committee at this moment. I have asked you a specific question. Those two issues, just tell us what they relate to, because otherwise we will have to write, get all this information back again, and if you do not want to tell us, then obviously we will have to take further action. What were they in respect of? It is just an open and transparent answer that we want. We are not asking for more than that. It is already in the public domain, is it not?

Sgt Chris Jones: I do not have the record in front of me.

Q645 Chair: No, but you will remember, because it is concerning you, it is your record.

Sgt Chris Jones: If I remember correctly, one was in relation to use of force and the other was in relation to performance of duties.

Q646 Chair: Right. In respect of the performance of duties, what exactly does that mean? Use of force I think we can all understand.

Sgt Chris Jones: The performance of duties issue was I was asked to secure a video, some CCTV video, while I was a custody officer. I secured the video as requested, but it appeared, when it was inspected, somebody put the wrong video in the case and when it was opened and inspected, the wrong information

was in there. It was suggested or I was given advice to the effect that I should have checked the video before I submitted it and sealed it, rather than just taking it from the rack and sealing it.

Q647 Chair: The use of force issue?

Sgt Chris Jones: I pushed somebody in the back, off-duty, which resulted in a minor injury to their mouth.

Q648 Chair: All the others were resolved?

Sgt Chris Jones: Yes.

Q649 Chair: Yes. Your career is how long?

Sgt Chris Jones: I am about 28 and half years’ service now.

Q650 Chair: Okay. In respect of the first issue that you raised with us and what you told the Committee, you now accept, do you, that the question that Dr Huppert was putting to you was a question about these allegations? You may not have done so at the time, but you now accept what Dr Huppert was asking about, because Inspector MacKaill understood it, and it appears that Mr Hinton understood it, who has no allegations of any kind against him. He has just told that to the Committee again. But you now accept that that is what Dr Huppert was interested in? Now you accept that?

Sgt Chris Jones: My understanding of that question remains the same today as it did then and I am sorry if I misunderstood that.

Q651 Chair: Dr Huppert certainly thinks you misunderstood it and a Committee of 11 Members of Parliament think you have misunderstood it, so this is your opportunity to say, “I misunderstood the question, but I am putting the record straight now, and if I inadvertently misled the Committee, I apologise for it.”

Sgt Chris Jones: It was not my intention to mislead the Committee and if I have misled the Committee because I have misunderstood the question, then as I said, for that I apologise.

Chair: Sorry, can you say that a little louder?

Sgt Chris Jones: If I have—it was not my intention to mislead the Committee. If I have misled the Committee because I did not understand the question, then I apologise for that.

Q652 Chair: But you now clearly understand the question—and now you do, because I have explained it to you in great detail, question 333—and you now understand what Dr Huppert had in mind.

Sgt Chris Jones: It has been rephrased now, yes.

Q653 Chair: You apologise to the Committee for inadvertently misleading it, because you did not understand the question at the time?

Sgt Chris Jones: Yes.

Q654 Chair: But you now understand it, correct, and you have given us all the information we require?

Sgt Chris Jones: I would like to think so, yes. I hope so.

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Q655 Chair: “Like to think so.” We would like you to be—I mean, you have obviously lived with this for a year, Mr Jones. Is there anything left for us to bring out here?

Sgt Chris Jones: There is nothing I can think of, no. I do not have anything, no.

Q656 Chair: You understand the seriousness if indeed we find out that there is other information that you have not told us today?

Sgt Chris Jones: Yes.

Q657 Mr Winnick: You are quite clear, Mr Jones, there is absolutely no other information you want to

give us that we may discover later? You are absolutely sure about this? You are not misunderstanding the question from the Chair or myself?

Sgt Chris Jones: There is nothing that I—

Mr Winnick: You are quite clear?

Sgt Chris Jones: There is nothing that comes to mind to me at the moment, no.

Chair: Mr Jones, thank you very much.

Sgt Chris Jones: Thank you very much.

Chair: That concludes the proceedings on leadership and standards. We will return to this when the IPCC gives evidence at 3.45 pm today. Thank you.

Examination of Witnesses

Witnesses: **Dame Anne Owers**, Chair, Independent Police Complaints Commission, and **Rachel Cerfontyne**, Deputy Chair, Independent Police Complaints Commission, gave evidence.

Q658 Chair: We are now resuming our inquiry into leadership and standards that we began earlier this afternoon. Dame Anne Owers is the Chair and Rachel Cerfontyne is the Deputy Chair. Ms Cerfontyne, do we assume that you have taken over from Deborah Glass as Deputy Chair, or whether there are a number of Deputy Chairs of the IPCC?

Rachel Cerfontyne: I have certainly taken on this case from Deborah Glass. At the moment she is Deputy Chair, as am I, but she is currently on leave.

Q659 Chair: Right. Well, welcome, and thank you very much for coming at short notice. We know you have come from a meeting of the Commission and we are most grateful.

When we last met, Dame Anne, Deborah Glass and you—because you were sitting next to her and did not disagree with her—were very clear, in answer to questions from myself and members of the Committee, that there was no way that you could re-determine the decisions that had been taken by West Mercia, Warwickshire and also the West Midlands into possible misconduct from the three officers: Mr Hinton, Inspector MacKaill and Mr Jones. You very helpfully wrote to me last Saturday when the Committee published our report inviting you to do so, informing us that you would now be investigating. What changed your mind?

Dame Anne Owers: I think from memory what we said to the Committee was that, in view of the evidence that this Committee had heard, we would now have to take legal advice on whether we could investigate. We were very clear that we could not previously because there wasn't a way in for us, but we did say that we would take legal advice following the evidence that we had heard before this Committee. The thing that changed our minds—and where, on advice, Deborah Glass made the decision that you have already seen—was the fact that it was clear from Chief Inspector Reakes-Williams' evidence to this Committee that not only had he originally felt in the draft report that there was a case to answer for misconduct but that remained his concluded view. Therefore, as he was the investigating officer that we

had appointed to supervise the investigation, in fact his is the only conclusion that matters. Since he had not changed his view, therefore, the report that was submitted as the final report did not represent the view of the investigating officer and was, therefore, not effectively a report so that any decisions taken on the back of that were null and void.

Q660 Chair: We are not looking for applause here but, presumably, had he not given evidence to this Select Committee, you would not have known that.

Dame Anne Owers: I think that is fair. Because it was a supervised investigation we were simply supervising the investigation and this Committee has said before—and we have acknowledged—that there are limits to what you can do in a supervised investigation, so the investigation being complete, our role had ended.

Q661 Chair: Ms Cerfontyne, you are taking over?

Rachel Cerfontyne: That is correct.

Q662 Chair: You have had no involvement whatsoever with these matters. Is that right?

Rachel Cerfontyne: No, this is a case that is entirely new for me.

Q663 Chair: Are you going to appoint—and we are looking at process here obviously because you are just starting this investigation—an investigating officer based at the IPCC who will start the whole process again, or are you going to accept the evidence that Deborah Glass gave to us that the investigation, the fact finding, was perfectly sound, it is the conclusions that caused the IPCC difficulties?

Rachel Cerfontyne: I am sure you will understand that in this case I need to ensure what I do is procedurally and legally correct, and that is absolutely essential.

Chair: Yes.

Rachel Cerfontyne: In terms of what I am doing, I have already appointed an investigating officer from the IPCC. In fact we have a small team working on

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this case. Today, they have been to West Mercia, and taken a handover of the material in the case. This is a fresh, independent investigation. That means it has to go through a process and it means that I have to determine at the end of that process. So I cannot begin at the end, and it has to be that the IPCC investigating officer draws her own conclusions based on the evidence, and then gives it to me for final determination. However, we are keen to be as expeditious as possible with this—

Chair: That is my next question.

Rachel Cerfontyne:—and we are not going to be duplicating activity that has already been done. So the first thing that the investigation team will do is review the evidence. If it is complete then that evidence will be written up into an IPCC independent report.

Q664 Chair: Is the person you have appointed a former police officer?

Rachel Cerfontyne: No, she is not. She is a very experienced senior investigator but she is not a former police officer.

Q665 Chair: You talk about West Mercia. Is it also the case that you are getting any material that West Midlands and Warwickshire has, or do you assume it has all been given to West Mercia?

Rachel Cerfontyne: At the moment, because the original investigating officer was from West Mercia, we are assuming that they will have collated and have in their possession all the material. But clearly, if that turns out not to be the case, one of the first things that our investigating officer has to do is to ensure she has all the relevant material.

Q666 Chair: What will happen to the West Mercia suggestion that this should go to an independent Chief Constable? Is that now not going to happen? It is all with you, you have everything?

Rachel Cerfontyne: As far as I understand it.

Dame Anne Owers: Yes, I think West Mercia have accepted that, since we are now taking it as an independent, that is the route it is going down.

Chair: Thank you.

Q667 Michael Ellis: Dame Anne, the Chief Inspector who was instructed to complete this report is the only person whose opinion matters. He is the investigating officer and he says “misconduct”. This report then gets sent to chief officers of police who ought not to have received it. It was unlawful and against the regulations for them to receive an incomplete report. Is that correct?

Dame Anne Owers: As far as I know, yes. We are now told that they received a copy without conclusions, which we did not know.

Q668 Michael Ellis: Then the report comes back to the IPCC and says, “No case for misconduct”.

Dame Anne Owers: Yes.

Q669 Michael Ellis: So there is interference here in the investigation, is there not? Whether it be deliberate or accidental remains to be found, but there is an interference because—as you have said to Mr Vaz—

the Chief Inspector whose report it was still believes that there ought to be misconduct proceedings.

Dame Anne Owers: I think what we imagine is that there is confusion. There are two decisions involved here in this investigation. The first is the conclusions of the investigating officer, which should be in the investigating officer’s report and they should be his or her conclusions. There is then a separate decision that has to be made by the Appropriate Authority—in this case the representatives of Chief Constables—which can be different from that of the investigating officer. What appears to have happened in this case is that the two have been conflated erroneously.

Q670 Michael Ellis: In your experience, have you known this sort of confusion to occur in other IPCC cases?

Dame Anne Owers: I haven’t, but then I would not be the right person to ask since I do not—

Q671 Michael Ellis: Have you heard of any of them from others under your control?

Dame Anne Owers: I haven’t but, as I say, I would not want to assure this Committee—

Q672 Michael Ellis: So this is uniquely confusing?

Dame Anne Owers: No. I am quite deliberately not saying that because, as you know, supervised investigations are ones that we try not to do wherever possible.

Q673 Michael Ellis: Thank you. It seems to be being said that a Mr Bimson, I believe, of the IPCC indicated to the officer, the Chief Inspector, that it was okay to send the report to the chiefs in advance. Is that contested by the IPCC? Is that not accepted?

Dame Anne Owers: No, I think—

Chair: Can I just interrupt for a moment? Obviously you can answer Mr Ellis’ questions but we will take as read all the evidence that you gave on the last occasion, because we have published a report on this. If you want to refer to any of that in answering Mr Ellis you can and if you do not have the absolute detail we understand, but we do not want to revisit previous evidence. We want to look forward, but please answer Mr Ellis.

Dame Anne Owers: What we did after your last hearing was to go back and check with our investigator’s policy book to find out exactly what had happened. What appears to have happened—and I think we submitted to you the entries from his policy book—was that there were two separate meetings or discussions. The first discussion happened when the West Midlands were asking whether they could see both the report and its conclusions before that report had been finalised and before it had been presented to us. At that point Mr Bimson rightly told them that they had delegated this to the investigating officer and that they could not yet see the conclusions because we hadn’t yet seen them formally. There then followed a different meeting at which a report with conclusions was presented to us, but it had two sets of conclusions and we said, “You cannot have two sets of conclusions”.

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Q674 Michael Ellis: It seems to me that at least the ACPO officers seem to want to blame the IPCC for this confusion. They have referred to different grades of investigations and the fact that this wasn't of the higher grade of investigation, where the IPCC conduct it all themselves, which means that it is partly your fault as an IPCC that this happened. What do you have to say about that?

Dame Anne Owers: I do not think attributing fault and blame is at all helpful here. What has happened is that there have been procedural irregularities. There are processes in doing investigations and the processes are that an investigating officer makes a decision and then the Appropriate Authority makes their decision, and those processes were not followed.

Chair: Yes, I think you made that very clear in the—

Dame Anne Owers: I think as a supplementary—back to that—I have heard a lot of commentators saying that we should have taken it as an independent investigation at the beginning. We explained to this Committee very clearly last time why it was not possible for us to do that.

Chair: Yes, thank you.

Q675 Michael Ellis: Will that be the focus of your investigation now as to why this report was changed and how it came to be changed?

Dame Anne Owers: No, our investigation is into the original incident. That is our independent investigation.

Chair: Thank you, let us move on.

Q676 Mr Winnick: Some people are saying, of course, that an incident that took less than five minutes outside Downing Street is almost leading to a Watergate inquiry, but nevertheless justice needs to be done.

I want to particularly clarify precisely the response you gave Mr Ellis to his last question. The position as I understand it—and you will correct me if I am wrong—is precisely over the meeting that took place on 12 October last year between the three officials of the Police Federation in the West Midlands area and Andrew Mitchell. Am I correct?

Dame Anne Owers: That is right.

Q677 Mr Winnick: You are not concerned with going back to what Mr Mitchell said or did not say to the police officers?

Dame Anne Owers: No, that is the subject of a separate supervised investigation and that is currently in front of the CPS.

Q678 Mr Winnick: Yes, I understand that. So your inquiry—which you say is going to restart, for the reasons that we know and understand—is precisely over the meeting that took place on 12 October?

Dame Anne Owers: Yes.

Q679 Mr Winnick: The reason that you are going to go into an inquiry is the manner in which the three officials reported to the media arising from that meeting?

Dame Anne Owers: Those are the terms of reference for the inquiry, although we will be relooking at the terms of reference.

Q680 Mr Winnick: And you have to decide whether misconduct or gross misconduct, as the case may be, occurred over what those three officials of the Police Federation said to the media arising from the meeting?

Dame Anne Owers: Absolutely, yes.

Q681 Mr Winnick: What is not in question is the right of the Federation at the time to have a meeting with Andrew Mitchell, am I right?

Dame Anne Owers: That is not within the current terms of reference, no. I would need to go back to them and, of course, at a certain time we will be looking at those terms of reference.

Q682 Mr Winnick: Yes. I put that to you because, as I understand it again, it was perfectly in order. This is a free country. Mr Mitchell could have said “Yes” or “No” to having the meeting.

Dame Anne Owers: That is also my understanding, yes.

Q683 Mr Winnick: So the only issue—however complex it may be; and it must appear very complex to a lot of people, even perhaps members of this Committee—is over what was said by the Federation officials when that meeting concluded?

Dame Anne Owers: Absolutely, yes.

Q684 Mr Winnick: I want to ask you—because I started off by saying people are beginning to ask how long this is going to continue, and the rest of it—is there any sort of time limit as far as you are concerned?

Dame Anne Owers: Perhaps what I also ought to make clear to this Committee now, because I do not know whether you are alerted to it or not, is that you said in your report that you would refer two issues, which you were dealing with earlier today, which was the evidence given to this Committee by two of those three officers. Those matters have now been recorded and referred to us, and we announced today that we will be doing independent investigations into both of those.

Q685 Chair: Thank you very much. We did not realise that had been announced. Was that announced earlier?

Dame Anne Owers: Earlier today.

Chair: Thank you.

Rachel Cerfontyne: Sorry, just to make it clear that I made that decision earlier today. We have not announced that publicly yet.

Q686 Chair: No, but there is no better way to announce it than here at this Select Committee.

Sorry to interrupt Mr Winnick's questions, but you are telling this Committee that, as a result of the report that we published last week in which we referred the two officers to the IPCC, you are now beginning an investigation into that?

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Dame Anne Owers: Yes, technically the Committee cannot refer to us but we took that under the Act as a complaint, and the forces voluntarily recorded it and referred it to us and, as I say, today Rachel took the decision that they would be taken as independent investigations.

Q687 Chair: That is very helpful. Just to let you know, we will send you all the documentation that we have received so that you do not have to seek it again. There are some outstanding letters but we will send them all to you.

Dame Anne Owers: That is very helpful, Chairman. Thank you very much.

Mr Winnick: And timely.

Dame Anne Owers: In answer to Mr Winnick's question, we are going to wrap all this up together. The question of what the officers did or did not say in front of this Committee is also a relatively simple matter to deal with. We anticipate that we will be able to complete both investigations this side of Christmas.

Chair: That is very helpful.

Q688 Mr Winnick: My last question to you—and if it is inappropriate because of the inquiry that is going to take place, you will immediately tell me—in view of what was said by two of the three Police Federation officials today, does that in some way indicate that the inquiry will be short rather than long?

Dame Anne Owers: I think the matters at issue are probably relatively simple to determine. We will obviously take into account what was said in front of this Committee today.

Chair: Thank you very much.

Q689 Mark Reckless: Dame Owers, I am very pleased you have taken the decision that you have and have recognised following our previous session that it was not the officer who had been appointed who gave the report, as I think became clear under my questioning. What I would like to clarify, though, is what you said just now. You referred to the IPCC having appointed Reakes-Williams as the investigating officer. Is it not the case that under a supervised investigation it is the Appropriate Authorities who appoint him but the IPCC then has to agree it?

Dame Anne Owers: Has to agree it. Thank you for that correction. You are absolutely right. The Appropriate Authority appoints but the IPCC has to agree.

Q690 Mark Reckless: I understand that the investigation that you are going to run relates to the incident in Sutton Coldfield. None the less, have not some really very concerning matters come out during our investigation into this as to how the three police forces and the Appropriate Authorities dealt with that? Are you not concerned that lessons that should be learnt from that might not be learnt from that?

Dame Anne Owers: We said in our statement that we had no reason to doubt the integrity of the Appropriate Authorities, and that they had erroneously conflated two procedures. What we are dealing with at the moment is the incident itself and an independent

investigation into that. I think if out of that falls any need for clarity about processes then we will deal with that. I have to say that the whole of the police complaints process—as I have said publicly many times—is incredibly complex; incredibly difficult to get your way round. If senior officers find it difficult, how do average complainants find it? I hesitate to think. The whole system needs to be looked at root and branch because it is very complex.

Q691 Mark Reckless: In the letter that you wrote to us on 29 October you did refer to pressure from West Midlands Police to release details of the investigation and its conclusion before the report had been finalised. Can you clarify that that is wrong?

Dame Anne Owers: I think there may be an over-reading of that. I do not think what we meant was that there was improper pressure. The West Midlands were keen to know what the report was saying and what its conclusions were, and they were rightly told at that point that was not yet a matter for them and they would get it when it was completed. My understanding is that at that point the conversation ceased. We mentioned that in the letter to make clear where the confusion had arisen because it was at that point that our investigators said that they couldn't have the conclusions of the report, and I think that is where the confusion arose when the final report was submitted.

Q692 Mark Reckless: Mr Bimson from the IPCC states in his note that it was the Deputy Chief Constable from West Midlands who appeared to be the source of this pressure.

Dame Anne Owers: I do not remember that. I am not sure it was the Deputy Chief Constable¹. It may well be; you may well be right.

Q693 Mark Reckless: He wrote in his note on 31 July that this was following discussion with Reakes-Williams and someone else, "JS", that, "Will discuss between themselves, then legal and Dep". I wonder if that again may be a reference to the Deputy Chief Constable.

Dame Anne Owers: It may well be².

Q694 Mark Reckless: But if the IPCC was aware on 31 July that these conversations were legal, and potentially conversations with the Deputy Chief Constable as the Appropriate Authority were about to happen, I am a little perturbed that nothing was done at that point to prevent that inappropriate meeting and discussions and bringing in the Appropriate Authorities before you had the final report.

Dame Anne Owers: Well, it was because that was the point at which our investigator, Mr Bimson, very clearly told Mr Reakes-Williams that it was not appropriate to give the conclusions to the Appropriate Authority at that point. That was the point at which

¹ Note by witness: Mr Bimson's notes refer to Chief Inspector Jerry Reakes-Williams receiving pressure from DCI Deborah Doyle not the Deputy Chief Constable.

² Note by witness: Yes, this was a reference to the Deputy Chief Constable

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he was told it was not right to do so, and that is what he did.

Q695 Mark Reckless: It seems to me that he had written down that that was going to happen, as a statement of fact, even though as you say he may have counselled against it.

Dame Anne Owers: I do not think it did happen, and that is why I think Mr Reakes-Williams may have been confused between the two different conversations. To my knowledge, it did not happen that the Appropriate Authorities got the conclusions of the report until the report was—

Q696 Mark Reckless: Just to clarify, the statute gives the IPCC the right to change the mode of investigation at any stage, and you now believe that we are still at that “any stage” because the final report was not presented to you by the person to investigate?

Dame Anne Owers: Because the final report was not a final report, yes.

Q697 Mark Reckless: My final question is can you assure the Committee, given the very unusual circumstances and public exposure there has been with these disciplinary actions, that you will still assure proper due process for the officers who are subject to these disciplinary proceedings?

Dame Anne Owers: Absolutely. That is why Ms Cerfontyne was making clear that this is a de novo investigation but we will use the evidence that is already there. We will not repeat the evidence, but we must be absolutely clear that we go through the right process and that we produce a report that has the investigator’s conclusions, which the Commission will then look at.

Q698 Mark Reckless: So the officers and others are clear as to possible consequences? May that involve allegations of gross misconduct and the possible subsequent loss of position? Is that a possible outcome?

Dame Anne Owers: The first thing this investigation will have to do—and will do next week—is to clarify the terms of reference and to make an assessment, what is called a severity assessment. That assessment will—

Q699 Mark Reckless: So that will be done again?

Dame Anne Owers: That will be done again because everything has to be done again. That we anticipate will happen next week, and that will be the basis upon which, if we do need to interview the officers again—and we may not—notices may need to be served on the officers again.

Q700 Mark Reckless: You just said that everything has to be done again, but have you not changed the mode of investigation at a particular stage? Are you saying that you have to do everything again or are you not just choosing to do so, although I thought before it had been suggested that the investigation was all right but it was just what then happened afterwards?

Dame Anne Owers: As you rightly pointed out, it is absolutely essential the proper processes are gone

through. This is now an independent investigation so we need to choose a senior investigator, which we have done. The Commissioner needs to sign off the terms of reference. We need to make our own severity assessment. I think what we are saying is that we do not need to go through all the processes. We do not need to go through the investigation itself again. If there is already sufficient evidence upon which we can construct a report, we need to review that evidence. As Ms Cerfontyne has said, we will not go over matters that have already been satisfactorily dealt with.

Mark Reckless: I thank the IPCC for all your work and everything you do to try to uphold public confidence in the police.

Dame Anne Owers: Thank you.

Q701 Chair: Ms Cerfontyne, can I ask you, since you have conduct of this and you are a new—I was going to say actor, but that is not the right word in respect of what we are doing here today—person involved in this, you have had how many years experience in running these inquiries?

Rachel Cerfontyne: I have been a Commissioner at the IPCC for just over four and a half years. I have been the Deputy since 1 August.

Q702 Chair: If I just get this timetable right because there seems to be an enormous amount of speed in this. We are not against speed, considering this has taken a year to get to where we are today. But you did say to us, Dame Anne, as did Deborah Glass, that the reason why you did not do this in the first place—which of course we would have all liked you to have done it in the first place—is that you did not have the resources to do it. Have the resources suddenly appeared or is there some complicated case that now has to wait because Parliament is so interested in this and the public interest demands that this issue should be resolved. Where has the shower of money come from?

Dame Anne Owers: The answer is at the moment there isn’t one. But I think two things have changed since Deborah Glass made her initial decision. The first is that it is clear now, as it wasn’t then, that this is a self-contained incident. As we said to the Committee last time, we did not know when we began this whether this might not be part of some much larger exercise, as Operation Alice itself has proved to be. We now know that what is at issue is a self-contained issue that we can deal with. The second of course is that we have the benefit of everything that was found in the course of the supervised investigation. That in itself means that resources that we would have had to devote to doing it from the very beginning have already been available. That is why we believe we can do it in a relatively short period.

Q703 Chair: Because you set yourself a timetable that we are in awe of, given that this has taken so long, of this side of Christmas, Christmas being one of those dates—sometimes Members of the House are told we will have reports for Ministers by spring and spring goes into autumn and winter—that cannot

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really be changed. So you have about 40 days and 40 nights to try to get this done.

Dame Anne Owers: Yes.

Chair: First of all, you need the terms of reference. We will send you all our papers, including the transcript of the hearing earlier on today, and we will not conclude on them now that we know you are investigating them as well. You will then look at the terms of reference, you will set the terms of reference, you will have your investigation, which will be done by an independent investigation under the control of the Deputy Chair, and you will let us have a response, hopefully, by 25 December?

Dame Anne Owers: Assuming that nothing else gets in the way, yes. By which I mean assuming that we do not suddenly discover a line of inquiry that we didn't realise existed or there are other barriers to it. But assuming that what we think we are looking at is actually what we are looking at, that is the timescale that we are working to.

Q704 Chair: So, subject to earthquakes, this should be done in time?

Dame Anne Owers: In fairness to this Committee, if we discover such things we would want to let the Committee know. If things happen within the investigation that made it not possible to meet that time scale we will of course let Mr Mitchell and the Committee—

Q705 Chair: Are you in touch with Alison Saunders, the new DPP or are you leaving Alice on her own—

if I can put it like that—to conclude in the normal way, because it is possible that Alice might conclude before you have concluded?

Dame Anne Owers: It is possible.

Q706 Chair: They are two separate events of course.

Dame Anne Owers: They are two separate events and, as you know, we are still awaiting the decision of the DPP on that.

Q707 Chair: On behalf of this Committee, I thank you most sincerely for the speed with which you have reacted to what the Committee recommended, the thoroughness of what you have suggested will happen, and your commitment here today that you will make sure that there is due process both for Mr Mitchell but also for the officers concerned.

Dame Anne Owers: Absolutely.

Q708 Chair: We are very concerned that nobody should criticise your report as some initially criticised Deborah Glass's letter three weeks ago, which we found puzzling, but now accept that this is something that has to happen. We wish you well and we would be grateful if you kept the Committee informed of all developments.

Dame Anne Owers: Thank you very much.

Chair: Dame Anne, Ms Cerfontyne, thank you very much.

Written evidence

Written Evidence submitted by Deborah Glass, Deputy Chair, Independent Police Complaints Commission, 21 October 2013

Thank you for your letter dated 17 October 2013. You have requested copies of the draft and final investigation reports into the circumstances surrounding the meeting between the Police Federation and the Rt Hon Andrew Mitchell MP on 12 October 2012. These reports were produced by West Mercia Police and I understand that the Investigating Officer is providing copies to you directly.

In addition you asked for details of the Investigating Officer. As you may have seen reported in the press this weekend, this is Chief Inspector Jerry Reakes-Williams from the joint Professional Standards Department of Warwickshire and West Mercia Police.

I also note the contents of your letter dated 18 October 2013. For the sake of clarity, the IPCC has not released any further press releases/public statements since publication of my statement last Tuesday, 15 October 2013.

Both Dame Anne Owers and I look forward to appearing before your Committee on Wednesday.

October 2013

Written Evidence submitted by Andy Parker, Chief Constable of Warwickshire Police, 22 October 2013

INTRODUCTION

I welcome the opportunity to attend before the Committee to explain the rationale for the decisions made by Chief Officers within Warwickshire, in the capacity of Appropriate Authority pursuant to the Police Reform Act 2002, in respect of misconduct allegations against DS Stuart Hinton of Warwickshire Police.

SUMMARY

- The process governing the procedure and decision-making in the case of misconduct investigations supervised (or managed or conducting independently) by the Independent Police Complaints Commission is set out in statute, namely the Police Reform Act 2002.
- At the relevant time, I believed the statutory process was correctly followed by the investigating authority and the Appropriate Authorities in this case.
- The procedure was directed by the IPCC, through close supervision of the investigation and followed Terms of Reference which had been agreed with them at the outset. These Terms of Reference set out a tight remit for the investigation, including “*whether... (the officers) provided a false account of the Federation meeting with Rt Honourable Andrew Mitchell MP on 12 October 2012 to the media in a deliberate attempt to discredit Mr Mitchell.*”
- The nature of the allegation—a deliberate attempt to discredit Mr Mitchell—required the evidence to establish that the officers had not merely been mistaken or held an incorrect but honest belief, but rather that there was deliberate intention to lie or mislead.
- Upon conclusion of the investigation, there was a difference of opinion between the two investigating officers as to whether or not there was a case to answer for misconduct. This difference of opinion was disclosed to the IPCC who, at a meeting with the investigators on 31 July 2012, directed that the final investigation report must contain one single recommendation. Further, I had been advised that the IPCC had directed the investigators at that stage to provide the report to the Appropriate Authorities without the recommendations.
- The report was therefore circulated by the investigating officer to the three Appropriate Authorities on 31 July, without the investigating officer’s recommendations and prior to it being formally submitted to the IPCC in its final format with one single recommendation. It is, I understand, currently unclear as to whether the IPCC did direct West Mercia that the investigation report must be referred to each of the three Appropriate Authorities without the recommendations, or whether officers mistakenly believed that they had been so directed.
- I have very recently been advised by the Chief Constable of West Mercia that referral of the report without the recommendations and the referral to the Appropriate Authorities prior to its formal referral to the IPCC both constitute procedural irregularity. I have also been advised by CC Shaw that the IPCC’s initial view is that they no longer have locus over this investigation, and it is for the individual Forces to determine what, if any, action to take. It was my view that it was therefore important to assess whether the procedural error has had any material impact and as a result I asked DCC Brunton to consider the final investigator’s report and consider that issue. He has done so, and has confirmed that it would not have affected the conclusion he reached that DS Hinton did not have a case to answer.

- The respective Appropriate Authorities each reached an independent determination on the question of whether their particular officer had a case to answer for misconduct or gross misconduct or neither. Each Chief Officer independently reached the same view that the evidence in this case did not substantiate the specific allegation of a *deliberate* attempt to discredit Mr Mitchell.
- It is absolutely acknowledged that this is a difficult case, where there will inevitably be a range of differing and strongly held views as to the appropriate outcome. However, it is respectfully submitted that simply because one does not agree with the decision reached, does not render that decision wrong. There is often, in cases which require a careful exercise of professional judgment, a range of reasonable decisions which can be reached and provided the final determination falls within that range, it is suggested that it would not be appropriate for undue pressure to be brought to change the outcome.
- Legal advice has been received which confirms that the decision reached by the Appropriate Authorities—based upon the material before them, and the assurances they had been given at that time as to the IPCC’s approval of the process and investigation—was rational and can be justified.
- Similarly, it is acknowledged that the view of the IPCC as to outcome is also rational.
- I accept that the actions not only of DS Hinton, but also of the two other officers involved in the meeting with Mr Mitchell, were ill-judged and it is clear that they were badly prepared and advised. I also accept that some of the comments he made were incorrect and, therefore, were misleading.
- The evidence in this case was very carefully considered and the decision was not an easy one to make. However, on the balance of probabilities, I concurred with the view of my Deputy Chief Constable, acting as Appropriate Authority for DS Hinton, that the evidence did not support a conclusion that he had a case to answer for deliberately attempting to discredit Mr Mitchell.
- *It is deeply regrettable for all involved, that this situation has been reached. It is my view that the role of both the Federation and the media in choosing to significantly and deliberately escalate an incident in Downing Street (where an apology had already been offered and accepted) was badly misjudged and extremely regrettable. I believe there are clear lessons to be learnt for both the police service and, in particular, the Police Federation. Whilst they have every right to campaign on behalf of their members and oppose measures which they believe will be damaging for the police service, the way they exercise that responsibility clearly needs to be subject to close and careful review, and I welcome the fact that the national Federation are currently in the process of doing that.*
- *I also regret the significant impact that this incident has undoubtedly had upon Mr Mitchell and his family and the role of a Warwickshire Police officer in adding to the pressure brought to bear upon him at an already very difficult time.*

BACKGROUND

1. The Police Reform Act 2002 deals with the roles and responsibilities of police forces and the Independent Police Complaints Commission in relation to various types of misconduct investigations, including investigations undertaken by the relevant Force but supervised by the IPCC (Supervised investigations). The IPCC has also issued guidance to clarify elements of the process.

2. In very brief summary, where there is a supervised investigation, the IPCC confirms the appointment of an investigating officer and agrees the Terms of Reference for the investigation.

3. Thereafter there are regular review meetings between the investigating officer and the nominated IPCC investigator.

4. There is, during this process and pursuant to paragraph 15(5) of the Police Reform Act, Schedule 3, Part 3, the provision for the IPCC “at any time” to make a further determination—that is to change—the form of the investigation. As such, the IPCC could have changed the investigation from supervised to managed or independent if they had believed it was necessary to do so.

5. Had the investigation been managed, rather than supervised, and the IPCC found itself in the current situation whereby the Commissioner disagrees with the conclusion reached as to whether there was a case to answer, it would have had the power to direct the Force(s) to convene a misconduct hearing. As the Commission chose not to make a further determination as to the form of investigation at a time when it had the power to do so, it has deprived itself of the subsequent power to now direct that the officers be put before a hearing.

6. The investigation into the conduct of all three officers was led by West Mercia Police, on behalf of the three Appropriate Authorities. I am now aware that at the conclusion of the investigation, a draft report was submitted to the IPCC which contained a difference of opinion as to whether or not there was a case for the officers to answer, with the investigating officer finding there was no case to answer and his supervisor disagreeing, and believing there was a case for misconduct (but not for gross misconduct). I am also now aware that the IPCC nominated investigator advised that the final report could not contain a difference of opinion and that one single recommendation must be reached. I had previously been advised that the IPCC therefore directed that the report must be provided to each of the three Appropriate Authorities without the recommendations. As set out above, it has been established within the past few days that there is currently no clarity as to whether the IPCC investigator actually issued this direction, or whether instead the investigating

officers mistakenly understood this to be the direction given. The report also now appears to have been referred to the Appropriate Authorities prematurely. I have no reason to believe that, whether it was the IPCC investigator or the West Mercia officers who made this error, it was anything other than a genuine mistake—and I accept that the actions of the investigating officers in referring the report as they did, was done under an honestly held belief that this was the correct course of action in these particular circumstances.

7. A meeting took place on 1 August 2012 attended by the Deputy Chief Constable of both Warwickshire and West Mercia—who are the Appropriate Authorities for their Forces—and a representative of the Assistant Chief Constable who is the Appropriate Authority for the West Midlands. At this meeting, the attendees considered the recording of the meeting at Mr Mitchells' office, the media interviews and took away the required documentation to consider the matter and determine whether there was a case to answer.

8. It is important to stress that at this meeting it was disclosed to the Chief Officers that there was a difference of opinion between the investigating officer and his supervising officer as to whether or not there was a case to answer. Therefore, whilst they did not receive anything in writing which set out those opposing views, they were all aware that there were conflicting views from those who had conducted and supervised the investigation.

9. On 2 August, Neil Brunton, Deputy Chief Constable of Warwickshire, considered all the evidence in this matter. He had the report, without the recommendations but which comprehensively summarised the evidence. In addition he had all the source material; recordings and the transcript of the meeting on 12 October and the subsequent statements to the media by the Federation representatives, the transcripts of the misconduct interviews with each of the three officers and the other documents exhibited to the Investigation report. I am aware that DCC Brunton's initial view at the 1st August meeting was that he did not consider the evidence he had seen at that stage indicated there was a case for DS Hinton to answer, however he was anxious to fully and carefully consider all the documentary evidence, including additional material which he requested from the investigators, and particularly the account provided by DS Hinton on interview.

10. DCC Brunton concluded that he was not convinced there was sufficient evidence to substantiate the allegation of deliberately misleading the media, and therefore was not satisfied on the sufficiency of evidence for a misconduct charge around honesty and integrity.

11. He also carefully considered the issue of whether DS Hinton's conduct was discreditable. He found that whilst DS Hinton had provided inaccurate information to the media, the evidence did not establish that he had set out with the deliberate intention to do so.

12. DCC Brunton also considered the differing position of a police officer when he is acting as a Federation representative, as opposed to a police officer on duty under my direction and control. Whilst the Federation does have different governance and roles, he concluded that DS Hinton was still conducting himself as police officer and was therefore undoubtedly required to meet the Standards of Professional Behaviour at all relevant times.

13. The decision was reached based on the knowledge available to all at the time and in the full context of the officer's stated mind set. At this time, there was no indication of a false Metropolitan Police witness nor any evidence of potentially dishonest accounts by police officers of what occurred in Downing Street. Those allegations came to light some four months later. It is clear that at this time, DS Hinton was struggling to understand how, if Mr Mitchell was denying the use of the language attributed to him, he would not pursue a complaint against the police officers for lying, given the seriousness of having potentially dishonest police officers remaining within the police service. Set against this context, it was our view that there was no deliberate attempt to discredit Mr Mitchell, rather a confusion as to why he would not formally challenge a police officer who he said had given a false account.

14. Both DCC Brunton and I were clear however that the actions of DS Hinton, whilst not in our opinion constituting formal misconduct, were not the actions we would aspire to for a Warwickshire Police officer. We believed he had demonstrated a serious error of judgment in attending the meeting and speaking to the media in the way he did and we proposed to address this appropriately and learn all necessary lessons from it.

15. We have however always appreciated that this is a very difficult case, based on differing accounts, misunderstandings and comments possibly taken out of context. We recognise that the decision as to whether or not there is a case to answer for misconduct is a careful balance of professional judgment, taking into account both the evidence before us and public interest. We were however required to consider a reasonably narrow Terms of Reference which set out a serious allegation of dishonesty and where, therefore, arguably, the bar for the strength of evidence required to establish a case to answer is relatively high. It was the judgment of DCC Brunton that the evidence did not meet the necessary standard in this case. I endorsed that view.

16. That is not to say that there is only one rational and defensible decision which can be reached in a case such as this. Many people will take a different view. However, I am keen to stress that many people who have commented on this case have not had full access to all the evidence which was available to DCC Brunton—and the other two Chief Officers who acted as Appropriate Authorities and reached the same conclusion in respect of their own officers.

17. The IPCC has now been advised of the procedural error which occurred and I am advised their initial view is that they no longer have locus over this investigation and cannot direct the Forces to take particular action. I therefore determined that it was important to assess whether consideration of the report in the correct format and at the correct time would have had a material impact upon the decision of the Appropriate Authority. I therefore asked DCC Brunton to consider the finalised report, and he has done so, and confirmed that this would have made no difference to the conclusions he reached. The final report itself recommends no disciplinary action and DCC Brunton concurs with the recommendation that there is no case to answer.

18. It should also be remembered that given the unavailability of the Chief Officer from West Midlands Police on 1st and 2nd August 2012 when Warwickshire and West Mercia were making their determinations, West Midlands Police are unaffected by the procedural irregularity, as their original decision was based upon the final report. ACC Cann, acting as Appropriate Authority for West Midlands Police reached the same conclusion as DCC Brunton, and DCC Chesterman of West Mercia.

19. Of particular concern to me is the suggestion that, in some way, there has been any collusion or conspiracy in this case. Whilst there was a procedural error, I do not believe this was in any way deliberate or dishonest. I understand it has not yet been established quite how the confusion arose, but I am satisfied it was a genuine and honest mistake, albeit an extremely unfortunate one, and one which has had no material impact on the outcome. However, I am keen to work closely with the IPCC to identify any learning from this incident and ensure that it is resolved satisfactorily.

20. Further, the recommendation of the investigating officer was not “changed by senior officers”, as has been reported by the media. This is untrue. There was simply an open and professional exchange of views between the two investigating officers prior to the submission of the final report to the IPCC. The final report recommended no action, and each of the Appropriate Authorities independently reached the same view.

21. It is deeply regrettable that this matter has escalated as it has and I believe the police service, the IPCC and the Federation have all been damaged by the incident. It is also unfortunate that the disagreements between the parties have been so publicly aired and such entrenched positions have been adopted. For my part, I am extremely anxious to work with the IPCC and the Federation to finalise this matter and learn any and all lessons which have arisen from it. I can assure the Committee that no officer from Warwickshire will participate in this type of action again and I do apologise to Mr Mitchell and the public for the fact that officers from my force became involved in such an overtly political campaign.

October 2013

APPENDIX

MISCONDUCT ALLEGATION AGAINST DS STUART HINTON VIEWS FROM DCC NEIL BRUNTON—WARWICKSHIRE POLICE

SUMMARY OF FACTS

Meeting with Mr Mitchell

On 12th October 2012 DS Hinton attended a pre-arranged meeting with the Right Honourable Andrew Mitchell MP at Mr Mitchell’s constituency office. Also present was Inspector Kenneth MacKail, Sergeant Christopher Jones and Mr Gareth Parry-Jones (Conservative party press officer).

The meeting lasted some 45 minutes and unbeknown to the officers (and without their consent) the meeting was recorded by means of tape recording.

During the meeting DS Hinton made reference to having issues with Mr Mitchell as to why he hasn’t said publicly what he actually said to the Metropolitan Police Officers. DS Hinton requested Mr Mitchell to tell him what he did say to the officers in London.

In response to this request and as part of Mr Mitchell’s response he said, “ The incident was very brief. I complied with the officer and I picked up my bicycle but I did say under my breath but audibly in *frustration I thought you lot were supposed to fucking help us*”

There were no supplementary questions to this response and this is the only time that Mr Mitchell mentioned what he actually said to the officers in London. Throughout the interview he spoke of words that he didn’t use.

Before concluding the meeting DS Hinton said “I appreciate your candour and we appreciate you have gone beyond what you said to the media”

Mr Mitchell replies, “ Well I have confirmed what I said to the media before”

Media interviews

During an interview with BBC Midlands today DS Hinton said, “He (Mr Mitchell) has come out with what he’s not said *but he is not saying what he did say* and that has caused an integrity issue”

During an interview with Radio 5 live DS Hinton said, “He (Mr Mitchell) *still won’t say exactly what he did say*”

DS Hinton had also been present when Insp Mackaill spoke to the media directly after the meeting with Mr Mitchell. Inspector Mackaill had said “He’s continuing to *refuse to elaborate* on what happened” and “*He refused to tell us what he did say*”

Interview with DS Hinton

DS Hinton stated that the main reason for the meeting (from his perspective) was to understand what had happened in London.

Throughout his interview DS Hinton stated that the conversation was dominated around what Mr Mitchell had not said and that given the officers accounts he was left (at the end of the meeting) with the impression that Mr Mitchell hadn’t said what he said to the officers during their conversation.

The following responses during interview reflect this position:

“I absolutely emphasised that he was at pains to point out that he didn’t use certain phrases that the media had certainly got on which was around the plebs, morons and things like that and I did make the point, not only at this interview but at other interviews as well that I didn’t feel that he said what he did say”

“At the end of the meeting when we came out I was left with very much the impression that he hadn’t told us what had gone on and hadn’t expanded beyond a comment that he’d said he said.”

“But when you take what the exchange is supposed to have been, according to the officers or according to the reports of what the officers have put, then I very much left the meeting a feeling that he hadn’t really said what had gone on in the exchange and hadn’t given an account of what had gone on and what he’d really said”

“That was my opinion and my take on where we were when we left the meeting”

REGULATION 15 NOTICE

I understand that the regulation 15 notices served on DS Hinton states that he gave a false account of a meeting with Andrew Mitchell MP in a deliberate attempt to discredit him.

PERSONAL OBSERVATIONS

Having listened to the transcript of the interview with Mr Mitchell MP, viewed media material, seen the investigating officers summary report and having had sight of the tape transcripts of interviews with DS Hinton my observations are as follows:

- The meeting was pre-arranged.
- The meeting was tape recorded without the officers consent but nevertheless provides an accurate account of what was said.
- The majority of the interview includes what was not said by Mr Mitchell as well as discussing honesty and integrity matters in respect of the notes made by metropolitan officers.
- There is only one occasion where Mr Mitchell states what he did say to the Metropolitan officers. This is limited to a single sentence in their overall conversation.
- It is apparent that the officers heard this particular comment but chose not to ask any supplementary questions.
- It appears that DS Hinton formed the view (when he left the meeting) that Mr Mitchell had not provided a full account of what was said to the officers in London.
- Of the 2 statements made to the media by DS Hinton the following statement “He *still won’t say exactly what he did say*” tends to support DS Hinton’s understanding of the situation.
- The statement made to BBC Midlands today “He (Mr Mitchell) has come out with what he’s not said *but he is not saying what he did say* and that has caused an integrity issue” could be interpreted that Mr Mitchell had said nothing during the meeting and therefore incorrect and misleading to the media and general public.
- DS Hinton in his interview makes it clear from his perspective that Mr Mitchell had not expanded beyond a single comment

ASSUMPTION

It appears to me from both DS Hinton’s and Inspector Mackaill’s media interviews that they both left the meeting feeling that Mr Mitchell had not provided a full account of what he said to the officers in London. This is reflected in the following comments during their media interviews.

MacKaill—He’s continuing to *refuse to elaborate* on what happened”

Hinton—He *still won't say exactly what he did say*”

This is again reinforced in DS Hinton's interview as follows:

“At the end of the meeting when we came out I was left with very much the impression that he hadn't told us what had gone on and *hadn't expanded beyond a comment that he'd said he said.*”

STANDARDS OF PROFESSIONAL BEHAVIOUR

Restricting my comments to DS Hinton I have considered the standards of professional behaviour as follows;

HONESTY AND INTEGRITY

1. I have considered whether DS Hinton acted with integrity, was open and truthful in his dealings with the media thereby securing public confidence.

Whilst the statement made to BBC Midlands today could be seen as incorrect and thereby misleading I do not believe that this was a deliberate manner to deceive anyone.

The statement made to Radio 5 live tends to support DS Hinton's account in interview.

2. I have also considered whether DS Hinton knowingly made any false, misleading or inaccurate statement.

It is clear that the statement made to BBC Midlands today *is inaccurate* when taken in the context of a single response. I do not believe, however, that there is evidence that this was knowingly false or knowingly misleading. I refer to my previous observations and assumption.

I do not believe that DS Hinton has acted dishonestly and without integrity

DISCREDITABLE CONDUCT

I have considered whether DS Hinton's actions has discredited the police service or undermined public confidence in policing.

I note that when considering discreditable conduct it is the *underlying conduct* of the officer, which should be considered.

I also note that in the interests of fairness, consistency and reasonableness the test is not solely about media coverage but has regard to all the circumstances.

There is no doubt (in my mind) that where an officer deliberately misleads, misinforms or provides inaccurate information then public confidence would be significantly undermined.

In this particular case all of the factual evidence, the officers interview and indeed assumptions suggests to me that the officer has *not set out to mislead or misinform* the media or the general public but *has provided inaccurate information* (to BBC Midlands today) from his meeting with Mr Mitchell.

In considering whether this inaccurate information amounts to discreditable conduct one has to take account of the underlying conduct of the officer. It is my view that the information provided by DS Hinton to BBC Midlands Today has been provided (in DS Hinton's mind) within the context of the full conversation, which took place between Mr Mitchell and Metropolitan officers.

As part of this investigation it should be noted that Police Federation officials work to different rules and governance/constitution to that of individual forces. This is important given that at the time they were representing the Police Federation and not their respective force. Nevertheless they were acting, as Police Officers and their conduct at all time should comply with the standards of professional behaviour.

Whilst it is apparent that DS Hinton has put himself into a difficult environment, ill-prepared to deal with national media and has provided an inaccurate statement to BBC Midlands Today given my assessment of the facts, his interview and my own observations and assumptions *I do not believe that his underlying conduct has been such that he has breached the standards of professional behaviour.*

I believe that there is much learning for DS Hinton and I would propose to provide words of advice.

I understand that the Police federation are conducting their own review for future learning purposes.

N.E. Brunton
Warwickshire Police

Written Evidence submitted by David Shaw, Chief Constable of West Mercia Police, 22 October 2013

I now attach my submission and supporting appendices and documents.

I also attach, in reply to your letter of the 21 October 2013, the Joint Statement put out by the Chief Constables of West Mercia, Warwickshire and West Midlands Police, following the letter from the IPCC to Mr Ball on the 16 October 2013.

Finally, I understand that you have called, to give evidence tomorrow, Inspector MacKaill, Detective Sergeant Hinton and Police Sergeant Jones. In the light of what I say in my attached submission and, in particular the last part of Paragraph 8.2., I ask you to consider whether your decision is still appropriate.

MY SUBMISSION IN RESPECT OF TOMORROW'S HOME AFFAIRS SELECT COMMITTEE

I am writing to you ahead of the Home Affairs Committee hearing on Wednesday 23 October 2013 to provide the Committee with some documents that are relevant to its inquiry, some background information and an update. I welcome this opportunity to appear before your committee and to provide an account of my own and my force's involvement in this matter.

At the outset, I would like to explain various roles in this matter.

As Chief Constable of West Mercia Police, I am the Appropriate Authority for police misconduct. On all matters of misconduct, I delegate the carrying out of the function of Appropriate Authority to my Deputy Chief Constable Simon Chesterman.

The investigation of misconduct is carried out under the authority of an Investigating Officer. This was Chief Inspector Reakes-Williams, supported by Detective Inspector Smith.

In making this submission I seek only to deal with the conduct of Inspector MacKaill of West Mercia Police.

1. West Mercia Police decided to investigate the conduct of its officer who met Rt. Hon. Andrew Mitchell MP at his Constituency Office

1.1 It is important to remember that the investigation into Inspector MacKaill's conduct began at West Mercia Police's instigation.

1.2 On 12 October 2012 Inspector MacKaill, together with two Police Federation colleagues from other Police Forces, met with Andrew Mitchell in his Constituency Office. After that meeting, Inspector MacKaill made comments to the media about what occurred in the meeting.

1.3 Mr Mitchell made no complaint to West Mercia Police about those comments. I understand that he did not make complaints to the other two officers' Forces, Warwickshire Police and West Midlands Police, either.

1.4 On 18 December 2012 the existence of a tape recording of the meeting (made by a Conservative Party Press Officer) was revealed for the first time in a Channel 4 News story. In that story, it was suggested that there was an "apparent discrepancy" between Inspector MacKaill's account to the media and what the tape recording showed Mr Mitchell to have said during the meeting with respect to what happened at the Downing Street gates on 19 September 2012.

1.5 On 24 December 2012, I decided to launch an investigation into Inspector MacKaill's conduct.

2. West Mercia Police referred the matter to the Independent Police Complaints Commission (IPCC) voluntarily

2.1 On the same day, 24 December 2012, West Mercia Police voluntarily referred the matter to the IPCC for reasons of transparency and public interest in the investigation. The letter of referral to the IPCC, sent on behalf of the Deputy Chief Constable (DCC) Chesterman, stated that: "*This has the potential to be a high profile investigation. There is also potential for the impartiality of the police investigation to be questioned. It is the view of the Appropriate Authority that the IPCC should be given the opportunity to conduct an independent investigation or, as a minimum, supervise the investigation.*"

3. The IPCC decided only to "supervise" the investigation

3.1 Although the IPCC accepted West Mercia Police's referral of the investigation, of the four modes of investigation available to the IPCC, it selected an option giving it limited control.

3.2 The IPCC did not opt for an "independent" investigation conducted by the IPCC itself. Nor did the IPCC opt for a "managed" investigation, which would have given the IPCC control over the course of the investigation, and, importantly, the power to "direct" that the officer under investigation should face disciplinary proceedings. Instead the IPCC opted for a "supervised" investigation in which the IPCC has no such powers and the investigation is carried out by the local Police Force. The IPCC can call an investigation in at any time and change the mode of investigation.

3.3 This was an investigation into a matter that had attracted huge public interest. Ms Glass (Deputy Chair of the IPCC) cites lack of resources and consistency with the Metropolitan Police Services' investigation as reasons for not ordering an independent or managed investigation. Neither of these factors are among the reasons available to the IPCC for choosing a particular "mode" of investigation: see paragraph 15(3) to Schedule 3 of the Police Reform Act 2002.

4. *West Mercia Police's investigation was conducted properly*

4.1 Since this was a "supervised" investigation, West Mercia Police sent its proposed Terms of Reference and lines of inquiry to the IPCC. The IPCC agreed them. The agreed Terms of Reference were:

"1. To investigate whether Insp Ken MacKaill provided a false account of the Federation meeting with Rt Hon Andrew Mitchell MP on 12 October 12 to the media in a deliberate attempt to discredit Mr Mitchell.

2. To identify whether Insp MacKaill has breached the Standards of Professional Behaviour for Police Officers and therefore has a case to answer for misconduct or gross misconduct.

3. To consider and report on whether there is any organisational learning arising from this matter, including whether any change in policy or practice would help to prevent a recurrence of the incident or alleged misconduct."

4.2 The West Mercia Police investigators obtained relevant statements and interviewed the three officers concerned (the investigation having been widened after West Mercia Police was asked to investigate the conduct of Detective Sergeant Hinton of Warwickshire Police and Police Sergeant Jones of West Midlands Police also).

4.3 Throughout the course of the investigation, the West Mercia Police investigators regularly updated and met with the IPCC's designated investigator, Mr Bimson. However, (as the scheme for a "supervised" investigation envisages) the West Mercia Police investigators carried out their own investigations and reached their own conclusions.

4.4 I have reviewed the investigation. I am satisfied that West Mercia Police's investigation was conducted entirely properly. I note that in her letter of 16 October 2013 to the PCC for Warwickshire Ms Glass stated: *"We had no concerns about the quality of the investigation conducted by West Mercia Police."*

5. *West Mercia Investigators reached different conclusions*

5.1 *Both* the junior and senior West Mercia Police investigators' opinion was that the three officers had no case to answer for gross misconduct (ie misconduct which, if proved, could result in the officer's dismissal). There was disagreement between the junior and the senior investigator as to whether the officers had a case to answer in misconduct (ie misconduct which, if proved, could result in the officer receiving at most a final written warning).

5.2 The designated IPCC investigator told the West Mercia Police investigators on 11 July 2013 that he disagreed and was of the view that the officers had a case to answer in gross misconduct.

6. *The alleged "changing" of the Investigator's conclusion*

6.1 In her letter to the Warwickshire PCC, Ms Glass said *"...I note that in the first draft report submitted to the IPCC in July the senior investigating officer did in fact conclude there was a case to answer for misconduct, although the final report, submitted in August, did not."*

6.2 At the outset, it must be pointed out that in neither document submitted to the IPCC did the senior investigator, Chief Inspector Reakes-Williams, conclude that the three officers had a case to answer in gross misconduct.

6.3 Ms Glass' letter was put into the public domain and led the media on 16 October 2013 to question whether the report was changed due to pressure from the Police Federation, senior officers or the PCC.

6.4 This is conjecture and it is wrong. I have reviewed the investigation and I am satisfied that the West Mercia Police officers involved in investigating the three officers' conduct, and in determining whether Inspector MacKaill had a case to answer, acted entirely in good faith and came under no pressure from the Police Federation, senior officers or the PCC.

6.5 In my review of the investigation, I have established that what in fact happened is as follows:

6.5.1 When an IPCC supervised conduct investigation is concluded, the Investigator is required to produce an Investigator's Report and to (i) submit the report to the IPCC; and (ii) send a copy of the report to the Appropriate Authority (the senior officer responsible for disciplinary matters).

6.5.2 The Investigator's Report is required by law to: (i) summarise the evidence; (ii) attach or refer to relevant documents; and (iii) "indicate the investigator's opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer" (see regulation 20 of the Police (Complaints and Misconduct) Regulations 2012).

- 6.5.3 On 19 July 2013 Chief Inspector Reakes-Williams spoke with Bimson of the IPCC who advised that the draft Investigator's Report should be sent to the IPCC first, and only when the IPCC were happy with it should it be sent to Appropriate Authorities for the three officers.
- 6.5.4 On 26 July 2013 a draft Investigator's Report (Version "A")¹ was submitted to the IPCC. The Report contained a "conclusion" from Detective Inspector Smith (who was assisting with the investigation) and "further comment and conclusion" from Chief Inspector Reakes-Williams (who was the senior investigator).
- 6.5.5 Detective Inspector Smith's recommendation was that there was no case to answer for misconduct or gross misconduct. Chief Inspector Reakes-Williams' conclusion was that there was a case to answer for misconduct but no case to answer for gross misconduct.
- 6.5.6 The IPCC advised that the Report must have only one conclusion. (As a matter of law, only Chief Inspector Reakes-Williams' conclusion could have counted as he and he alone was the "Investigator" under the statutory scheme for an IPCC supervised conduct investigation (see paragraph 17 of Schedule 3 to the Police Reform Act 2002)).
- 6.5.7 Once an Investigator's Report has been submitted to the IPCC, a copy must be sent to the Appropriate Authority.
- 6.5.8 The Appropriate Authority must then decide (for him or herself) whether the officer in question has "a case to answer in respect of misconduct or gross misconduct or no case to answer" (see paragraph 24(6) of Schedule 3 to the Police Reform Act 2002). In reaching this decision, the Appropriate Authority is plainly entitled not to agree with the Investigator's opinion/recommendation as to whether or not there is a case to answer.
- 6.5.9 I have been able to ascertain that there was an apparent misunderstanding between the IPCC and the West Mercia Police investigators in this case which led them to understand that they could send the Investigator's Report to the Appropriate Authority but with no conclusion section (ie just the summary of the evidence and relevant documents). This was wrong as a matter of law.
- 6.5.10 In the 31 July 2013 update meeting with the IPCC, Detective Inspector Smith and Chief Inspector Reakes-Williams, understood from Mr Bimson of the IPCC that:
- The interviews West Mercia Police had conducted were good;
 - That the Investigator's Report was fine; but
 - The Report needed to be sent to the Appropriate Authority with a single, definitive, conclusion (rather than two alternative conclusions); and that
 - The Report could be sent the Appropriate Authorities without a conclusion.
- 6.5.11 On the 31 July 2013 the Investigator's Report (Version "B")²—the same document sent to the IPCC on 26 July 2013 but without the conclusion section was sent to the Appropriate Authorities for West Mercia Police (DCC Chesterman) and Warwickshire Police (DCC Brunton) and to Detective Chief Inspector Doyle on behalf of the Appropriate Authority for West Midlands Police.
- 6.5.12 On 1 August 2013, Detective Inspector Smith and Chief Inspector Reakes-Williams provided a briefing to the Appropriate Authorities for the three forces (or their delegate) including the West Mercia Police Appropriate Authority (DCC Chesterman). The recording of the 12 October 2013 meeting was played, as was the recording of the media interview given by the officers outside Mr Mitchell's constituency office. The Investigators explained that they had reached different conclusions and that the IPCC had advised that there must be only one conclusion.
- 6.5.13 After the briefing, the Appropriate Authorities for Warwickshire and West Mercia independently reviewed the Investigator's report (version "B") and examined documentation from the investigation. These two Appropriate Authorities each concluded that there was no case to answer in misconduct or gross misconduct for each of their two officers under investigation, but that they should each receive management action. The West Mercia Appropriate Authority (DCC Chesterman) recorded his determination in a file note dated 2 August 2013.³
- 6.5.14 In early August 2013 a single conclusion was added to Version B of the Investigator's Report. The resulting "final" report (Version "C")⁴ was sent to the IPCC on 12 August 2013. This should not have happened. The Investigators' Report is quite separate from any "notification" of determination that the Appropriate Authority records.

6.6 I am satisfied this was a procedural error and there was certainly no "cover up" as has been suggested in the media. West Mercia Police has, and had, absolutely nothing to hide—it will be noted that the IPCC was sent both the 26 July 2013 and 12 August 2013 versions of the Investigator's Report. The IPCC also knew of the difference of opinion between the investigators on the 11 July 2013.

6.7 In any event, the contents of the 12 August 2013 Investigator's Report (Version "C") could have had no effect on the Appropriate Authorities' decision, which was reached nine days earlier on 2 August 2013. The

¹ Document 1.

² Document 2.

³ Document 3

⁴ Document 4

Investigator's Report only contains a recommendation as to whether there is a case to answer, the determination as to whether there is a case to answer is made by the Appropriate Authority.

6.8 You will not be surprised to hear that, as with any electronic document which starts life as a draft document and develops as the author revises it over a period of time, a number of changes were made to the Investigator's Report that was first drafted, resulting in there being six draft versions of this report saved electronically, as well as a slightly redacted version that was produced for Mr Mitchell in October 2013. In my view only three versions of the report are of significance and these three versions, "A", "B" and "C" accompany this submission. A table summarising the differences in the versions for the Committee's ease of reference is attached to this submission.⁵ (Versions "A" and "C" are the documents that you requested Chief Inspector Reakes-Williams to provide).

6.9 At the beginning of September, Ms Glass telephoned DCC Chesterman and stated that she disagreed with the conclusion he had reached and was giving him the opportunity to reconsider before putting her response in writing. DCC Chesterman explained the decision making process that he and the Appropriate Authority for Warwickshire had gone through and that they had separately arrived at the determination that there was no case to answer.

6.10 On 6 September 2013 Ms Glass wrote to DCC Chesterman challenging the conclusion in the Investigator's report (Version "C").

6.11 On 3 October 2013, having received the decision of the Appropriate Authority for West Midlands Police on the 1 October, DCC Chesterman responded to Ms Glass after discussing her letter with the Appropriate Authorities from the two other Forces. In his letter DCC Chesterman explained that he and the other two Appropriate Authorities stood by their original decision.

6.12 On 15 October 2013 Ms Glass published a six page "statement" setting out the reasons why she disagreed with the conclusion that the three officers had no case to answer for misconduct.

6.13 On 16 October 2013 Ms Glass wrote to the Police and Crime Commissioner ["PCC"] for Warwickshire responding to comments the PCC had made about her "statement".

7. The need to re-determine the question of whether Inspector MacKaill has a case to answer

7.1 The review I conducted to establish the matters set out above has led me to identify an important procedural deficiency in the process followed in this case.

7.2 The Appropriate Authority was supplied with Version B of the Investigator's Report which did not contain a conclusion with the Investigator's opinion as required in law.

7.3 On 21 October 2013 I decided that this error, and the public interest in this matter being dealt with in a procedurally compliant manner, required that the Appropriate Authority's determination under paragraph 24(6) of Schedule 3 to the Police Reform Act 2002 be re-taken in a procedurally compliant manner.

7.4 I decided that the investigation itself did not need to be revisited. I could identify no fault in the West Mercia Police investigation, nor could the IPCC.

7.5 I have decided that it is now desirable that the Appropriate Authority's determination is taken by a Chief Constable from another police force, unconnected in any way with this matter. I am putting this decision into effect and have asked HMIC to assist in identifying a suitable Chief Constable for me to delegate my powers as Appropriate Authority.

7.6 My decision to do this in no way pre-judges the outcome of the determination and neither does it undermine the good faith with which DCC Chesterman approached his decision making on 2 August 2013. This is a complex matter on which different officers can reasonably disagree.

8. Apology to Mr Mitchell

8.1 I have notified Mr Mitchell of my decision that a new and impartial Appropriate Authority will now be asked to make a fresh determination as to whether Inspector MacKaill has a case to answer for misconduct, gross misconduct or no case to answer.

8.2 I have also expressed to Mr Mitchell that quite apart from whether Inspector MacKaill was right or wrong to say what he did to the media on 12 October 2012—Mr Mitchell had been profoundly affected by his comments. For that, I have apologised unreservedly to Mr Mitchell on behalf of West Mercia Police and have said that I would welcome the opportunity to meet with him to allow me to apologise in person.

I note that Inspector MacKaill and the two other officers involved apologised yesterday for their poor judgment in talking to the media following their meeting with Mr Mitchell. I trust you understand that it would not be appropriate for me to say any more until the re-determination process has concluded.

⁵ Document 5

9. Conclusion

9.1 The vast majority of police officers and staff in West Mercia Police conduct themselves with the utmost integrity. As with any Police Force, a very small minority do not live up to the standards that I and the public rightly expect of them. When that occurs, it is a huge disappointment to me and to the public. West Mercia Police is committed to identifying and dealing robustly with misconduct by police officers. We have a very strong track record of doing so.

9.2 Whether or not the IPCC and others agree with the conclusions reached by the West Mercia Police Investigators and the Appropriate Authority in this case, I am entirely satisfied that those who reached them acted rationally and entirely in good faith.

9.3 I acknowledge that there have been procedural errors in the context of an extremely complex statutory regime for dealing with police misconduct. I therefore intend to commission an independent peer review into what went wrong with the processes in this case and how our processes can be improved.

9.4 I have attached some documentation that I hope will assist your Committee's inquiry. I look forward to answering your Committee's questions tomorrow.

APPENDIX A

THE POLICE MISCONDUCT SYSTEM

The conduct of police officers is governed by the Standards of Professional Behaviour in Schedule 2 to the Police (Conduct) Regulations 2012 ["the Standards"]. An officer can come under investigation for potential breach of the Standards via two routes. First a *complaint* can be made by a qualifying member of the public. Second, even if no complaint is made, a "*conduct matter*" can come to light by other means (eg. a court case or a media report): paragraph 11 of Schedule 3 to the Police Reform Act 2002 ["Schedule 3"].

In either case the *Appropriate Authority* (a senior officer appointed by the Chief Constable to oversee disciplinary matters) must decide whether to *record* the complaint or conduct matter. For a conduct matter, this involves making an assessment, necessarily at a very early stage, as to whether there is an indication that the officer has behaved in a manner which would justify the bringing of disciplinary proceedings: see s.12 of the Police Reform Act 2002.

Having recorded a conduct matter, the Appropriate Authority may be required to *refer* it to the IPCC. If there is no requirement to refer the matter to the IPCC, the Appropriate Authority may do so *voluntarily* where the gravity of the subject matter or exceptional circumstances justifies a referral: see paragraph 13 of Schedule 3.

The IPCC must then decide whether to accept the referral and, if so, what the mode of investigation should be. The four options are (i) *independent* (carried out by the IPCC); (ii) *managed* (carried out by the local force but entirely managed by the IPCC, and whereby the IPCC retains the power to direct that the officer must face disciplinary proceedings); (iii) *supervised* (where the IPCC has limited input and no power to direct misconduct proceedings); or (iv) *local*: see paragraphs 14 and 15 of Schedule 3.

The IPCC has the power to *call in* an investigation "at any time" and re-determine the mode of investigation to take greater control over it (including eg. converting a supervised investigation into a managed investigation enable the IPCC to direct that the officer face misconduct proceedings): see paragraphs 15(5) of Schedule 3.

In a supervised investigation, an *Investigator* is appointed (see paragraph 17 of Schedule 3) who conducts an investigation (eg. obtaining documents, interviewing witnesses) then completes an *Investigator's Report*. This Report must set out an accurate summary of the evidence and the Investigator's opinion/recommendation as to whether there is a case to answer in *misconduct* (a breach of the Standards), *gross misconduct* (a breach of the Standards so serious that, if proved, the officer's dismissal would be justified), or no case to answer and/or whether any other action should be taken: see regulation 20 of the Police (Complaints and Misconduct) Regulations 2012.

In a supervised investigation, the conclusions are those of the Investigator, not the IPCC. The IPCC's 2013 Statutory Guidance states:

"11.3 In a local or supervised investigation, the report is written by the investigator appointed by the appropriate authority. The findings and conclusions contained in the report are therefore those of the investigator.

11.4 In a supervised investigation the IPCC has to confirm that the terms of reference and any requirements it imposed during the investigation have been met. The appropriate authority should confirm that the IPCC is so satisfied. The IPCC may seek further information, evidence and explanation from the investigator, but its role is not to approve the report so it will not endorse the report's findings or recommendations. ..."

The Investigator's Report must be submitted to the IPCC and a copy must be sent to the Appropriate Authority: see paragraph 22(3) of Schedule 3.

The Appropriate Authority must reach a determination as to whether there is a case to answer in misconduct, gross misconduct, or no case to answer: see paragraph 24(6) of Schedule 3.

If the Appropriate Authority concludes that there is a case to answer, and that disciplinary proceedings are necessary, the matter will proceed to a *misconduct meeting* (for cases of misconduct) or a *misconduct hearing* (for cases of gross misconduct) which are governed by the Police (Conduct) Regulations 2012. If the allegations are found proved to the level of gross misconduct, an officer can be dismissed without notice. The maximum disciplinary action for proven misconduct is a final written warning.

If the Appropriate Authority decides that there is no case to answer, he or she may still impose *Management Action* on the officer concerned.

APPENDIX B

LIST OF ENCLOSED DOCUMENTS

1. Investigator's Report Version "A"
2. Investigator's Report Version "B"
3. File Note of DCC Chesterman, 2 August 2013
4. Investigator's Report Version "C"
5. Table explaining differences in Versions "A", "B" and "C" of Investigator's Report.

INVESTIGATOR'S REPORT VERSION "A"

Case Summary of Conduct Matter CM/95/12

Officers under investigation

Inspector Kenneth MACKAILL

Sergeant Christopher JONES

Detective Sergeant Stuart HINTON

Background

The officers subject to this investigation are representatives of the Police Federation. Inspector MACKAILL is the chair of the West Mercia branch, Sergeant JONES is the secretary of the West Midlands branch and Sergeant HINTON was at the material time the secretary of the Warwickshire branch.

On the 12th of October 2012 the officers attended a meeting with the Right Honourable Andrew MITCHELL MP at his constituency office in Sutton Coldfield. Mr Gareth PARRY-JONES, a Conservative Party press officer, was also present.

The attendees had met to discuss the "Plebgate" affair. At the conclusion of the meeting the officers briefed members of the national media who had gathered outside.

Alleged Misconduct

It is alleged that during the media briefings on the 12th of October 2012 the officers gave a false account of the meeting with Mr MITCHELL in order to discredit him.

Case Summary

On the evening of the 19th of September 2012 Mr MITCHELL was involved in a well publicised incident with police officers at the gates of Downing Street. The incident has been widely referred to in the press as the "Plebgate" affair.

Following this incident the national media reported that Mr MITCHELL was alleged to have insulted the officers by using derogatory words like "plebs" and "morons". Mr MITCHELL has repeatedly denied making these comments and the circumstances of this incident are being investigated by the Metropolitan Police Professional Standards Directorate under Operation Alice.

Mr MITCHELL is the MP for Sutton Coldfield. This falls within the West Midlands Police area. The West Midlands Federation is part of a regional grouping known as "Region 3." West Mercia and Warwickshire are also members of this region. At the time the Plebgate affair was reported in the national media, the police federation was engaged in a campaign against cuts to the police budget and changes to police pay and conditions.

It should be noted that the Region 3 Federations had employed a media relations company called The Gaunt Brothers Ltd who were advising them in relation to the anti-cuts campaign.

The Region 3 Federations capitalised on the Downing Street incident by incorporating it into their campaign. This took the form of the use of the phrase "PC PLEB." Most notably, members of the police federation

attended the Conservative Party conference in Birmingham between the 7th and 10th of October 2012 wearing PC Pleb T shirts. There were also a number of calls for Mr MITCHELL's resignation from opposition politicians and federation representatives at this time.

The West Midlands Federation arranged a meeting with Mr MITCHELL at his constituency office in Sutton Coldfield on the 12th of October 2012. He understood that it would be a private meeting where he would be able to apologise and draw a line under the incident. He was also prepared to discuss some of the wider issues that were affecting the police at that time. The meeting began at approximately 17.00 hours.

A transcript of the meeting is attached at Appendix A. It has been prepared from a disc provided to the IO by Mr MITCHELL. The original recording was made by Gareth PARRY-JONES, the Conservative Party press officer.

The transcript should be read in its entirety in order to obtain the full context. Consideration should also be given to listening to the audio recording to obtain the full meaning. The IO has identified the following summaries and extracts as having potential relevance to this investigation however:

- On page 4 DS HINTON says, "...but where we have the issues I am sure we all understand, is because you haven't said what you did say, by implication that suggests that the officers' account is in some way inaccurate or false and obviously the officers have said what has happened they have said they made their notes as soon as they could afterwards because obviously they were concerned that a senior minister had said this to them and the implication that they say that you say they wouldn't hear the last of it. So really the first question we have got to ask because that is why (inaudible) and this is also why this has gone on so long is because you haven't been able to say what you actually did say and I think we would all like you to tell us what you did say."
- Mr MITCHELL replies, "It is a very good point and I'll tell you why I haven't done that is because the police account was filtered through a very hostile national newspaper and the police have made no complaint and my apology was accepted and that I felt should draw a line under all of this because my memory of what I did and didn't say is clear and I will not as a supporter of the police for twenty six years be put in a position of suggesting an officer is not telling the truth but equally I did not say and I give you my word, I give you my word, I did not call an officer an f'ing pleb I did not say you are an f'ing moron and I did not say you should know your f'ing place I would never speak to anyone like that least of all a police officer and you have my word I never said those things. And if I say that publicly everyone says does that mean the police are lying or the minister is lying when in fact it may not be like that. This has not come direct from a police report, there was no police report there was no police complaint and you get the press saying one thing, they say lots of different things and it seemed to me much better to avoid getting into all that."
- On page 5 DS HINTON says, "I understand but I come back to and I make no apology for it but it is the first time to my knowledge that you have actually said to somebody other than the Prime Minister and we weren't there that publicly or privately you are saying to us that you didn't use the word pleb, moron which is what you have just said."
- Mr MITCHELL replies, "Yes" and DS HINTON says, "You have not said that to the wider public you used these form of words that you don't accept."
- Mr MITCHELL replies, "Because I don't want to impugn, it is quite possible that there was a mishearing or something. The incident was very brief I complied with the officer and I picked up my bicycle but I did say under my breath but audibly, in frustration, I thought you lot were supposed to fucking help us and it is for that I apologise and I am grateful to that officer for accepting my apology and I should never have said it and I will never do it again and I think we all of us in our lives occasionally let go and that is when I let go but I don't want to get in to a, who is lying, because of my respect for the police and the fact that this may well have got twisted in translation, the first reports that appeared in the Sun Newspaper were very different from the ones different in substance that appeared in the Telegraph. The Sun's report suggests I called him a fucking moron and the Telegraph didn't..."
- DS HINTON goes on, "You must understand we are in a bit of a hiatus here because honesty and integrity as I have said a number of times over the last couple of days, is a central tenor to the police core value and if that wasn't the case anything could happen as it should be to politicians and anybody in public life and public office and there is nothing new I can say on that in the last couple of days and to have by implication if not direct accusation to have a senior government figure suggesting that an officer's account of events is inaccurate and possibly untruthful has wider implication, not just for that incident but for the police service in general."
- Mr MITCHELL replies, "That is why I have taken all this shit, by not you know, I could have got up in the beginning and published a statement as I saw it in which case there would have been a who is lying battle that would be over by now I suspect because I did not spell it out in that way and I think that was the right thing to do because of my respect and value for the police and the fact that this might well be a genuine mistake you know that I might have been misheard but you guys, upon coming to see me and asked me to tell you what happened I give you my word that I never used those words."

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- On page 6 DS HINTON says, “We have said today that it is time to move on, we as you know as a federation have issues with the reform of this woman that the conservative party have and sorry we are just moving on here and I don’t know if Ken or Chris have anything to ask around the issue of Downing Street. Chris have you got anything?”
 - PS JONES then asks, “Did you make any notes about what you said?”
 - Mr MITCHELL replies, “I made a note of the exchange about two days later when I had no idea there would be this enormous shit storm so I made a note of what was said, you know the CCTV shows that it was forty seconds of exchange it was incredibly short and I complied with the officer. They very generously opened the gates for me three or four times during the day so when I got to the gate and the guy said he wouldn’t open them, I mean they are extremely heavy gates and these guys they are there to secure the centre of Britain really and I shouldn’t have said what I said but then I gave him my absolute apology he pointed out some advice about my bicycle and I pointed out that I was the chief whip and I worked in number nine which is just above the gates so I did make a note of what I said but I remember the recollection absolutely and that is why I answered, have given you the answer now.”
 - DS HINTON says, “I appreciate that you have gone beyond said what you said.”
 - Mr MITCHELL replies, “But I don’t want to in any way impugn the police force in any way and people’s recollections can vary very quickly and if there is wind a lot of people mishear things so.”
 - On page 11 PS JONES says, “But never the less you are content now to have officers remain in situ if they got it so wrong and these are officers guarding senior members of our Parliament.”
 - Mr MITCHELL replies, “That is not for me to deal with, I know what I said and I have been very keen not to escalate this and not to have a fire fight with the police. You asked me in good faith what I said and I told you.”
 - On page 13 PS JONES states, “But whatever turn we take we always come back to the point that the notes differ significantly from your account and you have given your word that what you say is true.”
 - PS JONES and DS HINTON then go on to say that they are left in a situation where if Mr MITCHELL’s account is correct then police officers have committed untruthful accounts to paper and that will have implications for officers giving evidence in court.
 - On page 18 DS HINTON says, “What you have said to us is that the words you said you do not attribute, which is a lot different to you saying in my eyes what I said is different.”
 - Mr MITCHELL replies, “No it is the first time you heard me say it, in the reporting it is always clear that I have made it clear that I never used those words and in particular pleb and moron so I have not said anything new today but I have done you, because you are the leaders of the Fed in your three areas, the fair thing which is look you in the eye and tell you the truth there is nothing new or different I have said today there is no point in rehashing but I have said very little which is new today, I mean there is little point re hashing it but I have explained why I took the view, and it is frustrating.”
 - On page 19 DS HINTON says, “We are required under our code of conduct now that we have information that officers have possibly recorded things inaccurately and false to be reported back to the Met’s own professional standards well our own Professional Standards we have got no choice in that because we are in possession of that and our code of conduct which is laid down by.....”

And

- “All I’ll say at this point I have no choice, my code of conduct to the police is that we have to without exception report the fact that another officer is possibly corrupt. And when I say corrupt I mean he falsified a document and you know tell me if I am wrong as well but as a Sergeant I am not wrong.”
- PS JONES replies, “DITTO.”
- On the same page DS HINTON says, “I appreciate your candour, and we appreciate you have gone beyond what you said in, to the media.”
- Mr MITCHELL replies, “Well I have confirmed what I said in the media before”
- DS HINTON says, “Well I think you’ve actually said what you haven’t said, what you have said rather than what the police are saying”
- Mr MITCHELL replies, “I did confirm what I have said to the media before.”
- On page 21 Mr MITCHELL says, “Well I have been absolutely clear with you and absolutely categoric and I obviously ask you to accept my word, given to you today, looking at you in the eye telling you what I didn’t say.”

The meeting concluded at approximately 17.45 hours and Inspector MACKAILL immediately gave a press interview to a number reporters that had gathered outside. This interview was covered live by Sky News and a transcript of the footage is attached at Appendix B. The full transcript should be read to obtain the full context but the following extracts have been taken from it:

Insp Mackaill	...whilst he has repeated to use his words “a profound apology with feeling” for what he did say. He has also repeated his denial of using many of the words reported in the officers notes recorded at the time. His explanation for that is that he did not want to I quote “get into a fire fight with the police or impugn the integrity of police officers” who unfortunately were left in a position where his continued denial of facts recorded in police records does exactly that, so we are no further forward than we were an hour ago.
Unknown Reporter	Should he resign?
Insp Mackaill	I think Mr. MITCHELL now has no option but to resign, he’s continuing to refuse to elaborate on what happened, I think his position is untenable.
Michael Crick	Did he tell you what he did say?
Insp Mackaill	He refused to tell us what he did say on the grounds he did not want to impugn police officers integrity and start, again, I’ll call the word a fire fight with the police.

The federation representatives gave a number of other interviews relating to this meeting. Prior to the meeting PS JONES made the following comments to ITV:

“I’ll be just asking him to give us his version of events and tell us precisely what he did say. If he avoids the subject or if he dances “round it ... then, and we didn’t resolve the matter then I think he does need to go.”

Following the meeting Inspector MACKAILL made the following comments to ITV:

“He did repeat his apology for what he did say, but he also repeated his denial of using key elements of the line in the officer’s reports that were made up at the time and again Mr MITCHELL does not wish to openly impugn the reputation of the officers but he will not tell us exactly what he said and we are left with this unresolved issue that he is saying that the content of the police report is dishonest. I think Mr MITCHELL’s position is untenable and I think he has to resign.”

DS HINTON made the following comments to BBC Midlands today:

“He has come out with what he’s not said but he is not saying what he did say and that has caused an integrity issue.”

It is accepted that the officers are likely to have given interviews to other media organisations including newspapers. The IO has not been made aware of any other comments made by the officers that contradict the ones quoted here however.

Mr MITCHELL subsequently resigned from his post as a government minister because of the controversy caused by the Downing Street incident.

On the 17th of October 2012 West Mercia police received a complaint from a member of the public named Mr PLUME. It contained a number of different aspects but they all related to Inspector MACKAILL’s comments about Mr MITCHELL in the national media.

A proportionate investigation was conducted by West Mercia PSD and Inspector MACKAILL gave a written response. The investigation report including the written response is attached at Appendix C.

Inspector MACKAILL answers one of the points raised by Mr PLUME as follows:

“...I have never made any allegations against Mr Mitchell; having given Mr Mitchell the opportunity to clarify exactly what happened, I described his position as untenable following his refusal to do so. It was the position of the three JBB’s that the failure to give an account prevented the public from reaching an informed conclusion and potentially reflected badly on the police service.”

On the 18th of December 2012 Channel 4 News broadcast a story detailing the circumstances that led to Mr MITCHELL’s resignation. During that broadcast it was disclosed that the meeting at the constituency office on the 12th of October had in fact been recorded by Gareth PARRY-JONES.

The program also contained an interview of Insp MACKAILL by the presenter, Michael CRICK. During this interview Mr CRICK inferred that Insp MACKAILL had misrepresented what Mr MITCHELL had said during the media interviews, thereby directly challenging his integrity. In response Insp MACKAILL said,

“That is my understanding of what Mr MITCHELL was saying to us. Even in the meeting he didn’t actually give a full statement, or his full version of events. “

As a result of the Channel 4 News broadcast, the Deputy Chief Constable of West Mercia Police directed that the Professional Standards Department should carry out an investigation. A voluntary referral was made to the IPCC on the 24th of December 2012 with a recommendation that the investigation should be supervised

by them as a minimum. The rationale was that there was a potential for the impartiality of the police investigation to be questioned. It was decided that the investigation would be supervised.

The Appropriate Authority assessed that the conduct, if proven or admitted, could amount to Gross Misconduct. A regulation 15 notice was served on Inspector MACKAILL on the 15th of January 2013. It read:

“That during media briefings/interviews on the 12th of October 2012 you gave a false account of a meeting with Andrew MITCHELL MP in a deliberate attempt to discredit him.”

The meeting was recorded and extracts from it were broadcast on a Chanel 4 news report on the 18th of December 2012 along with extracts from the media interviews. During this news broadcast your integrity was directly challenged.”

On the 28th of January 2013 Chief Inspector REAKES-WILLIAMS wrote the following terms of reference for the investigation that were agreed with the IPCC:

1. *To investigate whether Insp. Ken MACKAILL provided a false account of the Federation meeting with Rt. Hon. Andrew Mitchell MP on 12 October 2012 to the media in a deliberate attempt to discredit Mr Mitchell.*
2. *To identify whether Insp. MACKAILL has breached the Standards of Professional Behaviour for Police Officers and therefore has a case to answer for misconduct or gross misconduct.*
3. *To consider and report on whether there is any organisational learning arising from this matter, including whether any change in policy or practice would help to prevent a recurrence of the incident or alleged misconduct.*

On the 15th of February 2013 the Investigating Officer (IO) and CI REAKES-WILLIAMS met with Mr MITCHELL. He provided a copy of the tape recording from the meeting on the 12th of October. He also provided a statement detailing the impact that the Plebgate affair had on him and the role of the police federation. The main body of the statement was copied from an account that Mr MITCHELL had provided to the Sunday Times.

In summary, Mr MITCHELL states that the Chair of the West Midlands Federation had contacted him in order to arrange the meeting. He understood that the purpose would be to “clear the air and look to the future.”

Mr MITCHELL states that they agreed that the meeting would be private but the federation acted in bad faith by arranging for the press to attend. He considered cancelling it but he thought that this might be interpreted as cowardice.

The meeting started at 5 PM and Mr MITCHELL claims that the federation officers expressed amazement that the press had discovered the location of the meeting. He goes on to say that during the next 45 minutes he told them exactly what had happened and precisely what he had said or not said. He also states that they brought the meeting to a conclusion at 5.45 PM in order to make the six o'clock news bulletins.

Mr MITCHELL alleges that the tape recording of the meeting clearly shows that the Federation representatives that briefed the press after the meeting were not telling the truth.

His statement is included at Appendix D.

During the meeting between Mr MITCHELL and PSD he alleged that DS HINTON and PS JONES had also given similar briefings to the press. Following consultation with the IPCC, the decision was made to widen the scope of the investigation to include them. A Regulation 15 notice was served on DS HINTON on the 8th of March 2013 and on PS JONES on the 4th of April 2013. The content of the notices reflected the detail in the notice served on Inspector MACKAILL.

Inspector MACKAILL was subject of a misconduct interview on the 29th of April 2013. The full interview transcripts are attached at Appendix E. His responses are summarised as follows:

Inspector MACKAILL stated that some of the comments that he had made to the media had been taken out of context and that they didn't reflect in full what he had said immediately after the meeting. He also stated that he maintained the view that Mr MITCHELL repeated the denial of what officers reported he had said but he wouldn't tell them (the federation) what he had actually said.

Inspector MACKAILL read an extract from the Daily Mail newspaper that had been published at the end of December 2012:

“Mr MITCHELL to Police officer “please open the gates”.

Policeman “no, please get off your bike and leave by the pedestrian exit”.

Mr MITCHELL “please open the gates I am the Chief Whip, I work here at number 9”.

Policeman “no you have to get off your bike and wheel it out”.

Mr MITCHELL “look, I have already been in and out several times today, please open the gates”

Police, “no”

Mr MITCHELL added “with that I complied with the Policeman's request and wheeled my bike across the pavement and out through the pedestrian entrance. As I did so I muttered, though not

directly at him, "I thought you guys were supposed to effing help us". The Policeman's response, "if you swear at me I will arrest you". Mr MITCHELL, when I cycled off as I left I think I said I would pursue the matter further the next day".

Inspector MACKAILL stated that he was hoping that is what Mr MITCHELL would say to them and then they would have had two versions of events. He does also state however that with the benefit of hindsight he could now see how his comment could have been misinterpreted when taken in isolation.

Inspector MACKAILL was asked to comment on why Mr MITCHELL was only asked once to tell the federation representatives what he had said to the officers. He stated that he didn't know why it hadn't been presented again but it had been asked once and he (Mr MITCHELL) had been given the opportunity to answer it.

He stated that he saw the meeting as an opportunity for Mr MITCHELL to tell his version of events so that there would be two versions and people could make up their own minds. He also hoped to discuss the police cuts if the first issue could be resolved.

Inspector MACKAILL clarified that there was no media strategy agreed before the meeting with Mr MITCHELL because they didn't know what he was going to say. He also stated that although the date and time of the meeting was public knowledge he had not disclosed the location to the press. He did not know how the press found out about the meeting's location.

Inspector MACKAILL denied that the meeting with Mr MITCHELL had been terminated in order to catch the 6 o'clock news. He also clarified that he had given the media briefings immediately after the meeting and there had been no time for him, the federation and the Gaunt brothers to have any kind of review of what had been said.

Inspector MACKAILL denied that he had conspired to lie about the content of the meeting with Mr MITCHELL in order to force him to resign. He also stated that the message that he had given to the press was correct when taken in its entirety.

DS HINTON was interviewed on the 30th of April 2013. The full interview transcripts are attached at Appendix F. His responses are summarised as follows:

DS HINTON denied that he or his federation colleagues had given a false account of the meeting with Mr MITCHELL with a view of forcing him to resign. He stated that the comments given to the media were an accurate reflection of what he understood had gone on in the meeting. He also stated that the comment he made to Midlands Today on the 12th of October about Mr MITCHELL "not saying what he did say" had been taken out of context.

He also stated that comments from Mr MITCHELL had been published in the media subsequent to the meeting where he had gone beyond what he had said to the federation representatives. He also pointed out that although he didn't know the meeting was being recorded he was aware that there was a press officer taking notes. It would therefore have been foolish of them to speak untruthfully about the meeting because there was an independent witness present. He would not have said anything different even if the meeting had been overtly recorded.

DS HINTON confirmed that he understood that the meeting with Mr MITCHELL would be private. He stated however that the three federation representatives travelled to the meeting with John GAUNT and that during the journey GAUNT had been receiving calls from the media asking him when they were going to arrive.

DS HINTON confirmed that there was no set agenda before the meeting to call for Mr MITCHELL's resignation. They had all agreed however that it was an honesty and integrity issue in relation to the records made by the officers at the gates of Downing Street. He also confirmed that they did not have the opportunity to review what was said during the meeting before they gave briefings to the media.

He confirmed that he had not disclosed the location of the meeting to the press. He stated that the press would have been aware of the time and date of the meeting. He also stated that the press would have been aware that Mr MITCHELL would have been in his constituency that day because he had been on television in the area earlier on. He also stated that the Gaunt Brothers would have been aware that the Federation did not want the media to know the location of the meeting.

DS HINTON was asked about a Tweet made the Gaunt Brothers prior to the meeting that indicated that Mr MITCHELL's fate would be decided at the meeting. He stated that he did not recall that Tweet and that the Gaunt Brothers had occasionally made Tweets or done things that the Federation weren't happy with.

He stated that in his view Mr MITCHELL had been given ample opportunity to clarify what he did say to the officers at the gates of Downing Street and he had chosen not to do so. He also stated that when the comments made to the media were taken in context, especially as they were made immediately after the meeting, then they were a fair and accurate reflection of what had been said.

DS HINTON was asked why Mr MITCHELL wasn't told that the federation was going to call for his resignation after the meeting. He acknowledged that there was no agreement to do so. Inspector MACKAILL had made that comment to the media in response to a specific question put to him.

DS HINTON confirmed that the Gaunt Brothers had told them to be mindful of the 6 o'clock news and to finish the meeting before then if possible. In the event however the meeting came to a natural conclusion. At the time DS HINTON did not know how long it had taken.

He confirmed that he had been standing next to Inspector MACKAILL during the initial press briefing. He agreed that he may have been influenced by what he had heard when he gave his own interviews. He stated however that he had agreed with everything he had heard and that he would have said something very similar himself.

DS HINTON explained that the PC Pleb campaign was not designed to be a personal attack on Mr MITCHELL. The Plebgate incident occurred at a time when there was an active federation campaign to fight police cuts and the PC Pleb slogan was used in that context.

He stated that MR MITCHELL had given an interview in a newspaper in December 2012 where he had given a fuller account of what he had said to officers at the gates of Downing Street. He stated that if MR MITCHELL had given that account during the meeting then he wouldn't have used the phrase, "HE WOULDN'T TELL US WHAT HE DID SAY."

DS HINTON also clarified that he did not directly call for Mr MITCHELL to resign.

The interview was finalised by DS HINTON stating that he acknowledged that if certain comments made to the media were taken in isolation then it didn't look right. When everything was taken in context however it was an accurate reflection of what had been said in the meeting.

PS JONES was interviewed on the 30th of April 2013. The full interview transcripts are attached at Appendix G. His responses are summarised as follows:

He stated that it had been correct for the federation officers to use the phrase, "HE REFUSED TO TELL US WHAT HE DID SAY" following the meeting with Mr MITCHELL if the comments were taken in context.

PS JONES stated that MR MITCHELL did not give a full explanation of what he said to the officers at the gates of Downing Street. He made reference to an article in the Telegraph on the 23rd of December where Mr MITCHELL gives a fuller account of the conversation that he had with the officers. He was also content that it would have been clear to Mr MITCHELL what the officers expected to hear but he constantly deflected from the issue.

He confirmed that he viewed the account given by Inspector MACKAILL to the media immediately after the meeting as being accurate. He also confirmed that he had given a similar message when later interviewed by newspaper reporters.

PS JONES explained that he had felt uncomfortable in directly calling on Mr MITCHELL to resign. During his own media interviews he had addressed the question by stating that public opinion was very strongly in favour of him resigning and he fell in line with that opinion.

He did not recall a Tweet made by the Gaunt Brothers before the meeting indicating that Mr MITCHELL's fate would be decided by the outcome of it. He stated that the Gaunt Brothers used a very "tabloid" style and that comment was consistent with the general mood at that time. He disagreed with the comment but in the context of its day it was less inflammatory.

PS JONES confirmed that he was not aware that the meeting was going to be tape recorded. He was aware that Gareth PARRY-JONES would be making contemporaneous notes of the meeting however. He also confirmed that the meeting was not deliberately terminated before 6 o'clock in order to catch the news. The meeting came to a natural conclusions. The officers would have been conscious of the news deadline however.

PS JONES confirmed that there was no time for the officers to debrief following the meeting with Mr MITCHELL. As soon as they walked out of the constituency office the media were waiting for them. There was no agreement in terms of a media message or press strategy.

He also confirmed that he hadn't told the press of the location of the meeting and he was sure the other Federation representatives hadn't either. He also did not think the Gaunt Brothers had informed the press.

PS JONES explained that the PC Pleb campaign was originally initiated as a "hook" into the wider anti-cuts campaign. It then became an integrity issue as the story focussed on the disparity between the officers' accounts and that of Mr MITCHELL. The reason for the meeting was the integrity issue. The wider issue of police cuts would have been discussed if that issue could have been resolved.

On the 3rd of May 2013 Slater Gordon solicitors, acting for the three officers under investigation, made a written submission to PSD asking for the regulation 15 notices to be withdrawn. This was based on video footage that had been recorded by PS Tom CUDDERFORD, the deputy chairman of the West Midlands Federation. The footage was recorded on an iPad outside the constituency office. A copy has been provided to PSD. The footage is effectively a duplication of the Sky TV coverage.

The investigating officer has contacted Gareth PARRY-JONES. He is no longer employed by the Conservative Party and he has declined to be involved in the misconduct investigation.

The investigating officer has contacted Michael CRICK. He was asked to provide a written response to a number of questions relating to this investigation. Mr Ed FRASER, a managing editor with Channel 4 News, answered on his behalf.

In summary, he stated that he could not disclose how Channel 4 found out about the location of the meeting because of journalistic sources. He pointed out however that a number of other journalists were also present so it was not just their reporter that knew about the meeting. He also stated that it was important for journalists to remain impartial so it was not therefore appropriate for Channel 4 to offer any other opinions on the matter.

The investigating officer has contacted Mr Jon GAUNT. He was asked to provide a written response to a number of questions relating to the investigation.

In summary, he stated that the press must have guessed the location of the meeting because Mr MITCHELL had been on TV in the area at lunchtime on that day. He also confirmed that there was no media strategy in relation to the meeting. He had met with the federation representatives prior to it. They had all agreed that what they wanted was for Mr MITCHELL to tell them what he actually said and that would put an end to the matter.

He confirmed that there was no agreement to call for Mr MITCHELL's resignation. He explained that Mr MITCHELL had been under immense pressure from all quarters leading up to the meeting and that he hoped Mr MITCHELL would end the matter by telling the federation what he had actually said. His fate would then have been decided by his party. That is what he had meant by his Tweet prior to the meeting.

PS Ian EDWARDS, the chair of the West Midlands Federation, has provided a written response to the investigating officer. He confirms that he arranged the meeting with Mr MITCHELL. He initially wrote an open letter to Mr MITCHELL who then rang him to arrange the initial time, date and location. He understood that the incident in Downing Street would be discussed and that Mr MITCHELL also wanted to discuss police cuts.

They had agreed that the meeting would be private but PS EDWARDS had made it clear that he would confirm the time and date of the meeting with the media. They had also agreed that they would release a joint press release if they could reach agreement over the issues to be discussed.

An email that appeared in the press described as a "police log" is attached at Appendix I. This has been provided by the Operation Alice team. It may be of relevance because it is likely that this is what the federation representatives believed that the officers involved in the Downing Street incident were alleging had been said by Mr MITCHELL.

Conclusion

The "Plebgate" affair has clearly had a very significant impact on Mr MITCHELL's political career and on his private life. Following the incident with officers at the gates of Downing Street he came under intense pressure in the national media. This ultimately led to his resignation from the post of Chief Whip of the Conservative Party.

The Police Federation, and in particular Region 3, undoubtedly contributed to the pressure placed on Mr MITCHELL and therefore his decision to resign. This report has not considered whether it is appropriate for federation representatives to call for the resignation of a government minister. The terms of reference are clear in that the Gross Misconduct investigation is concerned with whether they lied in order to discredit him.

The allegation levelled against the officers is that they deliberately misrepresented what Mr MITCHELL had said during the constituency office meeting when they gave media interviews immediately afterwards. The specific detail is that they told the media that Mr MITCHELL refused to tell them what he had said at the gates of Downing Street. Mr MITCHELL claims that he "did tell the officers exactly what had happened, precisely what he had said and what he had not said."

In order to determine whether the officers have a case to answer the IO has reviewed the transcript of the meeting as well as the media interviews with the federation representatives. The general circumstances of the background to the meeting, why it was arranged and the context in which the media interviews were given have also been considered. The accounts provided by Mr MITCHELL and the officers have also been taken into account.

When the recording of the meeting between Mr MITCHELL and the federation representatives is reviewed, it can be seen that early on DS HINTON asks MR MITCHELL the direct question, "Tell us what you did say." This appears to be the only occasion during the entire meeting where he is asked the question directly.

Mr MITCHELL does not initially answer the question. He denies using some of the phrases attributed to him in the media. DS HINTON says that this is the first time Mr MITCHELL has openly denied using the words "Pleb" and "Moron." A short time later Mr MITCHELL then goes on to say, "...The incident was very brief, I complied with the officer and I picked up my bicycle but I did say under my breath but audibly, in frustration, I thought you lot were supposed to fucking help us..."

DS HINTON appears to be willing to move on to discuss the police cuts but he then asks PS JONES and Inspector MACKAILL if they have anything to add in relation to the Downing Street Incident. PS JONES then asks, "Did you make any notes about what you said?"

Mr MITCHELL's response includes, "They very generously opened the gates for me three or four times during the day so when I got to the gate and the guy said he wouldn't open them, I mean they are extremely heavy gates and these guys they are there to secure the centre of Britain really and I shouldn't have said what I said but then I gave him my absolute apology he pointed out some advice about my bicycle and I pointed out that I was the chief whip and I worked in number nine which is just above the gates so I did make a note of what I said but I remember the recollection absolutely and that is why I answered, have given you the answer now."

These exchanges occur in the first 15 minutes of the meeting. They appear to be the only time that Mr MITCHELL is asked to provide an account of what he said and the only time he actually gives an account.

Taken in isolation it therefore appears that the federation representatives asked Mr MITCHELL to provide an account of what he said and he has done so. It is a matter of interpretation whether this represents a full account however.

The meeting continues for a further 30 minutes. The main bulk of the interview after that point is focussed on the issue of integrity. DS HINTON and PS JONES outline to Mr MITCHELL that integrity is core to the police service and the importance of officers being able to rely on their notes. They tell him that they feel obliged to report the matter to the Metropolitan Police Professional Standards Department.

During the misconduct interviews the officers stated that after reflecting on the need to make a referral to PSD they decided that it was not necessary.

Towards the end of the meeting DS HINTON says, "What you have said to us is that the words you said you do not attribute, which is a lot different to you saying in my eyes what I said is different."

The meaning of this statement is unclear. Mr MITCHELL gives a response to it that includes the following, "No it is the first time you heard me say it, in the reporting it is always clear that I have made it clear that I never used those words and in particular pleb and moron so I have not said anything new today but I have done you, because you are the leaders of the Fed in your three areas, the fair thing which is look you in the eye and tell you the truth there is nothing new or different I have said today there is no point in rehashing but I have said very little which is new today..."

Mr MITCHELL also says, "With respect I haven't told you anything I haven't said before I hadn't said to you."

The meeting is concluded by Mr MITCHELL saying, "Well I have been absolutely clear with you and absolutely categoric and I obviously ask you to accept my word, given to you today, looking at you in the eye telling you what I didn't say."

There is therefore an indication from Mr MITCHELL that he has said nothing new to the officers during the meeting. The meeting is also finalised by Mr MITCHELL telling the officers that he has told them what he didn't say.

It should be noted that the officers leave the constituency office and they are immediately faced by the media. It is highly unlikely that they would have had the opportunity to reflect on what had been said during the meeting and discuss what they were going to say to the press. They all confirm this during interview.

If the officers did conspire to lie about what had been said, then they must have agreed to do so in advance of the meeting. If a decision was made to lie during or after the meeting then this must have been made by Inspector MACKAILL alone. The other officers could have realised that he was lying when he gave the initial news interview and then decided to join in with the lie.

A fact that should also be considered is that Gareth PARRY-JONES was present during the meeting. The officers knew that he would be making contemporaneous notes even though they did not know the meeting was being recorded. Is it therefore likely that the officers would decide to deliberately lie knowing that there was an independent person that could corroborate what had been said?

It is also worthy of note that neither Mr MITCHELL nor Mr PARRY-JONES made any allegations against the officers in the days following the media interviews in October 2012. The allegations against Inspector MACKAILL were not made until the Channel 4 News broadcast in December 2012. This could of course be because Mr MITCHELL was attempting to diffuse the issue and not enter into a confrontation with the police.

On reviewing the transcript of the meeting it is evident that Inspector MACKAILL did not say anything. It is likely that his focus was on what he was going to say to the media when they left the meeting. This may mean that he should have been in a better position than the other officers to fully assess what Mr MITCHELL was saying. It could equally mean that he was not fully concentrating on the meeting because he was concerned about the media interviews.

The IO has had the benefit of having access to a transcript of the meeting to compare with what was said to the media. This was not available to the officers and as already noted they would not have had time to discuss the detail of the meeting between themselves prior to the media interviews.

It is therefore appropriate to consider what the officers understood Mr MITCHELL to have said as opposed to the fine grain detail of what he actually said.

All three officers stated in interview that Mr MITCHELL had been given the opportunity to tell them what he had said outside the gates of Downing Street but he had chosen not to do so. PS JONES talks about Mr MITCHELL “deflecting” them from that topic. If their accounts are to be believed, then even though Mr MITCHELL did provide limited detail of the conversation that he had with the officers in Downing Street, they did not accept that as his full account.

The officers also point to a more detailed account that Mr MITCHELL provided to the media a number of months after the meeting. It should be noted that they wouldn’t have known about this article when they gave their media interviews but it must be acknowledged that Mr MITCHELL did have a fuller account that he could have provided to them. A copy of the Telegraph article printed on the 23rd of December 2012 is attached at Appendix H.

If the officers have lied in order to deliberately discredit Mr MITCHELL then the obvious question to ask is what would be their motive for doing so? It could be argued that they were running a successful, high profile, anti-cuts media campaign and the account that he provided to them did not fit with that agenda.

If Mr MITCHELL had managed to defuse the “plebgate” row then their campaign would have been weakened. The federation may have felt under pressure to come up with a newsworthy account from the meeting for the national media that was waiting outside. It would have been difficult to call for his resignation if they were simply left with a situation where they had conflicting accounts from Mr MITCHELL and the uniformed officers.

It could also be argued that the officers entered the meeting with a pre planned media statement in mind and they were not flexible enough to adapt it based on what Mr MITCHELL told them in the meeting.

This assertion was put to the officers during interview. They stated that this was not the case and that if Mr MITCHELL had given a full account then they would have accepted it and left the public to decide. They also point out that the call for Mr MITCHELL’s resignation came as a result of a direct question put to Inspector MACKAILL. It is also the case that the comment from Inspector MACKAILL about Mr MITCHELL refusing to tell them exactly what he did say came as a result of a direct question from Michael CRICK.

It has already been noted that during the meeting Mr MITCHELL was only directly asked once to explain exactly what he did say in Downing Street. It could be argued that the federation representatives should have made it absolutely clear to Mr MITCHELL what the consequences would be if he failed to go further and give them his full account before the meeting was finalised.

This must also be viewed in the context that the meeting had been arranged specifically to discuss the issue however. It could equally be argued that it should have been clear to Mr MITCHELL that the officers had come to the constituency office in order to obtain his full account. The officers have indicated that in their view he chose not to do so. It is also the case that the officers did make it clear to Mr MITCHELL that there was an unresolved integrity issue.

It is evident that Mr MITCHELL and the federation representatives have conflicting views on the true nature of the account he gave to them during the meeting at the Sutton Coldfield constituency office and the accuracy of the subsequent media interviews. Both parties have had access to the tape recording of the meeting and the content of the media interviews. The differences in their interpretation of this material are unlikely to be resolved.

The IO does not consider that the federation representatives deliberately lied in order to discredit Mr MITCHELL, and on the balance of probabilities, there is no case to answer for gross misconduct.

Having reviewed all of the available material, it is clear that in light of the recording of the meeting, the comments made by the federation representatives could be viewed as ambiguous or reckless. The IO has therefore considered whether this could amount to misconduct even if there was no deliberate intention to lie.

When the comments are placed in the context of the wider plebgate affair and the intense press interest it would have been advisable to have a formal press strategy in place prior to the media interviews. It would also have been advisable for the officers to have debriefed the meeting with their advisors before giving the interviews. This may have enabled them to agree a considered response and a form of words that could not have been misinterpreted.

The officers did have Jon GAUNT with them outside the constituency office but he does not appear to have provided any advice in relation to what message the federation representatives should give to the media. PS JONES describes the Gaunt Brothers style as “tabloid” and PS HINTON indicates that they would sometimes go further than the federation wanted them to.

It may therefore be the case that the Gaunt Brothers were more concerned with generating maximum publicity for the anti-cuts campaign as opposed to advising them on the content of their media statements.

Despite the other factors, these considerations ultimately come down to whether the officers honestly believed that Mr MITCHELL did not provide a full account to them during the meeting. Mr MITCHELL believes that he did. The officers believe otherwise. On the balance of probabilities there is no case to answer for misconduct. There is learning for the officers and police federation however.

Recommendations

The Police Federation of England and Wales have commissioned a wide ranging review of the role of the federation and their control mechanisms. The Plebgate affair was one of the catalysts for this review. The independent body conducting the review is due to report at the end of the year. The IO recommends that the findings of that report should form the basis of any learning delivered to the officers and local federation.

Confidential Information

There is a question in relation to the legality of the covert recording of the meeting by Mr MITCHELL and Gareth PARRY-JONES. The officers under investigation have not complained about its use in these proceedings and it is not therefore considered proportionate to make any further enquiries in relation to this issue.

TDI 3108 SMITH

Further comment and conclusion—CI Jerry REAKES-WILLIAMS (SIO)

Despite the tight parameters of this investigation, it is a complex matter and establishing the truth and reaching appropriate conclusions is not straightforward. It is therefore not surprising that there should be different interpretations and conclusions.

I have read the IO's report, and understand the conclusions he has reached and his rationale. However, my view is that the officers do have a case to answer for misconduct. Without repeating unnecessarily aspects already covered in detail, I set out below my rationale.

Gross Misconduct

Gross Misconduct is defined as "a breach of the Standards of Professional Behaviour so serious that dismissal would be justified". (Home Office Guidance)

I agree with the IO that the conduct in this case does not meet this threshold. I do not believe there is sufficient evidence, even on the balance of probabilities, that the officers have in some way conspired together or with others to give a false account of the meeting in a deliberate attempt to discredit Mr MITCHELL.

It would have been extraordinary to do this when there was a person present in the meeting taking what they thought to be contemporaneous notes.

Furthermore, a case can be made for arguing that Mr Mitchell did not give the fullest possible account to the Officers at the meeting because some time later Mr Mitchell did provide more detailed accounts of what he says took place in Downing Street. (*See Appendix H*).

Misconduct

Misconduct itself is not defined other than by considering the individual aspects of the Standards of Professional Behaviour. The points relevant to these circumstances are:

- 1.13 *Police Officers act with integrity and are open and truthful in their dealings with the public and their colleagues, so that confidence in the police service is secured and maintained. (Honesty & Integrity)*
- 1.14 *Police Officers do not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document kept or made in connection with any police activity. (Honesty & Integrity)*
- 1.60 *Police Officers behave in a manner which does not discredit the police service or undermine public confidence, whether on or off duty. (Discreditable Conduct)*
- 1.62 *Discredit can be brought on the police service by an act itself or because public confidence in the police is undermined. In general, it should be the actual underlying conduct of the police officer that is considered under the misconduct procedures, whether the conduct occurred on or off duty.....In all cases, it must be clearly articulated how the conduct or conviction discredits the police service. (Discreditable Conduct)*
- 1.63 *In the interests of fairness, consistency and reasonableness the test is not solely about media coverage but has regard to all of the circumstances.*

I have already stated that Mr MITCHELL later provided more detail than he did to the Officers at the meeting on 12th October. However, I would make the following comments in support of my view about a case to answer for misconduct, bearing in mind the points from the Standards of Professional Behaviour listed above.

1. Why, if he was not satisfied that Mr MITCHELL had given a full account, was Sergeant HINTON ready to “move on”? (Page 6 of the meeting transcript) This surely implies that he was happy with, or at least accepted, the explanation provided.
2. Why did three experienced police officers not press Mr MITCHELL for the full explanation they wanted during the meeting? He gave an answer, but they do not go on to indicate that they are not satisfied that he has given a full account.
3. Sergeant JONES does not challenge Mr MITCHELL when the latter says “*You asked me in good faith what I said and I told you*” (Page 11).
4. Sergeant HINTON also says “*...I understand that you are saying what you said now....*” (page 18) and “*I appreciate your candour....*” (page 19). These statements are difficult to align with later statements to the press that claim that Mr MITCHELL did not tell them what he had said.
5. I cannot see how the Officers can claim that Mr MITCHELL “refused” to tell them what he said, when, as outlined above, they did not seek clarification from him during the meeting. Indeed, they appear to have accepted that he had given them his account.
6. I think that an ordinary member of the public, listening to the Officers speaking to the media after the meeting, would have interpreted their words as meaning that Mr MITCHELL would not give any account of what occurred in Downing Street on 19th September 2012. This is clearly not the case.
7. The Officers have therefore given an account of the meeting to the media that was inaccurate and misleading and contrary to the elements of the Standard of Professional Behaviour listed above.

What I do not see from the information gained through the investigation is a malicious attempt to deliberately misrepresent what took place at the meeting. It seems to me that it was more a case of being poorly prepared, badly advised and inexperienced in dealing with such intense media scrutiny. The Officers were somewhat “caught in the headlights”, coming straight out of the meeting to face the assembled media without taking any time to discuss what had taken place between themselves and to agree a reasoned, balanced and accurate response.

There is an element of recklessness here because it is inconceivable to me that the Officers would not have been aware that the media were gathered and would have wanted an account to go out on the 6 o’clock news.

I have considered whether ALL of the officers have a case to answer. Although it was Inspector MacKail who acted as the main spokesman after the meeting, it is clear that all the Officers spoke to the media either immediately after the meeting or subsequently, and all gave the same message. In interview, they have all stated their agreement with the information given to the media. In my view, this makes them all jointly responsible.

By giving a misleading account of what took place at the meeting, I believe the Officers have a case to answer for misconduct and bringing discredit on the Police Service.

I believe there *are* lessons to be learnt from these circumstances. However, I agree with the IO that it is difficult to address issues around organisational learning (the third element under the Terms of Reference) without straying beyond the strict remit of this investigation and questioning the role and strategy of the Federation. It must be remembered that the Officers were acting in their role as Federation representatives at the time and also that there is a review being conducted on behalf of the Federation partly arising out of these events.

CI Jerry Reakes-Williams.

INVESTIGATOR’S REPORT VERSION “B”

Case Summary of Conduct Matter CM/95/12 (DRAFT)

Officers under investigation

Inspector Kenneth MACKAILL

Sergeant Christopher JONES

Detective Sergeant Stuart HINTON

Background

The officers subject to this investigation are representatives of the Police Federation. Inspector MACKAILL is the chair of the West Mercia branch, Sergeant JONES is the secretary of the West Midlands branch and Sergeant HINTON was at the material time the secretary of the Warwickshire branch.

On the 12th of October 2012 the officers attended a meeting with the Right Honourable Andrew MITCHELL MP at his constituency office in Sutton Coldfield. Mr Gareth PARRY-JONES, a Conservative Party press officer, was also present.

The attendees had met to discuss the “Plebgate” affair. At the conclusion of the meeting the officers briefed members of the national media who had gathered outside.

Alleged Misconduct

It is alleged that during the media briefings on the 12th of October 2012 the officers gave a false account of the meeting with Mr MITCHELL in order to discredit him.

Case Summary

On the evening of the 19th of September 2012 Mr MITCHELL was involved in a well publicised incident with police officers at the gates of Downing Street. The incident has been widely referred to in the press as the “Plebgate” affair.

Following this incident the national media reported that Mr MITCHELL was alleged to have insulted the officers by using derogatory words like “plebs” and “morons”. The media relied on an alleged leaked document widely referred to as the “police log.” Mr MITCHELL has repeatedly denied making these comments and the circumstances of this incident are being investigated by the Metropolitan Police Professional Standards Directorate under Operation Alice.

Mr MITCHELL is the MP for Sutton Coldfield. This falls within the West Midlands Police area. The West Midlands Federation is part of a regional grouping known as “Region 3.” West Mercia and Warwickshire are also members of this region. At the time the Plebgate affair was reported in the national media, the police federation was engaged in a campaign against cuts to the police budget and changes to police pay and conditions.

It should be noted that the Region 3 Federations had employed a media relations company called The Gaunt Brothers Ltd who were advising them in relation to the anti-cuts campaign.

The Region 3 Federations capitalised on the Downing Street incident by incorporating it into their campaign. This took the form of the use of the phrase “PC PLEB.” Most notably, members of the police federation attended the Conservative Party conference in Birmingham between the 7th and 10th of October 2012 wearing PC Pleb T shirts. There were also a number of calls for Mr MITCHELL’s resignation from opposition politicians and federation representatives at this time.

The West Midlands Federation arranged a meeting with Mr MITCHELL at his constituency office in Sutton Coldfield on the 12th of October 2012. He understood that it would be a private meeting where he would be able to apologise and draw a line under the incident. He was also prepared to discuss some of the wider issues that were affecting the police at that time. The meeting began at approximately 17.00 hours.

A transcript of the meeting is attached at Appendix A. It has been prepared from a disc provided to the IO by Mr MITCHELL. The original recording was made by Gareth PARRY-JONES, the Conservative Party press officer.

The transcript should be read in its entirety in order to obtain the full context. Consideration should also be given to listening to the audio recording to obtain the full meaning. The IO has identified the following summaries and extracts as having potential relevance to this investigation however:

- On page 4 DS HINTON says, “...but where we have the issues I am sure we all understand, is because you haven’t said what you did say, by implication that suggests that the officers’ account is in some way inaccurate or false and obviously the officers have said what has happened they have said they made their notes as soon as they could afterwards because obviously they were concerned that a senior minister had said this to them and the implication that they say that you say they wouldn’t hear the last of it. So really the first question we have got to ask because that is why (inaudible) and this is also why this has gone on so long is because you haven’t been able to say what you actually did say and I think we would all like you to tell us what you did say.”
- Mr MITCHELL replies, “It is a very good point and I’ll tell you why I haven’t done that is because the police account was filtered through a very hostile national newspaper and the police have made no complaint and my apology was accepted and that I felt should draw a line under all of this because my memory of what I did and didn’t say is clear and I will not as a supporter of the police for twenty six years be put in a position of suggesting an officer is not telling the truth but equally I did not say and I give you my word, I give you my word, I did not call an officer an f’ing pleb I did not say you are an f’ing moron and I did not say you should know your f’ing place I would never speak to anyone like that least of all a police officer and you have my word I never said those things. And if I say that publicly everyone says that mean the police are lying or the minister is lying when in fact it may not be like that. This has not come direct from a police report, there was no police report there was no police complaint and you get the press saying one thing, they say lots of different things and it seemed to me much better to avoid getting into all that.”

- On page 5 DS HINTON says, “I understand but I come back to and I make no apology for it but it is the first time to my knowledge that you have actually said to somebody other than the Prime Minister and we weren’t there that publicly or privately you are saying to us that you didn’t use the word pleb, moron which is what you have just said.”
- Mr MITCHELL replies, “Yes” and DS HINTON says, “You have not said that to the wider public you used these form of words that you don’t accept.”
- Mr MITCHELL replies, “Because I don’t want to impugn, it is quite possible that there was a mishearing or something. The incident was very brief I complied with the officer and I picked up my bicycle but I did say under my breath but audibly, in frustration, I thought you lot were supposed to fucking help us and it is for that I apologise and I am grateful to that officer for accepting my apology and I should never have said it and I will never do it again and I think we all of us in our lives occasionally let go and that is when I let go but I don’t want to get in to a, who is lying, because of my respect for the police and the fact that this may well have got twisted in translation, the first reports that appeared in the Sun Newspaper were very different from the ones different in substance that appeared in the Telegraph. The Sun’s report suggests I called him a fucking moron and the Telegraph didn’t....”
- DS HINTON goes on, “You must understand we are in a bit of a hiatus here because honesty and integrity as I have said a number of times over the last couple of days, is a central tenor to the police core value and if that wasn’t the case anything could happen as it should be to politicians and anybody in public life and public office and there is nothing new I can say on that in the last couple of days and to have by implication if not direct accusation to have a senior government figure suggesting that an officer’s account of events is inaccurate and possibly untruthful has wider implication, not just for that incident but for the police service in general.”
- Mr MITCHELL replies, “That is why I have taken all this shit, by not you know, I could have got up in the beginning and published a statement as I saw it in which case there would have been a who is lying battle that would be over by now I suspect because I did not spell it out in that way and I think that was the right thing to do because of my respect and value for the police and the fact that this might well be a genuine mistake you know that I might have been misheard but you guys, upon coming to see me and asked me to tell you what happened I give you my word that I never used those words.”
- On page 6 DS HINTON says, “We have said today that it is time to move on, we as you know as a federation have issues with the reform of this woman that the conservative party have and sorry we are just moving on here and I don’t know if Ken or Chris have anything to ask around the issue of Downing Street. Chris have you got anything?”
- PS JONES then asks, “Did you make any notes about what you said?”
- Mr MITCHELL replies, “I made a note of the exchange about two days later when I had no idea there would be this enormous shit storm so I made a note of what was said, you know the CCTV shows that it was forty seconds of exchange it was incredibly short and I complied with the officer. They very generously opened the gates for me three or four times during the day so when I got to the gate and the guy said he wouldn’t open them, I mean they are extremely heavy gates and these guys they are there to secure the centre of Britain really and I shouldn’t have said what I said but then I gave him my absolute apology he pointed out some advice about my bicycle and I pointed out that I was the chief whip and I worked in number nine which is just above the gates so I did make a note of what I said but I remember the recollection absolutely and that is why I answered, have given you the answer now.”
- DS HINTON says, “I appreciate that you have gone beyond said what you said.”
- Mr MITCHELL replies, “But I don’t want to in any way impugn the police force in any way and people’s recollections can vary very quickly and if there is wind a lot of people mishear things so.”
- On page 11 PS JONES says, “But never the less you are content now to have officers remain in situ if they got it so wrong and these are officers guarding senior members of our Parliament.”
- Mr MITCHELL replies, “That is not for me to deal with, I know what I said and I have been very keen not to escalate this and not to have a fire fight with the police. You asked me in good faith what I said and I told you.”
- On page 13 PS JONES states, “But whatever turn we take we always come back to the point that the notes differ significantly from your account and you have given your word that what you say is true.”
- PS JONES and DS HINTON then go on to say that they are left in a situation where if Mr MITCHELL’s account is correct then police officers have committed untruthful accounts to paper and that will have implications for officers giving evidence in court.
- On page 18 DS HINTON says, “What you have said to us is that the words you said you do not attribute, which is a lot different to you saying in my eyes what I said is different.”

- Mr MITCHELL replies, “No it is the first time you heard me say it, in the reporting it is always clear that I have made it clear that I never used those words and in particular pleb and moron so I have not said anything new today but I have done you, because you are the leaders of the Fed in your three areas, the fair thing which is look you in the eye and tell you the truth there is nothing new or different I have said today there is no point in rehashing but I have said very little which is new today, I mean there is little point re hashing it but I have explained why I took the view, and it is frustrating.”
- On page 19 DS HINTON says, “We are required under our code of conduct now that we have information that officers have possibly recorded things inaccurately and false to be reported back to the Met’s own professional standards well our own Professional Standards we have got no choice in that because we are in possession of that and our code of conduct which is laid down by.....”

And

- “All I’ll say at this point I have no choice, my code of conduct to the police is that we have to without exception report the fact that another officer is possibly corrupt. And when I say corrupt I mean he falsified a document and you know tell me if I am wrong as well but as a Sergeant I am not wrong.”
- PS JONES replies, “DITTO.”
- On the same page DS HINTON says, “I appreciate your candour, and we appreciate you have gone beyond what you said in, to the media.”
- Mr MITCHELL replies, “Well I have confirmed what I said in the media before”
- DS HINTON says, “Well I think you’ve actually said what you haven’t said, what you have said rather than what the police are saying”
- Mr MITCHELL replies, “I did confirm what I have said to the media before.”
- On page 21 Mr MITCHELL says, “Well I have been absolutely clear with you and absolutely categoric and I obviously ask you to accept my word, given to you today, looking at you in the eye telling you what I didn’t say.”

The meeting concluded at approximately 17.45 hours and Inspector MACKAILL immediately gave a press interview to a number of reporters that had gathered outside. DS HINTON and PS JONES were standing beside him at the time.

This interview was covered live by Sky News and a transcript of the footage is attached at Appendix B. The full transcript should be read to obtain the full context but the following extracts have been taken from it:

Insp Mackaill	...whilst he has repeated to use his words “a profound apology with feeling” for what he did say. He has also repeated his denial of using many of the words reported in the officers notes recorded at the time. His explanation for that is that he did not want to I quote “get into a fire fight with the police or impugn the integrity of police officers” who unfortunately were left in a position where his continued denial of facts recorded in police records does exactly that, so we are no further forward than we were an hour ago.
Unknown Reporter	Should he resign?
Insp Mackaill	I think Mr. MITCHELL now has no option but to resign, he’s continuing to refuse to elaborate on what happened, I think his position is untenable.
Michael Crick	Did he tell you what he did say?
Insp Mackaill	He refused to tell us what he did say on the grounds he did not want to impugn police officers integrity and start, again, I’ll call the word a fire fight with the police.

The federation representatives gave a number of other interviews relating to this meeting. Prior to the meeting PS JONES made the following comments to ITV:

“I’ll be just asking him to give us his version of events and tell us precisely what he did say. If he avoids the subject or if he dances “round it ... then, and we didn’t resolve the matter then I think he does need to go.”

Following the meeting Inspector MACKAILL made the following comments to ITV:

“He did repeat his apology for what he did say, but he also repeated his denial of using key elements of the line in the officer’s reports that were made up at the time and again Mr MITCHELL does not wish to openly impugn the reputation of the officers but he will not tell us exactly what he said and we are left with this unresolved issue that he is saying that the content of the police report is dishonest. I think Mr MITCHELL’s position is untenable and I think he has to resign.”

DS HINTON made the following comments to BBC Midlands today:

“He has come out with what he’s not said but he is not saying what he did say and that has caused an integrity issue.”

He was interviewed at length by Radio 5 Live. During the interview he made the following comment:

“He still won’t say exactly what he did say.”

PS JONES was interviewed on BBC Midlands today. He stated that the matter had now become an integrity issue. When asked if Mr MITCHELL should resign he said, “The person that’s not telling the truth needs to go.”

PS JONES was also interviewed on BBC Radio 5 Live. The interview focussed on the fact that there were obvious contradictions between Mr MITCHELL’s account and that contained in the police log. He stated that he found it strange that Mr MITCHELL wanted to draw a line under the matter and move on. He stated that Mr MITCHELL was emphatic that he had not used the words attributed to him and that the matter was an integrity issue. He stated that Mr MITCHELL should resign if he had been untruthful.

PS JONES does not use the phrase, “refused to tell us what he did say” during the interviews.

It is accepted that the officers are likely to have given interviews to other media organisations including newspapers. The IO has not been made aware of any other comments made by the officers that contradict the ones quoted here however.

Mr MITCHELL subsequently resigned from his post as a government minister because of the controversy caused by the Downing Street incident.

On the 17th of October 2012 West Mercia police received a complaint from a member of the public named Mr PLUME. It contained a number of different aspects but they all related to Inspector MACKAILL’s comments about Mr MITCHELL in the national media.

A proportionate investigation was conducted by West Mercia PSD and Inspector MACKAILL gave a written response. The investigation report including the written response is attached at Appendix C.

Inspector MACKAILL answers one of the points raised by Mr PLUME as follows:

“...I have never made any allegations against Mr Mitchell; having given Mr Mitchell the opportunity to clarify exactly what happened, I described his position as untenable following his refusal to do so. It was the position of the three JBB’s that the failure to give an account prevented the public from reaching an informed conclusion and potentially reflected badly on the police service.”

On the 18th of December 2012 Channel 4 News broadcast a story detailing the circumstances that led to Mr MITCHELL’s resignation. During that broadcast it was disclosed that the meeting at the constituency office on the 12th of October had in fact been recorded by Gareth PARRY-JONES.

The program also contained an interview of Insp MACKAILL by the presenter, Michael CRICK. During this interview Mr CRICK inferred that Insp MACKAILL had misrepresented what Mr MITCHELL had said during the media interviews, thereby directly challenging his integrity. In response Insp MACKAILL said,

“That is my understanding of what Mr MITCHELL was saying to us. Even in the meeting he didn’t actually give a full statement, or his full version of events.”

As a result of the Channel 4 News broadcast, the Deputy Chief Constable of West Mercia Police directed that the Professional Standards Department should carry out an investigation. A voluntary referral was made to the IPCC on the 24th of December 2012 with a recommendation that the investigation should be supervised by them as a minimum. The rationale was that there was a potential for the impartiality of the police investigation to be questioned. It was decided that the investigation would be supervised.

The Appropriate Authority assessed that the conduct, if proven or admitted, could amount to Gross Misconduct. A regulation 15 notice was served on Inspector MACKAILL on the 15th of January 2013. It read:

“That during media briefings/interviews on the 12th of October 2012 you gave a false account of a meeting with Andrew MITCHELL MP in a deliberate attempt to discredit him.”

The meeting was recorded and extracts from it were broadcast on a Chanel 4 news report on the 18th of December 2012 along with extracts from the media interviews. During this news broadcast your integrity was directly challenged.”

On the 28th of January 2013 Chief Inspector REAKES-WILLIAMS wrote the following terms of reference for the investigation that were agreed with the IPCC:

4. *To investigate whether Insp. Ken MACKAILL provided a false account of the Federation meeting with Rt. Hon. Andrew Mitchell MP on 12 October 12 to the media in a deliberate attempt to discredit Mr Mitchell.*
5. *To identify whether Insp. MACKAILL has breached the Standards of Professional Behaviour for Police Officers and therefore has a case to answer for misconduct or gross misconduct.*
6. *To consider and report on whether there is any organisational learning arising from this matter, including whether any change in policy or practice would help to prevent a recurrence of the incident or alleged misconduct.*

On the 15th of February 2013 the Investigating Officer (IO) and CI REAKES-WILLIAMS met with Mr MITCHELL. He provided a copy of the tape recording from the meeting on the 12th of October. He also provided a statement detailing the impact that the Plebgate affair had on him and the role of the police federation. The main body of the statement was copied from an account that Mr MITCHELL had provided to the Sunday Times.

In summary, Mr MITCHELL states that the Chair of the West Midlands Federation had contacted him in order to arrange the meeting. He understood that the purpose would be to “clear the air and look to the future.”

Mr MITCHELL states that they agreed that the meeting would be private but the federation acted in bad faith by arranging for the press to attend. He considered cancelling it but he thought that this might be interpreted as cowardice.

The meeting started at 5 PM and Mr MITCHELL claims that the federation officers expressed amazement that the press had discovered the location of the meeting. He goes on to say that during the next 45 minutes he told them exactly what had happened and precisely what he had said or not said. He also states that they brought the meeting to a conclusion at 5.45 PM in order to make the six o'clock news bulletins.

Mr MITCHELL alleges that the tape recording of the meeting clearly shows that the Federation representatives that briefed the press after the meeting were not telling the truth.

His statement is included at Appendix D.

During the meeting between Mr MITCHELL and PSD he alleged that DS HINTON and PS JONES had also given similar briefings to the press. Following consultation with the IPCC, the decision was made to widen the scope of the investigation to include them. A Regulation 15 notice was served on DS HINTON on the 8th of March 2013 and on PS JONES on the 4th of April 2013. The content of the notices reflected the detail in the notice served on Inspector MACKAILL.

Inspector MACKAILL was subject of a misconduct interview on the 29th of April 2013. The full interview transcripts are attached at Appendix E. His responses are summarised as follows:

Inspector MACKAILL stated that some of the comments that he had made to the media had been taken out of context and that they didn't reflect in full what he had said immediately after the meeting. He also stated that he maintained the view that Mr MITCHELL repeated the denial of what officers reported he had said but he wouldn't tell them (the federation) what he had actually said.

Inspector MACKAILL read an extract from the Daily Mail newspaper that had been published at the end of December 2012:

“Mr MITCHELL to Police officer “please open the gates”.

Policeman “no, please get off your bike and leave by the pedestrian exit”.

Mr MITCHELL “please open the gates I am the Chief Whip, I work here at number 9”.

Policeman “no you have to get off your bike and wheel it out”.

Mr MITCHELL “look, I have already been in and out several times today, please open the gates”

Police, “no”

Mr MITCHELL added “with that I complied with the Policeman's request and wheeled my bike across the pavement and out through the pedestrian entrance. As I did so I muttered, though not directly at him, “I thought you guys were supposed to effing help us”. The Policeman's response, “if you swear at me I will arrest you”. Mr MITCHELL, when I cycled off as I left I think I said I would pursue the matter further the next day”.

Inspector MACKAILL stated that he was hoping that is what Mr MITCHELL would say to them and then they would have had two versions of events. He does also state however that with the benefit of hindsight he could now see how his comment could have been misinterpreted when taken in isolation.

Inspector MACKAILL was asked to comment on why Mr MITCHELL was only asked once to tell the federation representatives what he had said to the officers. He stated that he didn't know why it hadn't been presented again but it had been asked once and he (Mr MITCHELL) had been given the opportunity to answer it.

He stated that he saw the meeting as an opportunity for Mr MITCHELL to tell his version of events so that there would be two versions and people could make up their own minds. He also hoped to discuss the police cuts if the first issue could be resolved.

Inspector MACKAILL clarified that there was no media strategy agreed before the meeting with Mr MITCHELL because they didn't know what he was going to say. He also stated that although the date and time of the meeting was public knowledge he had not disclosed the location to the press. He did not know how the press found out about the meeting's location.

Inspector MACKAILL denied that the meeting with Mr MITCHELL had been terminated in order to catch the 6 o'clock news. He also clarified that he had given the media briefings immediately after the meeting and

there had been no time for him, the federation and the Gaunt brothers to have any kind of review of what had been said.

Inspector MACKAILL denied that he had conspired to lie about the content of the meeting with Mr MITCHELL in order to force him to resign. He also stated that the message that he had given to the press was correct when taken in its entirety.

DS HINTON was interviewed on the 30th of April 2013. The full interview transcripts are attached at Appendix F. His responses are summarised as follows:

DS HINTON denied that he or his federation colleagues had given a false account of the meeting with Mr MITCHELL with a view of forcing him to resign. He stated that the comments given to the media were an accurate reflection of what he understood had gone on in the meeting. He also stated that the comment he made to Midlands Today on the 12th of October about Mr MITCHELL “not saying what he did say” had been taken out of context.

He also stated that comments from Mr MITCHELL had been published in the media subsequent to the meeting where he had gone beyond what he had said to the federation representatives. He also pointed out that although he didn't know the meeting was being recorded he was aware that there was a press officer taking notes. It would therefore have been foolish of them to speak untruthfully about the meeting because there was an independent witness present. He would not have said anything different even if the meeting had been overtly recorded.

DS HINTON confirmed that he understood that the meeting with Mr MITCHELL would be private. He stated however that the three federation representatives travelled to the meeting with John GAUNT and that during the journey GAUNT had been receiving calls from the media asking him when they were going to arrive.

DS HINTON confirmed that there was no set agenda before the meeting to call for Mr MITCHELL's resignation. They had all agreed however that it was an honesty and integrity issue in relation to the records made by the officers at the gates of Downing Street. He also confirmed that they did not have the opportunity to review what was said during the meeting before they gave briefings to the media.

He confirmed that he had not disclosed the location of the meeting to the press. He stated that the press would have been aware of the time and date of the meeting. He also stated that the press would have been aware that Mr MITCHELL would have been in his constituency that day because he had been on television in the area earlier on. He also stated that the Gaunt Brothers would have been aware that the Federation did not want the media to know the location of the meeting.

DS HINTON was asked about a Tweet made the Gaunt Brothers prior to the meeting that indicated that Mr MITCHELL's fate would be decided at the meeting. He stated that he did not recall that Tweet and that the Gaunt Brothers had occasionally made Tweets or done things that the Federation weren't happy with.

He stated that in his view Mr MITCHELL had been given ample opportunity to clarify what he did say to the officers at the gates of Downing Street and he had chosen not to do so. He also stated that when the comments made to the media were taken in context, especially as they were made immediately after the meeting, then they were a fair and accurate reflection of what had been said.

DS HINTON was asked why Mr MITCHELL wasn't told that the federation was going to call for his resignation after the meeting. He acknowledged that there was no agreement to do so. Inspector MACKAILL had made that comment to the media in response to a specific question put to him.

DS HINTON confirmed that the Gaunt Brothers had told them to be mindful of the 6 o'clock news and to finish the meeting before then if possible. In the event however the meeting came to a natural conclusion. At the time DS HINTON did not know how long it had taken.

He confirmed that he had been standing next to Inspector MACKAILL during the initial press briefing. He agreed that he may have been influenced by what he had heard when he gave his own interviews. He stated however that he had agreed with everything he had heard and that he would have said something very similar himself.

DS HINTON explained that the PC Pleb campaign was not designed to be a personal attack on Mr MITCHELL. The Plebgate incident occurred at a time when there was an active federation campaign to fight police cuts and the PC Pleb slogan was used in that context.

He stated that MR MITCHELL had given an interview in a newspaper in December 2012 where he had given a fuller account of what he had said to officers at the gates of Downing Street. He stated that if Mr MITCHELL had given that account during the meeting then he wouldn't have used the phrase, “HE WOULDN'T TELL US WHAT HE DID SAY.”

DS HINTON also clarified that he did not directly call for Mr MITCHELL to resign.

The interview was finalised by DS HINTON stating that he acknowledged that if certain comments made to the media were taken in isolation then it didn't look right. When everything was taken in context however it was an accurate reflection of what had been said in the meeting.

PS JONES was interviewed on the 30th of April 2013. The full interview transcripts are attached at Appendix G. His responses are summarised as follows:

He stated that it had been correct for the federation officers to use the phrase, “HE REFUSED TO TELL US WHAT HE DID SAY” following the meeting with Mr MITCHELL if the comments were taken in context.

PS JONES stated that MR MITCHELL did not give a full explanation of what he said to the officers at the gates of Downing Street. He made reference to an article in the Telegraph on the 23rd of December where Mr MITCHELL gives a fuller account of the conversation that he had with the officers. He was also content that it would have been clear to Mr MITCHELL what the officers expected to hear but he constantly deflected from the issue.

He confirmed that he viewed the account given by Inspector MACKAILL to the media immediately after the meeting as being accurate. He also confirmed that he had given a similar message when later interviewed by newspaper reporters.

PS JONES explained that he had felt uncomfortable in directly calling on Mr MITCHELL to resign. During his own media interviews he had addressed the question by stating that public opinion was very strongly in favour of him resigning and he fell in line with that opinion.

He did not recall a Tweet made by the Gaunt Brothers before the meeting indicating that Mr MITCHELL's fate would be decided by the outcome of it. He stated that the Gaunt Brothers used a very “tabloid” style and that comment was consistent with the general mood at that time. He disagreed with the comment but in the context of its day it was less inflammatory.

PS JONES confirmed that he was not aware that the meeting was going to be tape recorded. He was aware that Gareth PARRY-JONES would be making contemporaneous notes of the meeting however. He also confirmed that the meeting was not deliberately terminated before 6 o'clock in order to catch the news. The meeting came to a natural conclusion. The officers would have been conscious of the news deadline however.

PS JONES confirmed that there was no time for the officers to debrief following the meeting with Mr MITCHELL. As soon as they walked out of the constituency office the media were waiting for them. There was no agreement in terms of a media message or press strategy.

He also confirmed that he hadn't told the press of the location of the meeting and he was sure the other Federation representatives hadn't either. He also did not think the Gaunt Brothers had informed the press.

PS JONES explained that the PC Pleb campaign was originally initiated as a “hook” into the wider anti-cuts campaign. It then became an integrity issue as the story focussed on the disparity between the officers' accounts and that of Mr MITCHELL. The reason for the meeting was the integrity issue. The wider issue of police cuts would have been discussed if that issue could have been resolved.

On the 3rd of May 2013 Slater Gordon solicitors, acting for the three officers under investigation, made a written submission to PSD asking for the regulation 15 notices to be withdrawn. This was based on video footage that had been recorded by PS Tom CUDDERFORD, the deputy chairman of the West Midlands Federation. The footage was recorded on an iPad outside the constituency office. A copy has been provided to PSD. The footage is effectively a duplication of the Sky TV coverage.

The investigating officer has contacted Gareth PARRY-JONES. He is no longer employed by the Conservative Party and he has declined to be involved in the misconduct investigation.

The investigating officer has contacted Michael CRICK. He was asked to provide a written response to a number of questions relating to this investigation. Mr Ed FRASER, a managing editor with Channel 4 News, answered on his behalf.

In summary, he stated that he could not disclose how Channel 4 found out about the location of the meeting because of journalistic sources. He pointed out however that a number of other journalists were also present so it was not just their reporter that knew about the meeting. He also stated that it was important for journalists to remain impartial so it was not therefore appropriate for Channel 4 to offer any other opinions on the matter.

The investigating officer has contacted Mr Jon GAUNT. He was asked to provide a written response to a number of questions relating to the investigation.

In summary, he stated that the press must have guessed the location of the meeting because Mr MITCHELL had been on TV in the area at lunchtime on that day. He also confirmed that there was no media strategy in relation to the meeting. He had met with the federation representatives prior to it. They had all agreed that what they wanted was for Mr MITCHELL to tell them what he actually said and that would put an end to the matter.

He confirmed that there was no agreement to call for Mr MITCHELL's resignation. He explained that Mr MITCHELL had been under immense pressure from all quarters leading up to the meeting and that he hoped Mr MITCHELL would end the matter by telling the federation what he had actually said. His fate would then have been decided by his party. That is what he had meant by his Tweet prior to the meeting.

PS Ian EDWARDS, the chair of the West Midlands Federation, has provided a written response to the investigating officer. He confirms that he arranged the meeting with Mr MITCHELL. He initially wrote an

open letter to Mr MITCHELL who then rang him to arrange the time, date and location. He understood that the incident in Downing Street would be discussed and that Mr MITCHELL also wanted to discuss police cuts.

They had agreed that the meeting would be private but PS EDWARDS had made it clear that he would confirm the time and date of the meeting with the media. They had also agreed that they would make a joint press release if they could reach agreement over the issues to be discussed.

An email that appeared in the press described as a “police log” is attached at Appendix I. This has been provided by the Operation Alice team. It may be of relevance because it is likely that this is what the federation representatives believed that the officers involved in the Downing Street incident were alleging had been said by Mr MITCHELL.

File Note of DCC Chesterman, 2 August 2013

File Note: MacKaill

This file note relates to the misconduct allegation against Inspector Ken MacKaill in relation to his meeting with the Rt Hon Mitchell MP on 12 October, 2012.

On 1 August, 2013 I received a comprehensive briefing in relation to the misconduct investigation during which I listened to the tape of the meeting and watched the subsequent television interview with Inspector MacKaill.

DCC Neil Brunton has prepared a comprehensive file note in relation to the involvement of his officer, OS Stuart Hinton and I do not propose to repeat much of the analysis in the file note, instead I will concentrate on the crux of the issues affecting Inspector MacKaill.

In his press interview, immediately after the meeting with Mr Mitchell, Inspector MacKaill provides a verbal briefing and does not appear to be referring to any notes. Having heard the tape recording of the meeting I conclude that Inspector MacKaill’s comments are largely an accurate reflection of the meeting. There are three sentences within his overall briefing which must be closely examined as they form the basis of the misconduct allegation.

1. “His explanation for that is that he did not want to, I quote “get into a fire fight with the police or impugn the integrity of police officers” who unfortunately were left in a position where his continued denial of facts recorded in police records does exactly that, so we are no further forward than we were an hour ago”.
2. In response to a question from a reporter asking whether Mr Mitchell should resign, Inspector MacKaill replies “I think Mr Mitchell now has no option but to resign, he’s continuing to refuse to elaborate on what happened, I think his position is untenable”.
3. “He refused to tell us what he did say on the grounds he did not want to impugn police officers integrity and start, I’ll use the word a fire fight with the police”.

I will start by considering the issue in respect of Discreditable Conduct. The question is did Inspector MacKaill set out to mislead or misinform the media and therefore the general public and in doing so has his conduct and words used discredited the Police Service or undermined public confidence?

Inspector MacKaill referred to Mr Mitchell’s “continued denial of facts recorded in police records”. This suggests that Inspector MacKaill believes that what the Metropolitan Police officers recorded, following the altercation in Downing Street, were the facts of the matter. During the meeting Mr Mitchell repeatedly denied using the words alleged by the police officers specifically “morons, plebs and you haven’t heard the last of this”. Inspector MacKaill appears not to accept Mr Mitchell’s assertion that he did not use the words recorded by the Metropolitan Police officers.

In response to a question from a journalist, Inspector MacKaill states that Mr Mitchell has refused to elaborate on what he did say to the officers in Downing Street. In essence this is true, however, Mr Mitchell explains, on a number of occasions, that he does not wish to elaborate suggesting that his account will differ from the officers, he does not want to impugn their integrity and therefore he seems to be suggesting that, rather than get into a “fire fight” with the police, he would prefer not to provide more detail.

Inspector MacKaill says that Mr Mitchell “refused to say what he did say on the grounds that he did not want to impugn police officers integrity”. This is a factual statement as described above.

Overall I believe that the statements made by Inspector MacKaill were an accurate reflection of the meeting with Mr Mitchell. Mr Mitchell had declined to elaborate and he went on to explain why.

Taken in isolation, some of the words used by Inspector MacKaill present this to the media in a negative way; however his broader sentences provide more context and balance, when he said that Mr Mitchell declined to elaborate on the grounds that he did not want to impugn the integrity of the officers.

Having carefully considered the evidence, I have formed the opinion that, taking Inspector MacKaill’s comments into the broader context, his underlying conduct does not amount to a breach of the Standards of Professional Behaviour in respect of Discreditable Conduct.

Taking the above into account I have also considered whether Inspector MacKaill's conduct breaches the Standards of Professional Behaviour in respect of Honesty and Integrity. For the reasons I have set out above I cannot conclude that he has intentionally made any false, misleading or inaccurate statements. Taken in isolation, the sentence "where his continued denial of facts recorded in police records does exactly that, so we are no further forward than we were an hour ago", together with his comments on Mr Mitchell's resignation are potentially misleading, however Inspector MacKaill does go on to explain why Mr Mitchell has declined to elaborate. On balance I do not believe that Inspector MacKaill has set out to deliberately mislead.

When Inspector MacKaill and his Federation colleagues met with Mr Mitchell that day they cannot have envisaged the ongoing public controversy that this case would engender. With hindsight the meeting was ill advised and they were poorly prepared to respond to the media. I have concluded that in respect of Inspector MacKaill there is insufficient evidence to bring a case of misconduct against him. I do question his professional judgment and believe he should be provided with management advice in respect of his involvement.

DCC Brunton has drawn similar conclusions in respect of OS Hinton and for the record we both agree that there is no case to answer in relation to the West Midlands Police officer, Sergeant Jones.

Simon Chesterman
Deputy Chief Constable

2 August, 2013

INVESTIGATOR'S REPORT VERSION "C"

Case Summary of Conduct Matter CM/95/12

Officers under investigation

Inspector Kenneth MACKAILL

Sergeant Christopher JONES

Detective Sergeant Stuart HINTON

Background

The officers subject to this investigation are representatives of the Police Federation. Inspector MACKAILL is the chair of the West Mercia branch, Sergeant JONES is the secretary of the West Midlands branch and Sergeant HINTON was at the material time the secretary of the Warwickshire branch.

On the 12th of October 2012 the officers attended a meeting with the Right Honourable Andrew MITCHELL MP at his constituency office in Sutton Coldfield. Mr Gareth PARRY-JONES, a Conservative Party press officer, was also present.

The attendees had met to discuss the "Plebgate" affair. At the conclusion of the meeting the officers briefed members of the national media who had gathered outside.

Alleged Misconduct

It is alleged that during the media briefings on the 12th of October 2012 the officers gave a false account of the meeting with Mr MITCHELL in order to discredit him.

Case Summary

On the evening of the 19th of September 2012 Mr MITCHELL was involved in a well publicised incident with police officers at the gates of Downing Street. The incident has been widely referred to in the press as the "Plebgate" affair.

Following this incident the national media reported that Mr MITCHELL was alleged to have insulted the officers by using derogatory words like "plebs" and "morons". The media relied on an alleged leaked document widely referred to as the "police log." Mr MITCHELL has repeatedly denied making these comments and the circumstances of this incident are being investigated by the Metropolitan Police Professional Standards Directorate under Operation Alice.

Mr MITCHELL is the MP for Sutton Coldfield. This falls within the West Midlands Police area. The West Midlands Federation is part of a regional grouping known as "Region 3." West Mercia and Warwickshire are also members of this region. At the time the Plebgate affair was reported in the national media, the police federation was engaged in a campaign against cuts to the police budget and changes to police pay and conditions.

It should be noted that the Region 3 Federations had employed a media relations company called The Gaunt Brothers Ltd who were advising them in relation to the anti-cuts campaign.

The Region 3 Federations capitalised on the Downing Street incident by incorporating it into their campaign. This took the form of the use of the phrase "PC PLEB." Most notably, members of the police federation

attended the Conservative Party conference in Birmingham between the 7th and 10th of October 2012 wearing PC Pleb T shirts. There were also a number of calls for Mr MITCHELL's resignation from opposition politicians and federation representatives at this time.

The West Midlands Federation arranged a meeting with Mr MITCHELL at his constituency office in Sutton Coldfield on the 12th of October 2012. He understood that it would be a private meeting where he would be able to apologise and draw a line under the incident. He was also prepared to discuss some of the wider issues that were affecting the police at that time. The meeting began at approximately 17.00 hours.

A transcript of the meeting is attached at Appendix A. It has been prepared from a disc provided to the investigating officer (IO) by Mr MITCHELL. The original recording was made by Gareth PARRY-JONES, the Conservative Party press officer.

The transcript should be read in its entirety in order to obtain the full context. Consideration should also be given to listening to the audio recording to obtain the full meaning. The IO has identified the following summaries and extracts as having potential relevance to this investigation however:

- On page 4 DS HINTON says, "...but where we have the issues I am sure we all understand, is because you haven't said what you did say, by implication that suggests that the officers' account is in some way inaccurate or false and obviously the officers have said what has happened they have said they made their notes as soon as they could afterwards because obviously they were concerned that a senior minister had said this to them and the implication that they say that you say they wouldn't hear the last of it. So really the first question we have got to ask because that is why (inaudible) and this is also why this has gone on so long is because you haven't been able to say what you actually did say and I think we would all like you to tell us what you did say."
- Mr MITCHELL replies, "It is a very good point and I'll tell you why I haven't done that is because the police account was filtered through a very hostile national newspaper and the police have made no complaint and my apology was accepted and that I felt should draw a line under all of this because my memory of what I did and didn't say is clear and I will not as a supporter of the police for twenty six years be put in a position of suggesting an officer is not telling the truth but equally I did not say and I give you my word, I give you my word, I did not call an officer an f'ing pleb I did not say you are an f'ing moron and I did not say you should know your f'ing place I would never speak to anyone like that least of all a police officer and you have my word I never said those things. And if I say that publicly everyone says does that mean the police are lying or the minister is lying when in fact it may not be like that. This has not come direct from a police report, there was no police report there was no police complaint and you get the press saying one thing, they say lots of different things and it seemed to me much better to avoid getting into all that."
- On page 5 DS HINTON says, "I understand but I come back to and I make no apology for it but it is the first time to my knowledge that you have actually said to somebody other than the Prime Minister and we weren't there that publicly or privately you are saying to us that you didn't use the word pleb, moron which is what you have just said."
- Mr MITCHELL replies, "Yes" and DS HINTON says, "You have not said that to the wider public you used these form of words that you don't accept."
- Mr MITCHELL replies, "Because I don't want to impugn, it is quite possible that there was a mishearing or something. The incident was very brief I complied with the officer and I picked up my bicycle but I did say under my breath but audibly, in frustration, I thought you lot were supposed to fucking help us and it is for that I apologise and I am grateful to that officer for accepting my apology and I should never have said it and I will never do it again and I think we all of us in our lives occasionally let go and that is when I let go but I don't want to get in to a, who is lying, because of my respect for the police and the fact that this may well have got twisted in translation, the first reports that appeared in the Sun Newspaper were very different from the ones different in substance that appeared in the Telegraph. The Sun's report suggests I called him a fucking moron and the Telegraph didn't..."
- DS HINTON goes on, "You must understand we are in a bit of a hiatus here because honesty and integrity as I have said a number of times over the last couple of days, is a central tenor to the police core value and if that wasn't the case anything could happen as it should be to politicians and anybody in public life and public office and there is nothing new I can say on that in the last couple of days and to have by implication if not direct accusation to have a senior government figure suggesting that an officer's account of events is inaccurate and possibly untruthful has wider implication, not just for that incident but for the police service in general."
- Mr MITCHELL replies, "That is why I have taken all this shit, by not you know, I could have got up in the beginning and published a statement as I saw it in which case there would have been a who is lying battle that would be over by now I suspect because I did not spell it out in that way and I think that was the right thing to do because of my respect and value for the police and the fact that this might well be a genuine mistake you know that I might have been misheard but you guys, upon coming to see me and asked me to tell you what happened I give you my word that I never used those words."

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- On page 6 DS HINTON says, “We have said today that it is time to move on, we as you know as a federation have issues with the reform of this woman that the conservative party have and sorry we are just moving on here and I don’t know if Ken or Chris have anything to ask around the issue of Downing Street. Chris have you got anything?”
 - PS JONES then asks, “Did you make any notes about what you said?”
 - Mr MITCHELL replies, “I made a note of the exchange about two days later when I had no idea there would be this enormous shit storm so I made a note of what was said, you know the CCTV shows that it was forty seconds of exchange it was incredibly short and I complied with the officer. They very generously opened the gates for me three or four times during the day so when I got to the gate and the guy said he wouldn’t open them, I mean they are extremely heavy gates and these guys they are there to secure the centre of Britain really and I shouldn’t have said what I said but then I gave him my absolute apology he pointed out some advice about my bicycle and I pointed out that I was the chief whip and I worked in number nine which is just above the gates so I did make a note of what I said but I remember the recollection absolutely and that is why I answered, have given you the answer now.”
 - DS HINTON says, “I appreciate that you have gone beyond said what you said.”
 - Mr MITCHELL replies, “But I don’t want to in any way impugn the police force in any way and people’s recollections can vary very quickly and if there is wind a lot of people mishear things so.”
 - On page 11 PS JONES says, “But never the less you are content now to have officers remain in situ if they got it so wrong and these are officers guarding senior members of our Parliament.”
 - Mr MITCHELL replies, “That is not for me to deal with, I know what I said and I have been very keen not to escalate this and not to have a fire fight with the police. You asked me in good faith what I said and I told you.”
 - On page 13 PS JONES states, “But whatever turn we take we always come back to the point that the notes differ significantly from your account and you have given your word that what you say is true.”
 - PS JONES and DS HINTON then go on to say that they are left in a situation where if Mr MITCHELL’s account is correct then police officers have committed untruthful accounts to paper and that will have implications for officers giving evidence in court.
 - On page 18 DS HINTON says, “What you have said to us is that the words you said you do not attribute, which is a lot different to you saying in my eyes what I said is different.”
 - Mr MITCHELL replies, “No it is the first time you heard me say it, in the reporting it is always clear that I have made it clear that I never used those words and in particular pleb and moron so I have not said anything new today but I have done you, because you are the leaders of the Fed in your three areas, the fair thing which is look you in the eye and tell you the truth there is nothing new or different I have said today there is no point in rehashing but I have said very little which is new today, I mean there is little point re hashing it but I have explained why I took the view, and it is frustrating.”
 - On page 19 DS HINTON says, “We are required under our code of conduct now that we have information that officers have possibly recorded things inaccurately and false to be reported back to the Met’s own professional standards well our own Professional Standards we have got no choice in that because we are in possession of that and our code of conduct which is laid down by.....”

And

- “All I’ll say at this point I have no choice, my code of conduct to the police is that we have to without exception report the fact that another officer is possibly corrupt. And when I say corrupt I mean he falsified a document and you know tell me if I am wrong as well but as a Sergeant I am not wrong.”
- PS JONES replies, “DITTO.”
- On the same page DS HINTON says, “I appreciate your candour, and we appreciate you have gone beyond what you said in, to the media.”
- Mr MITCHELL replies, “Well I have confirmed what I said in the media before”
- DS HINTON says, “Well I think you’ve actually said what you haven’t said, what you have said rather than what the police are saying”
- Mr MITCHELL replies, “I did confirm what I have said to the media before.”
- On page 21 Mr MITCHELL says, “Well I have been absolutely clear with you and absolutely categoric and I obviously ask you to accept my word, given to you today, looking at you in the eye telling you what I didn’t say.”

The meeting concluded at approximately 17.45 hours and Inspector MACKAILL immediately gave a press interview to a number of reporters that had gathered outside. DS HINTON and PS JONES were standing beside him at the time.

This interview was covered live by Sky News and a transcript of the footage is attached at Appendix B. The full transcript should be read to obtain the full context but the following extracts have been taken from it:

Insp Mackaill ...whilst he has repeated to use his words “a profound apology with feeling” for what he did say. He has also repeated his denial of using many of the words reported in the officers notes recorded at the time. His explanation for that is that he did not want to I quote “get into a fire fight with the police or impugn the integrity of police officers” who unfortunately were left in a position where his continued denial of facts recorded in police records does exactly that, so we are no further forward than we were an hour ago.

Unknown Reporter Should he resign?

Insp Mackaill I think Mr. MITCHELL now has no option but to resign, he’s continuing to refuse to elaborate on what happened, I think his position is untenable.

Michael Crick Did he say anything that made you better disposed towards him?

Insp Mackaill It was a professional meeting and I repeat what he described as a profound apology with feeling for what he did say and that was a comment around that officers had been there to help them but that is balanced with his denial of specific and precise speech recorded by police officers at the time.

Michael Crick Did he tell you what he did say?

Insp Mackaill He refused to tell us what he did say on the grounds he did not want to impugn police officers integrity and start, again, I’ll call the word a fire fight with the police.

The federation representatives gave a number of other interviews relating to this meeting. Prior to the meeting PS JONES made the following comments to ITV:

“I’ll be just asking him to give us his version of events and tell us precisely what he did say. If he avoids the subject or if he dances “round it ... then, and we didn’t resolve the matter then I think he does need to go.”

Following the meeting Inspector MACKAILL made the following comments to ITV:

“He did repeat his apology for what he did say, but he also repeated his denial of using key elements of the line in the officer’s reports that were made up at the time and again Mr MITCHELL does not wish to openly impugn the reputation of the officers but he will not tell us exactly what he said and we are left with this unresolved issue that he is saying that the content of the police report is dishonest. I think Mr MITCHELL’s position is untenable and I think he has to resign.”

DS HINTON made the following comments to BBC Midlands today:

“He has come out with what he’s not said but he is not saying what he did say and that has caused an integrity issue.”

He was interviewed at length by Radio 5 Live. During the interview he made the following comment:

“He still won’t say exactly what he did say.”

PS JONES was interviewed on BBC Midlands today. He stated that the matter had now become an integrity issue. When asked if Mr MITCHELL should resign he said, “The person that’s not telling the truth needs to go.”

PS JONES was also interviewed on BBC Radio 5 Live. The interview focussed on the fact that there were obvious contradictions between Mr MITCHELL’s account and that contained in the police log. He stated that he found it strange that Mr MITCHELL wanted to draw a line under the matter and move on. He stated that Mr MITCHELL was emphatic that he had not used the words attributed to him and that the matter was an integrity issue. He stated that Mr MITCHELL should resign if he had been untruthful.

PS JONES does not use the phrase, “refused to tell us what he did say” during the interviews.

It is accepted that the officers are likely to have given interviews to other media organisations including newspapers. The IO has not been made aware of any other comments made by the officers that contradict the ones quoted here however.

Mr MITCHELL subsequently resigned from his post as a government minister because of the controversy caused by the Downing Street incident.

On the 17th of October 2012 West Mercia police received a complaint from a member of the public named Mr PLUME. It contained a number of different aspects but they all related to Inspector MACKAILL’s comments about Mr MITCHELL in the national media.

A proportionate investigation was conducted by West Mercia PSD and Inspector MACKAILL gave a written response. The investigation report including the written response is attached at Appendix C.

Inspector MACKAILL answers one of the points raised by Mr PLUME as follows:

“...I have never made any allegations against Mr Mitchell; having given Mr Mitchell the opportunity to clarify exactly what happened, I described his position as untenable following his refusal to do so. It was the position of the three JBB’s that the failure to give an account prevented the public from reaching an informed conclusion and potentially reflected badly on the police service.”

On the 18th of December 2012 Channel 4 News broadcast a story detailing the circumstances that led to Mr MITCHELL’s resignation. During that broadcast it was disclosed that the meeting at the constituency office on the 12th of October had in fact been recorded by Gareth PARRY-JONES.

The program also contained an interview of Insp MACKAILL by the presenter, Michael CRICK. During this interview Mr CRICK inferred that Insp MACKAILL had misrepresented what Mr MITCHELL had said during the media interviews, thereby directly challenging his integrity. In response Insp MACKAILL said:

“That is my understanding of what Mr MITCHELL was saying to us. Even in the meeting he didn’t actually give a full statement, or his full version of events.”

As a result of the Channel 4 News broadcast, the Deputy Chief Constable of West Mercia Police directed that the Professional Standards Department should carry out an investigation. A voluntary referral was made to the IPCC on the 24th of December 2012 with a recommendation that the investigation should be supervised by them as a minimum. The rationale was that there was a potential for the impartiality of the police investigation to be questioned. It was decided that the investigation would be supervised.

The Appropriate Authority assessed that the conduct, if proven or admitted, could amount to Gross Misconduct. A regulation 15 notice was served on Inspector MACKAILL on the 15th of January 2013. It read:

“That during media briefings/interviews on the 12th of October 2012 you gave a false account of a meeting with Andrew MITCHELL MP in a deliberate attempt to discredit him.”

The meeting was recorded and extracts from it were broadcast on a Chanel 4 news report on the 18th of December 2012 along with extracts from the media interviews. During this news broadcast your integrity was directly challenged.”

On the 28th of January 2013 Chief Inspector REAKES-WILLIAMS wrote the following terms of reference for the investigation that were agreed with the IPCC:

7. *To investigate whether Insp. Ken MACKAILL provided a false account of the Federation meeting with Rt. Hon. Andrew Mitchell MP on 12 October 12 to the media in a deliberate attempt to discredit Mr Mitchell.*
8. *To identify whether Insp. MACKAILL has breached the Standards of Professional Behaviour for Police Officers and therefore has a case to answer for misconduct or gross misconduct.*
9. *To consider and report on whether there is any organisational learning arising from this matter, including whether any change in policy or practice would help to prevent a recurrence of the incident or alleged misconduct.*

On the 15th of February 2013 the IO and CI REAKES-WILLIAMS met with Mr MITCHELL. He provided a copy of the tape recording from the meeting on the 12th of October. He also provided a statement detailing the impact that the Plebgate affair had on him and the role of the police federation. The main body of the statement was copied from an account that Mr MITCHELL had provided to the Sunday Times.

In summary, Mr MITCHELL states that the Chair of the West Midlands Federation had contacted him in order to arrange the meeting. He understood that the purpose would be to “clear the air and look to the future.”

Mr MITCHELL states that they agreed that the meeting would be private but the federation acted in bad faith by arranging for the press to attend. He considered cancelling it but he thought that this might be interpreted as cowardice.

The meeting started at 5 PM and Mr MITCHELL claims that the federation officers expressed amazement that the press had discovered the location of the meeting. He goes on to say that during the next 45 minutes he told them exactly what had happened and precisely what he had said or not said. He also states that they brought the meeting to a conclusion at 5.45 PM in order to make the six o/clock news bulletins.

Mr MITCHELL alleges that the tape recording of the meeting clearly shows that the Federation representatives that briefed the press after the meeting were not telling the truth.

His statement is included at Appendix D.

During the meeting between Mr MITCHELL and PSD he alleged that DS HINTON and PS JONES had also given similar briefings to the press. Following consultation with the IPCC, the decision was made to widen the scope of the investigation to include them. A Regulation 15 notice was served on DS HINTON on the 8th of March 2013 and on PS JONES on the 4th of April 2013. The content of the notices reflected the detail in the notice served on Inspector MACKAILL.

Inspector MACKAILL was subject of a misconduct interview on the 29th of April 2013. The full interview transcripts are attached at Appendix E. His responses are summarised as follows:

Inspector MACKAILL stated that some of the comments that he had made to the media had been taken out of context and that they didn't reflect in full what he had said immediately after the meeting. He also stated that he maintained the view that Mr MITCHELL repeated the denial of what officers reported he had said but he wouldn't tell them (the federation) what he had actually said.

Inspector MACKAILL read an extract from the Daily Mail newspaper that had been published at the end of December 2012:

“Mr MITCHELL to Police officer “please open the gates”.

Policeman “no, please get off your bike and leave by the pedestrian exit”.

Mr MITCHELL “please open the gates I am the Chief Whip, I work here at number 9”.

Policeman “no you have to get off your bike and wheel it out”.

Mr MITCHELL “look, I have already been in and out several times today, please open the gates”

Police, “no”

Mr MITCHELL added “with that I complied with the Policeman's request and wheeled my bike across the pavement and out through the pedestrian entrance. As I did so I muttered, though not directly at him, “I thought you guys were supposed to effing help us”. The Policeman's response, “if you swear at me I will arrest you”. Mr MITCHELL, when I cycled off as I left I think I said I would pursue the matter further the next day”.

Inspector MACKAILL stated that he was hoping that is what Mr MITCHELL would say to them and then they would have had two versions of events. He does also state however that with the benefit of hindsight he could now see how his comment could have been misinterpreted when taken in isolation.

Inspector MACKAILL was asked to comment on why Mr MITCHELL was only asked once to tell the federation representatives what he had said to the officers. He stated that he didn't know why it hadn't been presented again but it had been asked once and he (Mr MITCHELL) had been given the opportunity to answer it.

He stated that he saw the meeting as an opportunity for Mr MITCHELL to tell his version of events so that there would be two versions and people could make up their own minds. He also hoped to discuss the police cuts if the first issue could be resolved.

Inspector MACKAILL clarified that there was no media strategy agreed before the meeting with Mr MITCHELL because they didn't know what he was going to say. He also stated that although the date and time of the meeting was public knowledge he had not disclosed the location to the press. He did not know how the press found out about the meeting's location.

Inspector MACKAILL denied that the meeting with Mr MITCHELL had been terminated in order to catch the 6 o'clock news. He also clarified that he had given the media briefings immediately after the meeting and there had been no time for him, the federation and the Gaunt brothers to have any kind of review of what had been said.

Inspector MACKAILL denied that he had conspired to lie about the content of the meeting with Mr MITCHELL in order to force him to resign. He also stated that the message that he had given to the press was correct when taken in its entirety.

DS HINTON was interviewed on the 30th of April 2013. The full interview transcripts are attached at Appendix F. His responses are summarised as follows:

DS HINTON denied that he or his federation colleagues had given a false account of the meeting with Mr MITCHELL with a view of forcing him to resign. He stated that the comments given to the media were an accurate reflection of what he understood had gone on in the meeting. He also stated that the comment he made to Midlands Today on the 12th of October about Mr MITCHELL “not saying what he did say” had been taken out of context.

He also stated that comments from Mr MITCHELL had been published in the media subsequent to the meeting where he had gone beyond what he had said to the federation representatives. He also pointed out that although he didn't know the meeting was being recorded he was aware that there was a press officer taking notes. It would therefore have been foolish of them to speak untruthfully about the meeting because there was an independent witness present. He would not have said anything different even if the meeting had been overtly recorded.

DS HINTON confirmed that he understood that the meeting with Mr MITCHELL would be private. He stated however that the three federation representatives travelled to the meeting with John GAUNT and that during the journey GAUNT had been receiving calls from the media asking him when they were going to arrive.

DS HINTON confirmed that there was no set agenda before the meeting to call for Mr MITCHELL's resignation. They had all agreed however that it was an honesty and integrity issue in relation to the records made by the officers at the gates of Downing Street. He also confirmed that they did not have the opportunity to review what was said during the meeting before they gave briefings to the media.

He confirmed that he had not disclosed the location of the meeting to the press. He stated that the press would have been aware of the time and date of the meeting. He also stated that the press would have been aware that Mr MITCHELL would have been in his constituency that day because he had been on television in the area earlier on. He also stated that the Gaunt Brothers would have been aware that the Federation did not want the media to know the location of the meeting.

DS HINTON was asked about a Tweet made by the Gaunt Brothers prior to the meeting that indicated that Mr MITCHELL's fate would be decided at the meeting. He stated that he did not recall that Tweet and that the Gaunt Brothers had occasionally made Tweets or done things that the Federation weren't happy with.

He stated that in his view Mr MITCHELL had been given ample opportunity to clarify what he did say to the officers at the gates of Downing Street and he had chosen not to do so. He also stated that when the comments made to the media were taken in context, especially as they were made immediately after the meeting, then they were a fair and accurate reflection of what had been said.

DS HINTON was asked why Mr MITCHELL wasn't told that the federation was going to call for his resignation after the meeting. He acknowledged that there was no agreement to do so. Inspector MACKAILL had made that comment to the media in response to a specific question put to him.

DS HINTON confirmed that the Gaunt Brothers had told them to be mindful of the 6 o'clock news and to finish the meeting before then if possible. In the event however the meeting came to a natural conclusion. At the time DS HINTON did not know how long it had taken.

He confirmed that he had been standing next to Inspector MACKAILL during the initial press briefing. He agreed that he may have been influenced by what he had heard when he gave his own interviews. He stated however that he had agreed with everything he had heard and that he would have said something very similar himself.

DS HINTON explained that the PC Pleb campaign was not designed to be a personal attack on Mr MITCHELL. The Plebgate incident occurred at a time when there was an active federation campaign to fight police cuts and the PC Pleb slogan was used in that context.

He stated that MR MITCHELL had given an interview in a newspaper in December 2012 where he had given a fuller account of what he had said to officers at the gates of Downing Street. He stated that if Mr MITCHELL had given that account during the meeting then he wouldn't have used the phrase, "HE WOULDN'T TELL US WHAT HE DID SAY."

DS HINTON also clarified that he did not directly call for Mr MITCHELL to resign.

The interview was finalised by DS HINTON stating that he acknowledged that if certain comments made to the media were taken in isolation then it didn't look right. When everything was taken in context however it was an accurate reflection of what had been said in the meeting.

PS JONES was interviewed on the 30th of April 2013. The full interview transcripts are attached at Appendix G. His responses are summarised as follows: -

He stated that it had been correct for the federation officers to use the phrase, "HE REFUSED TO TELL US WHAT HE DID SAY" following the meeting with Mr MITCHELL if the comments were taken in context.

PS JONES stated that MR MITCHELL did not give a full explanation of what he said to the officers at the gates of Downing Street. He made reference to an article in the Telegraph on the 23rd of December where Mr MITCHELL gives a fuller account of the conversation that he had with the officers. He was also content that it would have been clear to Mr MITCHELL what the officers expected to hear but he constantly deflected from the issue.

He confirmed that he viewed the account given by Inspector MACKAILL to the media immediately after the meeting as being accurate. He also confirmed that he had given a similar message when later interviewed by newspaper reporters.

PS JONES explained that he had felt uncomfortable in directly calling on Mr MITCHELL to resign. During his own media interviews he had addressed the question by stating that public opinion was very strongly in favour of him resigning and he fell in line with that opinion.

He did not recall a Tweet made by the Gaunt Brothers before the meeting indicating that Mr MITCHELL's fate would be decided by the outcome of it. He stated that the Gaunt Brothers used a very "tabloid" style and that comment was consistent with the general mood at that time. He disagreed with the comment but in the context of its day it was less inflammatory.

PS JONES confirmed that he was not aware that the meeting was going to be tape recorded. He was aware that Gareth PARRY-JONES would be making contemporaneous notes of the meeting however. He also confirmed that the meeting was not deliberately terminated before 6 o'clock in order to catch the news. The meeting came to a natural conclusion. The officers would have been conscious of the news deadline however.

PS JONES confirmed that there was no time for the officers to debrief following the meeting with Mr MITCHELL. As soon as they walked out of the constituency office the media were waiting for them. There was no agreement in terms of a media message or press strategy.

He also confirmed that he hadn't told the press of the location of the meeting and he was sure the other Federation representatives hadn't either. He also did not think the Gaunt Brothers had informed the press.

PS JONES explained that the PC Pleb campaign was originally initiated as a "hook" into the wider anti-cuts campaign. It then became an integrity issue as the story focussed on the disparity between the officers' accounts and that of Mr MITCHELL. The reason for the meeting was the integrity issue. The wider issue of police cuts would have been discussed if that issue could have been resolved.

On the 3rd of May 2013 Slater Gordon solicitors, acting for the three officers under investigation, made a written submission to PSD asking for the regulation 15 notices to be withdrawn. This was based on video footage that had been recorded by PS Tom CUDDERFORD, the deputy chairman of the West Midlands Federation. The footage was recorded on an iPad outside the constituency office. A copy has been provided to PSD. The footage is effectively a duplication of the Sky TV coverage.

The investigating officer has contacted Gareth PARRY-JONES. He is no longer employed by the Conservative Party and he has declined to be involved in the misconduct investigation.

The investigating officer has contacted Michael CRICK. He was asked to provide a written response to a number of questions relating to this investigation. Mr Ed FRASER, a managing editor with Channel 4 News, answered on his behalf.

In summary, he stated that he could not disclose how Channel 4 found out about the location of the meeting because of journalistic sources. He pointed out however that a number of other journalists were also present so it was not just their reporter that knew about the meeting. He also stated that it was important for journalists to remain impartial so it was not therefore appropriate for Channel 4 to offer any other opinions on the matter.

The investigating officer has contacted Mr Jon GAUNT. He was asked to provide a written response to a number of questions relating to the investigation.

In summary, he stated that the press must have guessed the location of the meeting because Mr MITCHELL had been on TV in the area at lunchtime on that day. He also confirmed that there was no media strategy in relation to the meeting. He had met with the federation representatives prior to it. They had all agreed that what they wanted was for Mr MITCHELL to tell them what he actually said and that would put an end to the matter.

He confirmed that there was no agreement to call for Mr MITCHELL's resignation. He explained that Mr MITCHELL had been under immense pressure from all quarters leading up to the meeting and that he hoped Mr MITCHELL would end the matter by telling the federation what he had actually said. His fate would then have been decided by his party. That is what he had meant by his Tweet prior to the meeting.

PS Ian EDWARDS, the chair of the West Midlands Federation, has provided a written response to the IO. He confirms that he arranged the meeting with Mr MITCHELL. He initially wrote an open letter to Mr MITCHELL who then rang him to arrange the time, date and location. He understood that the incident in Downing Street would be discussed and that Mr MITCHELL also wanted to discuss police cuts.

They had agreed that the meeting would be private but PS EDWARDS had made it clear that he would confirm the time and date of the meeting with the media. They had also agreed that they would make a joint press release if they could reach agreement over the issues to be discussed.

An email that appeared in the press described as a "police log" is attached at Appendix I. This has been provided by the Operation Alice team. It may be of relevance because it is likely that this is what the federation representatives believed that the officers involved in the Downing Street incident were alleging had been said by Mr MITCHELL.

Conclusion

The "Plebgate" affair has clearly had a very significant impact on Mr MITCHELL's political career and on his private life. Following the incident with officers at the gates of Downing Street he came under intense pressure in the national media. This ultimately led to his resignation from the post of Chief Whip of the Conservative Party.

The Police Federation, and in particular Region 3, undoubtedly contributed to the pressure placed on Mr MITCHELL and therefore his decision to resign. This report has not considered whether it is appropriate for federation representatives to call for the resignation of a government minister. The terms of reference are clear in that the Gross Misconduct investigation is concerned with whether they lied in order to discredit him, or otherwise breached the standards of professional behaviour.

The allegation levelled against the officers is that they deliberately misrepresented what Mr MITCHELL had said during the constituency office meeting when they gave media interviews immediately afterwards. The specific detail is that they told the media that Mr MITCHELL refused to tell them what he had said at the

gates of Downing Street. Mr MITCHELL claims that he “did tell the officers exactly what had happened, precisely what he had said and what he had not said.”

In order to determine whether the officers have a case to answer the IO has reviewed the transcript of the meeting as well as the media interviews with the federation representatives. The general circumstances of the background to the meeting, why it was arranged and the context in which the media interviews were given have also been considered. The accounts provided by Mr MITCHELL and the officers have also been taken into account.

When the recording of the meeting between Mr MITCHELL and the federation representatives is reviewed, it can be seen that early on DS HINTON asks Mr MITCHELL the direct question, “Tell us what you did say.” This appears to be the only occasion during the entire meeting where he is asked the question directly.

Mr MITCHELL does not initially answer the question. He denies using some of the phrases attributed to him in the media. DS HINTON says that this is the first time Mr MITCHELL has openly denied using the words “Pleb” and “Moron.” A short time later Mr MITCHELL then goes on to say, “...The incident was very brief, I complied with the officer and I picked up my bicycle but I did say under my breath but audibly, in frustration, I thought you lot were supposed to fucking help us...”

DS HINTON appears to be willing to move on to discuss the police cuts but he then asks PS JONES and Inspector MACKAILL if they have anything to add in relation to the Downing Street incident. PS JONES then asks, “Did you make any notes about what you said?”

Mr MITCHELL’s response includes, “They very generously opened the gates for me three or four times during the day so when I got to the gate and the guy said he wouldn’t open them, I mean they are extremely heavy gates and these guys they are there to secure the centre of Britain really and I shouldn’t have said what I said but then I gave him my absolute apology he pointed out some advice about my bicycle and I pointed out that I was the chief whip and I worked in number nine which is just above the gates so I did make a note of what I said but I remember the recollection absolutely and that is why I answered, have given you the answer now.”

These exchanges occur in the first 15 minutes of the meeting. They appear to be the only time that Mr MITCHELL is asked to provide an account of what he said and the only time he actually gives an account.

Taken in isolation it therefore appears that the federation representatives asked Mr MITCHELL to provide an account of what he said and he has done so. It is a matter of interpretation whether this represents a full account however.

The meeting continues for a further 30 minutes. The main bulk of the interview after that point is focussed on the issue of integrity. DS HINTON and PS JONES outline to Mr MITCHELL that integrity is core to the police service and the importance of officers being able to rely on their notes. They tell him that they feel obliged to report the matter to the Metropolitan Police Professional Standards Department.

During the misconduct interviews the officers stated that after reflecting on the need to make a referral to PSD they decided that it was not necessary.

Towards the end of the meeting DS HINTON says, “What you have said to us is that the words you said you do not attribute, which is a lot different to you saying in my eyes what I said is different.”

The meaning of this statement is unclear. Mr MITCHELL gives a response to it that includes the following, “No it is the first time you heard me say it, in the reporting it is always clear that I have made it clear that I never used those words and in particular pleb and moron so I have not said anything new today but I have done you, because you are the leaders of the Fed in your three areas, the fair thing which is look you in the eye and tell you the truth there is nothing new or different I have said today there is no point in rehashing but I have said very little which is new today...”

Mr MITCHELL also says, “With respect I haven’t told you anything I haven’t said before I hadn’t said to you.”

The meeting is concluded by Mr MITCHELL saying, “Well I have been absolutely clear with you and absolutely categorical and I obviously ask you to accept my word, given to you today, looking at you in the eye telling you what I didn’t say.”

There is therefore an indication from Mr MITCHELL that he has said nothing new to the officers during the meeting. The meeting is also finalised by Mr MITCHELL telling the officers that he has told them what he “didn’t say.”

It should be noted that the officers leave the constituency office and they are immediately faced by the media. It is highly unlikely that they would have had the opportunity to reflect on what had been said during the meeting and discuss what they were going to say to the press. They all confirm this during interview.

If the officers did conspire to lie about what had been said, then they must have agreed to do so in advance of the meeting. If a decision was made to lie during or after the meeting then this must have been made by

Inspector MACKAILL alone. The other officers could have realised that he was lying when he gave the initial news interview and then decided to join in with the lie.

A fact that should also be considered is that Gareth PARRY-JONES was present during the meeting. The officers knew that he would be making contemporaneous notes even though they did not know the meeting was being recorded. Is it therefore likely that the officers would decide to deliberately lie knowing that there was an independent person that could corroborate what had been said?

It is also worthy of note that neither Mr MITCHELL nor Mr PARRY-JONES made any allegations against the officers in the days following the media interviews in October 2012. The allegations against Inspector MACKAILL were not made until the Channel 4 News broadcast in December 2012. This could of course be because Mr MITCHELL was attempting to diffuse the issue and not enter into a confrontation with the police.

On reviewing the transcript of the meeting it is evident that Inspector MACKAILL did not say anything. This may mean that he should have been in a better position than the other officers to fully assess what Mr MITCHELL was saying. It could equally mean that he was not fully concentrating on the meeting because he was concerned about the media interviews.

The IO has had the benefit of having access to a transcript of the meeting to compare with what was said to the media. This was not available to the officers and as already noted they would not have had time to discuss the detail of the meeting between themselves prior to the media interviews.

It is therefore appropriate to consider what the officers understood Mr MITCHELL to have said as opposed to the fine grain detail of what he actually said.

All three officers stated in interview that Mr MITCHELL had been given the opportunity to tell them what he had said outside the gates of Downing Street but he had chosen not to do so. PS JONES talks about Mr MITCHELL “deflecting” them from that topic. If their accounts are to be believed, then even though Mr MITCHELL did provide limited detail of the conversation that he had with the officers in Downing Street, they did not accept that as his full account.

The officers also point to a more detailed account that Mr MITCHELL provided to the media a number of months after the meeting. It should be noted that they wouldn’t have known about this article when they gave their media interviews but it must be acknowledged that Mr MITCHELL did have a fuller account that he could have provided to them. A copy of the Telegraph article printed on the 23rd of December 2012 is attached at Appendix H.

If the officers have lied in order to deliberately discredit Mr MITCHELL then the obvious question to ask is what would be their motive for doing so? It could be argued that they were running a successful, high profile, anti-cuts media campaign and the account that he provided to them did not fit with their agenda.

If Mr MITCHELL had managed to defuse the “plebgate” row then their campaign may have been weakened. The federation may have felt under pressure to come up with a newsworthy account from the meeting for the national media that was waiting outside. It may have been difficult to call for his resignation if they were simply left with a situation where they had conflicting accounts from Mr MITCHELL and the uniformed officers because how could anyone be sure who was telling the truth?

It could also be the case that the officers entered the meeting with a pre planned media statement in mind and they were not flexible enough to adapt it based on what Mr MITCHELL told them in the meeting.

This assertion was put to the officers during interview. They stated that this was not the case and that if Mr MITCHELL had given a full account then they would have accepted it and left the public to decide. They also point out that the call for Mr MITCHELL’s resignation came as a result of a direct question put to Inspector MACKAILL. It is also the case that the comment from Inspector MACKAILL about Mr MITCHELL refusing to tell them what he did say came as a result of a direct question from Michael CRICK.

It has already been noted that during the meeting Mr MITCHELL was only directly asked once to explain exactly what he did say in Downing Street. It could be argued that the federation representatives should have made it absolutely clear to Mr MITCHELL what the consequences would be if he failed to go further and give them his full account before the meeting was finalised. It has to be acknowledged that this was a meeting and not a police interview however.

This must also be viewed in the context that the meeting had been arranged specifically to discuss the issue. It could equally be argued that it should have been clear to Mr MITCHELL that the officers had come to the constituency office in order to obtain his full account. The officers have indicated that in their view he chose not to do so. It is also the case that the officers did make it clear to Mr MITCHELL that there was an unresolved integrity issue before they gave the media interviews.

It is evident that Mr MITCHELL and the federation representatives have conflicting views on the true nature of the account he gave to them during the meeting at the Sutton Coldfield constituency office and the accuracy of the subsequent media interviews. Both parties have had access to the tape recording of the meeting and the content of the media interviews. The differences in their interpretation of this material are unlikely to be resolved.

Gross Misconduct is defined as “a breach of the Standards of Professional Behaviour so serious that dismissal would be justified”. (Home Office Guidance)

The IO does not consider that there is any evidence that the federation representatives deliberately lied in order to discredit Mr MITCHELL, and on the balance of probabilities, there is no case to answer for gross misconduct.

Having reviewed all of the available material, it is clear that in light of the recording of the meeting, the comments made by the federation representatives could be viewed as ambiguous or misleading. The IO has therefore considered whether this could amount to misconduct because what was said during the meeting was misrepresented even if there was no deliberate intention to lie.

Misconduct itself is not defined other than by considering the individual aspects of the Standards of Professional Behaviour. The points relevant to these circumstances are:

- 1.13 Police Officers act with integrity and are open and truthful in their dealings with the public and their colleagues, so that confidence in the police service is secured and maintained. (Honesty & Integrity)
- 1.14 Police Officers do not knowingly make any false, misleading or inaccurate oral or written statements or entries in any record or document kept or made in connection with any police activity. (Honesty & Integrity)
- 1.60 Police Officers behave in a manner which does not discredit the police service or undermine public confidence, whether on or off duty. (Discreditable Conduct)
- 1.62 Discredit can be brought on the police service by an act itself or because public confidence in the police is undermined. In general, it should be the actual underlying conduct of the police officer that is considered under the misconduct procedures, whether the conduct occurred on or off duty.....In all cases, it must be clearly articulated how the conduct or conviction discredits the police service. (Discreditable Conduct)
- 1.63 In the interests of fairness, consistency and reasonableness the test is not solely about media coverage but has regard to all of the circumstances. (Discreditable Conduct)

The following general guidance is also relevant:

- 1.8 *Where these Standards of Professional Behaviour are being applied in any decision or misconduct meeting/hearing, they shall be applied in a reasonable, transparent, objective, proportionate and fair manner. Due regard shall be paid to the nature and circumstances of a police officer's conduct, including whether his or her actions or omissions were reasonable at the time of the conduct under scrutiny. (Guidance on Standards of Professional Behaviour)*

When the comments are placed in the context of the wider Plebgate affair and the intense press interest it would have been advisable to have a formal press strategy in place prior to the media interviews. It would also have been advisable for the officers to have debriefed the meeting with their advisors before giving the interviews. This may have enabled them to agree a considered response and a form of words that could not have been misinterpreted.

It is notable that PS JONES does not use phrases similar to, “he refused to tell us what he did say” during his media interviews. He chose to focus on the discrepancy in the accounts and the integrity issue. He also declined to directly call for Mr MITCHELL's resignation but instead indicated that the person who was lying should resign.

This may indicate that he had a different interpretation of what was said during the meeting but it could also mean that he simply chose to focus on the integrity issue instead.

The officers did have Jon GAUNT with them outside the constituency office but he does not appear to have provided any advice in relation to what message the federation representatives should give to the media. PS JONES describes the Gaunt Brothers style as “tabloid” and PS HINTON indicates that they would sometimes go further than the federation wanted them to.

It may therefore be the case that the role of the Gaunt Brothers was more concerned with generating maximum publicity for the anti-cuts campaign as opposed to advising them on the content of their media statements.

Despite the other factors, these considerations ultimately come down to whether it was fair in the circumstances for the officers to indicate to the media, and therefore the wider public, that Mr MITCHELL had refused to give them an account bearing in mind what he actually told them. This comment must also be viewed in the wider context of the overall account of the meeting that was given to the media in order to determine whether it was in fact misleading.

Having reviewed the media interviews it is evident that everything else the Federation representatives say is an accurate reflection of the meeting. Careful examination of what they say also indicates that they do acknowledge that Mr MITCHELL has provided some kind of account:

Inspector MACKAILL says on Sky News, “It was a professional meeting and I repeat what he described as a profound apology with feeling for what he did say *and that was a comment around*

that officers had been there to help them but that is balanced with his denial of specific and precise speech recorded by police officers at the time.”

During the same interview Inspector MACKAILL says, “I think Mr MITCHELL now has no option but to resign, he’s continuing to refuse to *elaborate* on what happened, I think his position is untenable.”

He says in a later interview with ITV, “He did repeat his apology for what he did say, but he also repeated his denial of using key elements of the line in the officer’s reports that were made up at the time and again Mr MITCHELL does not wish to openly impugn the reputation of the officers but he will not tell us *exactly* what he said and we are left with this unresolved issue that he is saying that the content of the police report is dishonest. I think Mr MITCHELL’s position is untenable and I think he has to resign.”

DS HINTON says on Radio 5 Live, “He still won’t say *exactly* what he did say.”

The phrases highlighted above do tend to indicate that the officers believed that Mr MITCHELL had not given them his full account. This is consistent with what they say during their misconduct interviews.

It has to be acknowledged however that Mr MITCHELL did provide an account of what he had said in Downing Street and saying that he refused to do so was incorrect in the opinion of the IO. There are a number of factors that should be considered when deciding whether this amounts to misconduct however. These include:

1. The account given by Mr MITCHELL comes at the beginning of the meeting.
2. The meeting lasted 45 minutes and the officers had no opportunity to review what had been said prior to the press interviews.
3. The interviews were broadcast live by the national media and the officers would undoubtedly have been under a degree of pressure.
4. The phrase, “refused to tell us what he did say” was initially used by Inspector MACKAILL in response to a direct question by a reporter.
5. Some of the statements made by Mr MITCHELL towards the end of the meeting tend to indicate that he has not told the officers anything new during the meeting.
6. The officers were aware that there was a Conservative Party press officer making notes during the meeting.
7. Mr MITCHELL did give a more detailed account to the media of the events in Downing Street subsequent to the meeting.
8. The phrases used by the officers should be viewed in their full context and not as isolated comments.
9. Calling for a Government Minister to resign is a serious matter and it should be expected that the rationale for doing so should be clear and unambiguous.

The IO considers that although some of the phraseology used by the officers was not totally correct, this has to be seen in the full context of the message they were trying to deliver. Focussing on individual phrases does not fully reflect the underlying conduct of the officers at the time.

For these reasons, and on the balance of probabilities, the IO does not consider that the officers have a case to answer for misconduct.

The IO does consider, however, that there is learning for the officers and the Police Federation however.

Recommendations

1. Although the case for misconduct is not made out, the officers have shown a lack of professional judgement by becoming involved in something for which they were unprepared and out of their depth when dealing with such intense media scrutiny. There is therefore a strong case for them to receive Management Action.
2. It must be remembered that the officers were acting in their role as representatives of the *Police Federation* (and not their individual Police Forces) when they met with Mr MITCHELL and gave their media interviews. Their conduct should at all times comply with the Standards of Professional Behaviour but Police Federation officials work to different rules and governance to that of their individual forces.

The Police Federation of England and Wales has commissioned a wide ranging review of the role of the federation and their control mechanisms. The Plebgate affair was one of the catalysts for this review. The independent body conducting it is due to report at the end of the year. The IO recommends that the findings of that report should form the basis of any learning delivered to the officers and their federations.

Confidential Information

There is a question in relation to the legality of the covert recording of the meeting by Mr MITCHELL and Gareth PARRY-JONES. The officers under investigation have not complained about its use in these proceedings and it is not therefore considered proportionate to make any further enquiries in relation to this issue.

The only media coverage that has been fully transcribed is that of Sky News. This is because it captures the initial press statement made immediately after the meeting. It was not considered proportionate to fully transcribe all of the other broadcasts. Phrases similar to, "refused to tell us what he did say" have been quoted from them but the whole interview should be viewed to obtain their full context.

TDI Gerry SMITH

CI Jerry REAKES-WILLIAMS

APPENDIX 5

TABLE SHOWING REPORT VERSIONS FOR CM/95/12

<i>Key Content and Issues</i>	<i>Submitted By</i>	<i>Submitted To</i>	<i>Date</i>
<p>Version A</p> <p>Investigating Officer's report containing the conclusions and recommendations of TDI SMITH of No Misconduct. The report also contains a conclusion from CI REAKES-WILLIAMS with a finding of Misconduct but not Gross Misconduct. Following sight of this report the IPCC advises that there should be only one conclusion.</p>	CI REAKES-WILLIAMS	Mr Steve BIMSON (IPCC)	26/07/13
<p>Version B</p> <p>Investigating Officer's report with all conclusions and recommendations removed. Determination of DCC Chesterman and DCC Brunton made on this report (prematurely).</p>	CI REAKES-WILLIAMS	DCC CHESTERMAN (West Mercia) DCC BRUNTON (Warwickshire) DCI DOYLE (West Midlands)	31/07/13
<p>Version C</p> <p>Final report jointly signed by TDI SMITH and CI REAKES-WILLIAMS with a single conclusion of no Misconduct and recommendations as follows: - 1. Officers have shown a lack of professional judgement therefore a strong case for Management Action. 2. The findings of the National Federation review should form the basis of any learning delivered to the officers.</p>	CI REAKES-WILLIAMS TDI SMITH TDI SMITH	DCC CHESTERMAN (West Mercia) DCC BRUNTON (Warwickshire) Mr Steve BIMSON (IPCC) ACC CANN (West Midlands)	11/08/13 12/08/13 13/09/13

Joints Statements From The Three Chief Constables

STATEMENTS ISSUED BY WEST MERCIA POLICE:

TUESDAY, 15 OCTOBER

11.55 AM STATEMENT FROM CHIEF CONSTABLES OF WARWICKSHIRE, WEST MERCIA AND WEST MIDLANDS POLICE

On 12th October 2012 Police Federation representatives from Warwickshire, West Mercia and West Midlands Police met Mr Mitchell MP at his constituency office in Sutton Coldfield. This meeting was recorded by Mr Mitchell's representative and following the meeting the Chairman of West Mercia Police Federation gave an account of the meeting to the press who were waiting outside. Subsequently all three Police Federation representatives provided accounts to the media. As a result of allegations that the Police Federation representatives had provided false accounts of the meeting in a deliberate attempt to discredit Mr Mitchell, West Mercia Police referred the matter to the Independent Police Complaints Commission as a recordable conduct matter.

Mr Mitchell has not made a formal complaint against police.

When referring the matter to the Independent Police Complaints Commission, West Mercia Police invited them to conduct a high level independent investigation. The following is an extract from the referral form;

This has the potential to be a high profile investigation. There is also potential for the impartiality of the police investigation to be questioned. It is the view of the Appropriate Authority that the IPCC should be given the opportunity to conduct an independent investigation or as a minimum supervise the investigation.

The IPCC decided to refer the matter back to the local forces for investigation and have supervised the investigation throughout.

The IPCC decide on the method of scrutiny once they receive a referral. There are four levels of investigation; the lowest level is local and the next level up is a supervised investigation which means that the local force investigate and report back to the IPCC, who must satisfy themselves that it is a thorough and complete investigation. The IPCC can direct further work to be carried out at any stage.

The next step up from a supervised investigation is a managed investigation where the IPCC take more control. The highest level is an independent investigation when the local force is not involved in the investigation. It is important to note that the IPCC have the power to change the method of investigation at any stage and in this case they have declined to do so.

Warwickshire, West Mercia and West Midlands Police have separately considered the findings of the investigation which has been sent to the IPCC and all three forces agree on the outcome.

Despite a thorough investigation under the supervision of the IPCC we do not believe that there is sufficient evidence to support the view that the officers concerned should face misconduct proceedings. Our view is that the officers have demonstrated poor judgement in arranging and attending the meeting in the first place. In light of this our position is that management action is a proportionate response.

It is important to emphasise these points:

- (i) Mr Mitchell has not made a complaint against police;
- (ii) Had the IPCC decided at any stage during the investigation to treat this as a managed or an independent investigation they had the power to direct the forces to convene misconduct proceedings. They have chosen not to exercise these powers despite being invited to reconsider and reminded of their options as recently as last week.
- (iii) At any stage during a supervised investigation the IPCC can direct further work to be done and they have not done so in this case.

8.30 PM STATEMENT FROM WARWICKSHIRE, WEST MERCIA AND WEST MIDLANDS POLICE

We understand the interest in this matter and Chief Constable David Shaw welcomes the opportunity to appear before the Home Affairs Select Committee next week. The Chief Constables of Warwickshire and West Midlands Police are also ready and willing to attend the committee.

HASC provides a good opportunity to discuss this case in detail.

Andrew Mitchell MP has never made a complaint to police. West Mercia, with the support of West Midlands and Warwickshire Police, recognising the public interest in this case, independently decided to investigate this incident and made a referral to the Independent Police Complaints Commission.

We asked for the matter to be independently investigated by the IPCC because we recognise the significant public interest in the matter, however this was declined. The IPCC have supervised this investigation throughout and have been invited to reconsider their position on more than one occasion.

The decisions following this investigation were carefully considered, with the support of appropriate legal advice. Warwickshire, West Mercia and West Midlands Police have separately considered the findings of the investigation and all three forces agree on the outcome.

THURSDAY, 17 OCTOBER

5.30PM STATEMENT BY CHIEF CONSTABLE DAVID SHAW

Today, Chief Constable David Shaw said: "I completely understand why PCC Ron Ball has requested a review into the West Mercia Police-led investigation.

"This work is currently ongoing to clarify the specific issues raised in the IPCC letter. Once this review has been completed a full and comprehensive account will be shared with Mr Ball."

This statement has been released in response to a request for a report by Ron Ball, the Police and Crime Commissioner for Warwickshire. The full statement from Mr Ball can be seen here: <http://warwickshirepoliceandcrimecommissioner.com/2013/10/17/investigation-launched-into-ipcc-claims/>

IF ASKED: Facts we can confirm:

1. The three Chief Constables will all be attending the Home Affairs Select Committee on Wednesday and welcome the opportunity to discuss this case in detail here.
2. A review is currently ongoing to clarify the specific issues raised in the IPCC letter.
3. The Chief Constables will not be giving interviews at this time.
4. West Mercia Police—We understand there is a lot of interest in our investigation and there have been a number of requests to see it. We are currently seeking legal advice as to whether we are able to release our investigation into the public domain for people to see.

8.20PM UPDATED POSITION FROM WARWICKSHIRE, WEST MERCIA AND WEST MIDLANDS POLICE

The three Chief Constables will all be attending the Home Affairs Select Committee (HASC) on Wednesday (23 October) and welcome the opportunity to discuss this case in detail here.

We fully appreciate the intense public interest in this case and wish to ensure openness and transparency in everything we do.

At this current time all three Chief Constables are preparing for HASC and at Ron Ball's request West Mercia Police are conducting a review into the specific issues raised in the Independent Police Complaints Commission's latest letter.

The Chief Constables will not be giving interviews at this time in relation to this matter.

Written Evidence submitted by Chris Sims, Chief Constable of West Midlands Police, 22 October 2013

The intense debate that has surrounded the decisions made by the three forces underlines the importance of independent investigations in cases where there is a strong element of public interest. However objective and painstaking police decision making is, it can always be presented as being partial.

It is worth remembering, in this case, that it was West Mercia Police that decided to begin this enquiry and made the initial referral to the IPCC in the absence of any complaint. The IPCC, at that time or at any subsequent point, could have chosen to conduct the investigation itself. I believe it is regrettable that it did not do so given the intense public interest in this case.

One area of agreement is that the decision by the three officers to visit Mr Mitchell's Constituency Office and then speak to the media was ill-conceived and ghastly in its execution. It raises serious concerns about the judgement of those who took part and has been immensely damaging to the reputation of the whole police service.

It is, however, not the task of the decision maker to judge the merits of the event, but rather to consider the actions of the officer(s) against specific elements of the Police Conduct Regulations within the framework of the terms of reference for the investigation agreed by the IPCC. That sounds (and is) a very legalistic and bureaucratic task and appears to stand at odds with the looser and more public facing narrative issued by the IPCC. It is possible to characterise the disagreement in this case as two organisations honourably interpreting their task differently.

The approach adopted by the IPCC, outlined in its original letter and strengthened in its public account, is not wrong but has two features that are at the heart of our differing viewpoints. Firstly, it appears to apply a degree of *post hoc* reasoning to events which may be unsurprising given that the same official was concurrently supervising the Metropolitan Police's Operation Alice. Secondly, it does not, as is required, distinguish between the actions of individual officers. It draws authority for this by treating the actions as, in effect, a conspiracy. This assertion is not properly evidenced beyond recognising the three officers as being Police Federation members at a meeting together.

The West Midlands Police decisions solely related to Sergeant Jones' conduct. They were made by Assistant Chief Constable Cann to whom I have delegated the role of *Appropriate Authority*. He based his decision on the final report of the investigation by West Mercia Police. This was a decision that was always likely to generate considerable public interest. Assistant Chief Constable Cann took appropriate legal advice and made his decision after sharing the rationale with me, which I believe to be rational and objective. I do not intend to refer to the detail of the decision as the twenty-five page "*Decision Note*" is attached to this submission.

That decision focuses on the specific actions of Sergeant Jones who did not become part of the investigation until April 2013. The investigation of that officer focussed on his failure to challenge others' statements rather than what he had said himself. He did not directly call on Mr Mitchell to resign nor offered an account of the meeting different in substance from the record made.

One of the key issues arising from this case is the role of the Police Federation. It has been remarked that police leaders are in some way "afraid" of the Federation. Let me say from a West Midlands perspective, where I have imposed Regulation A19, introduced wide ranging changes to working practices and taken more than £100m from our budget, I would not be regarded as a "Federation Poodle". Nor are we soft on discipline as 21 officers have been dismissed without notice in the past 18 months.

The Police Federation's status, however, is ambiguous and unsatisfactory. The 1969 legislation is virtually silent on the right of the organisation and its members to campaign. While condemning wholeheartedly the events of 12 October, I do recognise that, in the absence of formal union rights, officers need to be able to highlight issues that impact upon pay, status and conditions. The Review by Sir David Normington may shed light on this issue. In the meantime, I have focused the "management action" in the West Midlands at the conclusion of this investigation on changing the "*Facilities Agreement*" the force has with the Federation to make the repeat of such an incident impossible.

The latter stages of this investigation (but not the incident itself) have taken place under the new governance arrangements introduced in November 2012. I am accountable to Mr Bob Jones, the Police and Crime and Commissioner for the West Midlands. The decision itself is properly an operational one, but Mr. Jones has been fully engaged in the wider debate and will hold me to account for my part of the process as he sees fit.

Finally, and most importantly, I would turn to Mr Mitchell who although not a complainant, is very much at the heart of this incident. I would not wish to use the impersonal medium of a Select Committee to issue an apology, but I fully recognise the personal and professional cost this has had on him and his family. I have today written to Mr Mitchell seeking an early opportunity to meet with him to discuss these issues and to thank him for continuing to work with the local police in his constituency capacity.

23 October 2013

DECISION NOTE

SERGEANT 6536 Christopher JONES

1. The Appropriate Authority for West Midlands Police is the Chief Constable. He has delegated the functions of that role to me.

2. My task here is to decide whether Sergeant JONES has a case to answer in Gross Misconduct or in Misconduct, or whether there is no case to answer. My task is not to predict what the outcome of a Misconduct Panel might be, but to assess whether the officer's conduct is capable of amounting to Gross Misconduct or Misconduct, or neither.

3. Decisions of this sort are usually delegated by me via the Head of our Professional Standards Department. In this case I have chosen to make the decision myself. The reasons are:

- (i) The high profile nature of the case.
- (ii) The position of the IPCC in the matter.
- (iii) There is no Chief Superintendent currently in the Professional Standards Department. The previous Chief Superintendent, who left some weeks ago, is now the Commander at Sutton Coldfield and therefore it will be inappropriate to call on her services given Mr MITCHELL's constituency.
- (iv) The Deputy Chief Constables in West Mercia and Warwickshire forces are personally making the decisions for their officers, I seek to provide consistency for Sergeant JONES.

4. In making this decision I have considered the following material:

- (i) Audio recording of meeting—12 October 2012.
- (ii) Transcript derived from 1 above.
- (iii) iPad recording of Sky News conference.
- (iv) ITV Central News—12 October 2012.
- (v) BBC 5 Live Drive time (Sgt JONES) 12 October 2012.
- (vi) BBC Midlands Today—12 October 2012.
- (vii) Sky News—12 October 2012.

- (viii) Record of interview (JONES).
- (ix) Record of interview (MACKAILL)
- (x) Record of interview (HINTON)
- (xi) File note of DCC CHESTERMAN.
- (xii) File note of DCC BRUNTON.
- (xiii) Case summary of Conduct Matter CM/95/12.
- (xiv) Letter from Deputy Chair IPCC to DCC CHESTERMAN dated 6 September 2013.
- (xv) Reg 15 Notice in respect of Sergeant JONES.
- (xvi) Report of DCI DOYLE dated 2 September 2013.
- (xvii) Channel 4 News 18 December 2012.
- (xviii) Dispatches programme; "Plebs, Lies and Videotape".
- (xix) Witness statement of Mr MITCHELL dated 15 February 2013.

5. I am considering this matter under The Police (Conduct) Regulations 2012.

6. I am only considering whether the conduct of Sergeant JONES amounts to Misconduct, Gross Misconduct or neither. So far as I have considered the Conduct of Inspector MACKAILL and/or Detective Sergeant HINTON I have only done so where it directly touches the conduct of Sergeant JONES.

7. It is clear that in this matter Sergeant JONES was acting as a representative of Police Federation of England and Wales (PFEW). He was not conducting general police duties. This does not offer the officer any protection from the requirements of the Standards of Professional Behaviour for police officers.

8. I am not considering the wisdom of the PFEW's wider "anti-cuts" campaign nor do I make any judgment on how well this aspect of that campaign was handled.

9. The Regulation 15 Notice was given to Sergeant JONES on 4 April 2013. The Notice sets out the details of Sergeant JONES' alleged conduct as follows:

On 12 October 2012 a meeting was held between Police Federation representatives and Andrew MITCHELL MP at the Sutton Coldfield Constituency office; you were present at that meeting.

Shortly after, press interviews/briefings were given; at which you were also present, during which alleged false accounts were given of the meeting in order to discredit Mr MITCHELL MP. You failed to challenge or rectify these false accounts.

10. I do not believe that this notice or the details of the alleged conduct have been altered or amended since service of this notice on 4 April 2013.

11. The Notice accuses the officer of being involved in, or at least passively being party to, the giving of "false accounts". For an account to be "false" it must be more than simply inaccurate. "False" requires that the account is not only inaccurate but also dishonestly deceitful.

12. In order for there to be any case, whether in Gross Misconduct or Misconduct, for Sergeant JONES to answer it is therefore necessary to show:

- (i) That the accounts given at the press interviews/briefings were inaccurate; and
- (ii) these inaccurate accounts were also dishonestly deceitful (thereby rendering them "false accounts")
- (iii) Sergeant JONES knew that the accounts were false; and
- (iv) these false accounts were given deliberately in order to discredit Mr MITCHELL; and
- (v) Sergeant JONES failed to challenge these deliberately false accounts; and
- (vi) that he could have challenged these deliberately false accounts; and
- (vii) that he should have challenged these deliberately false accounts.

13. It is not clear from the Notice whether the "failure to challenge" element refers simply to a failure to challenge publicly at the Press Conference outside the Constituency office immediately after the meeting on 12 October 2012 or whether it refers to failure to challenge at any point whether in public or in private. I think the only sensible interpretation is to take the allegation to be that Sergeant JONES did not challenge or rectify the alleged false accounts at time he stood next to Inspector MACKAILL at the Press Conference outside the Constituency office immediately after the meeting with Mr MITCHELL on 12 October 2012.

Were inaccurate accounts given of the meeting at the press interviews/briefings at which Sergeant JONES was present?

14. The press interviews/briefings that concern Sergeant JONES are as follows:

- (i) The remarks made by Inspector MACKAILL to several journalists outside the Sutton Coldfield Constituency office on 12 October 2012 (hereafter, "the Sky News conference"). At this conference Sergeant JONES was completely silent, standing next to and slightly behind Inspector MACKAILL.

- (ii) BBC Midlands Today broadcast on the evening of 12 October 2012. In this television interview Sergeant JONES was the lone interviewee.
- (iii) Radio 5 Live Drive Time programme on 12 October 2012. In this radio interview Sergeant JONES was the lone interviewee.

15. *The Sky News Conference:*

- (i) The interviewee in this is Inspector MACKAILL. I consider it relevant as Sergeant JONES is stood next to Inspector MACKAILL throughout and is accused of failing to challenge or rectify the alleged false account provided by the Inspector. There can be no doubt that Sergeant JONES failed to challenge or rectify Inspector MACKAILL. The first matter to consider therefore is whether this is an inaccurate account by Inspector MACKAILL.
- (ii) There is an inaccuracy in the comments of Inspector MACKAILL in this interview. I refer to the ticker tape clock running at the top of the screen on the copy of the interview I have for ease of reference.
- (iii) At 17:45:57 Inspector MACKAILL says “his [Mr MITCHELL’s] explanation for that [the repeated denial of using many of the words attributed to him in the officer’s notes] is that he did not want to get in to a fire-fight with the police”. This is wrong. Mr MITCHELL’s explanation for the denial of those words is that he did not say them. His desire to avoid a “fire-fight” explains only his refusal to overtly challenge the officer and by implication the wider police service.
- (iv) At 17:46:25 Inspector MACKAILL says “he is continuing to refuse to elaborate on what happened”. I do not believe that this statement is inaccurate; I address it because it has been specifically referred to in Ms GLASS’s letter to Deputy Chief Constable CHESTERMAN on 6 September 2013. In the context of the far greater detail printed in the Telegraph on 23 December 2012, and to which Sergeant JONES makes reference in his interview, there is a good case that Mr MITCHELL did not give a full account of the conversation in the meeting.
- (v) Ms GLASS’ reference to Inspector MACKAILL indulging in an *ex post facto* justification by making reference to the Telegraph article is not sound. It seems to me that Inspector MACKAILL in his misconduct interview is only saying that, given the detail in the Telegraph, Mr MITCHELL *could* have said more. Ms GLASS seems to be taking the comments of Inspector MACKAILL to mean that Mr MITCHELL *should* have said more. Ms GLASS sets out why, in her view, Mr MITCHELL felt it appropriate to say more in the Telegraph in December than he did in the meeting with the Federation in October; thereby confirming that he indeed could have said more in October but, for his own reasons, chose not to do so.
- (vi) Whether he “refused” to do so or simply “did not” do so is less clear. The use of the word “refuse” attracts criticism because it is said that the officers did not ask Mr MITCHELL to say what he *did* say; if he was not asked, how can he have refused? It is a moot point as to whether the everyday use of the word “refuse” must only be limited to circumstances in which an explicit offer is spurned, or whether it can also properly be applied to describe a situation in which a clear and obvious opportunity is not taken. I consider this to be such a fine line as to render nugatory any attempt to delineate it. Inspector MACKAILL’s use of the word “refuse”, even if a better word was available, does not by itself make this an inaccurate account. Given that Mr MITCHELL did not shift from that position, however described, for the length of the meeting the use of the word “continuing” is not wrong.
- (vii) At 17:47:00 Inspector MACKAILL said “he refused to tell us what he did say”. It is clear from the recording of the meeting and from the transcript derived from it that the first matter the Federation officials wish to discuss is “.....you haven’t said what you did say” (at 05:56 on the recording). This is not lost on Mr MITCHELL. Mr MITCHELL accepts that he has not said what he actually did say in Downing Street (at 06:48 on the recording). He could not be clearer and furthermore he gives his reasons for not doing so (“It’s a very good point and I’ll tell you why I haven’t done that....”). He states that his “memory of what I did and didn’t say is clear”, but then goes on to only describe, with great emphasis, what he did *not* say (ie, “f’ing pleb”, “f’ing moron”, etc). It seems this is the first time the Federation officials have heard this denial of the attributed words. With Mr MITCHELL having stated that his recollection of both what he did and did not say being clear, but then only going on to describe what he did not say, it is not sustainable to suggest that Inspector MACKAILL is inaccurate.
- (viii) Mr MITCHELL goes on to suggest that the difference in versions between him and the Downing Street officer may not be due to dishonesty on the part of the officer, but may be a “mishearing or something”. It seems to me that if there may have been a mishearing it is reasonable to assume that there must have been something to mishear. If that is right, it follows that the Federation officials may be justified in feeling that Mr MITCHELL is inferring that something was said but it was not “f’ing plebs” or “f’ing morons”, etc. If that is what they think Mr MITCHELL is inferring then they may be entitled to feel that, given he says nothing more about it, that he has refused to say what those words, possibly misheard as “f’ing plebs” or “f’ing morons”, actually were. Undoubtedly more questioning of him would have helped and it would be easier to feel comfortable with the choice of the word “refusal” had matters been better dealt with in the meeting. That said I cannot accept the

position that says simply because Mr MITCHELL was not asked all these things he therefore had no opportunity to raise them. I believe that had Mr MITCHELL wanted to say more he could and would have done so. He is after all an eminent and experienced politician, adept at being heard. Furthermore, he had a crushing advantage in the meeting over the Federation officials; namely, he knew that it was being covertly taped and would have made sure that the record showed anything that he wanted to put across was put across. In support of this belief I cite the opening address he makes which seems incongruous until one knows the full circumstances; a point not lost on Sergeant JONES in his misconduct interview. If the Federation officials felt that there was additional content that he was not disclosing, even if they were wrong about that, the word “refusal” cannot amount to an inaccurate account even if a better word may have been available.

16. *BBC Midlands Today Interview:*

- (i) There is nothing false in the words of Sergeant JONES in this interview. He repeatedly describes the situations “an integrity issue”. This must be a reference to what became a consistent line of questioning by Sergeant JONES of Mr MITCHELL in their earlier meeting. In this meeting Sergeant JONES and his colleagues referred to what purported to be the police log of the Downing Street incident published in the Daily Telegraph newspaper. Mr MITCHELL denied using the key phrases (“fucking plebs”, “fucking morons”, “you should know your fucking place”) that are attributed to him in the alleged police log. Sergeant JONES asserts that both cannot be correct and the matter should be investigated to a conclusion to seek the truth. Mr MITCHELL suggests that this may not be an integrity issue at all, but simply a “mishearing”. This possible difference of opinion (whether it is an integrity issue or a mishearing) does not render Sergeant JONES’s interpretation inaccurate.
- (ii) When asked whether Mr MITCHELL should resign Sergeant JONES replies, perhaps judiciously, that “whoever is not telling the truth should go”. This is not an inaccurate statement. In his misconduct interview Sergeant JONES states that, although he maintains his support for his Federation colleagues, personally he was uncomfortable in asking for a Government minister to resign. His comments on the matter therefore seem balanced and moderate.

17. *Radio 5 Live Interview:*

- (i) In this interview Sergeant JONES again raises the “integrity issue” theme. He also states in various ways on various occasions during the interview that Mr MITCHELL is saying that there are “bad apples” [corrupt officers] in the Police Service and yet, rather than have that confirmed or disproved by investigation, Mr MITCHELL is quite content for that position to remain extant. On a strict view attributing this position to Mr MITCHELL may be harsh. Whilst it is true to say that in the meeting Mr MITCHELL confirmed that he did not want to escalate this matter he actually suggests it might be explained by factors other than corruption; ie, a mishearing. At no point does he indicate he is content with potentially corrupt officers remaining in service, he simply demurs and states it is a matter for the Metropolitan Police Service to address, if it exists, not him. In this element of the interview Sergeant JONES does misrepresent Mr MITCHELL.
- (ii) However it should also be said that in their earlier meeting Sergeant JONES seems incredulous that a Cabinet Minister is so readily willing to put it all down to a mishearing because he does not want to impugn the police whereas one might expect his public duty would force him in a different direction, however unwillingly. While Mr MITCHELL offers an explanation for his chosen course Sergeant JONES seems unable to accept it as right and proper.
- (iii) Notably, when Sergeant JONES sought to take the media interviewer through the content of the meeting he was abruptly cut short and not given a chance to do so.
- (iv) When asked a question on whether Mr MITCHELL should resign Sergeant JONES states, “if he has been untruthful”. Once again, this seems a very fair way for Sergeant JONES to put it.

Were the identified inaccuracies given with a dishonestly deceitful intent?

18. There are two identified inaccuracies, namely:

- (i) Insp MACKAILL’s reference to Mr MITCHELL’s reasons for wishing to avoid a “fire-fight” (the Sky News conference at tickertape mark 17:45:57), and
- (ii) Sergeant JONES’ reference to Mr MITCHELL being content to allow the “bad apples” to remain in the barrel [potentially corrupt officers to remain in service]. This is in the 5 Live Drivetime interview.

19. Were these inaccuracies dishonestly and deceitfully given? I will turn to the individual elements later, but for now I shall consider whether there is anything in the wider circumstances and context that could support a notion that the Federation officials were engaged in some conspiracy to undermine Mr MITCHELL. Clearly if they were then it would put a slant on the reasons for their inaccuracies.

20. The anti-cuts campaign is an undisputable backdrop to the events. The Federation had been campaigning heavily on this agenda in the preceding months and made use of the publicity surrounding Mr MITCHELL. The resignation of Mr MITCHELL might be seen as a final *coup de grace* and perhaps something that the Federation might look to engineer. I have not, however, been presented with any evidence to link the officers’ actions to any wider plot in support of the MPS officer(s). In fact, both at the Sky News conference and in

their subsequent misconduct interviews, the officers make it clear that they had not spoken to their London Federation counterparts. This leads them to be challenged by the reporters at the Sky News conference about their legitimacy in becoming involved in the situation; in fact, it provokes a degree of (apparent) incredulity and ridicule from the reporters. I do not believe, therefore, that a case can be made to show that there was a conspiracy amongst elements of the Federation nationally.

21. A conspiracy argument also rests on the officers “entrapping” Mr MITCHELL into a meeting on false pretences; purporting that they wished to talk about wider issues of police cuts and then in fact using the meeting to ambush him and discuss the Downing Street incident. Mr Mitchell would then either be forced into making damaging admissions or, whatever he said, they could misrepresent it to publically and fatally discredit him. In order to complete the trap the media would be notified of the meeting in advance to secure maximum coverage and impact.

22. It is not disputed that the meeting was organised by Mr Ian EDWARDS, Chairman of the West Midlands Police Federation. Mr EDWARDS explains his account of how this was arranged. It differs to the account of Mr MITCHELL. It is not possible to choose between them. However, from his opening remarks, Mr MITCHELL clearly knew that the Downing Street incident would be part of the discussion; even if he hoped that it was only to “draw a line” under the matter. It is also beyond any doubt that the Federation officials were clear in their comments to the media immediately before the meeting with Mr MITCHELL that they wanted to cover the Downing Street incident, neither Inspector MACKAILL nor Sergeant JONES mention any desire to talk about wider police concerns. Also at the start of the meeting itself, as soon as they can speak, the Federation officials make it clear that they feel the meeting has been convened to discuss the Downing Street incident. They do express some willingness to talk about wider issues during the meeting itself but feel that the Downing Street incident needs to be resolved first. As it is not resolved to their satisfaction the meeting never progresses to these other issues. It is not possible to properly sustain a charge that it was set up on deliberately false pretences.

23. Linked to this argument is the fact that the media had evidently been made aware of the meeting in advance. It can be suggested that this was the work of the Federation, done in an underhand way to ensure that there would be the maximum amount of coverage to undermine Mr MITCHELL. Again I have not seen any evidence to corroborate this allegation. Mr EDWARDS states that he made it clear to Mr MITCHELL that he (EDWARDS) would make the time and date of the meeting known to the media. Mr MITCHELL would dispute this.

24. It is noted that the Federation officials travelled together to the meeting with a media advisor. I can see no reason why the officers would be expected to travel to the meeting separately; nor can I see why they should not have their media advisor on hand, particularly as Mr MITCHELL felt it prudent to have his party press officer sit in on the actual meeting.

25. I do acknowledge that if one chooses to believe that the officers travelled to the meeting together, with their media advisor, having secretly tipped-off the media beforehand about a meeting into which they had lulled Mr MITCHELL under wholly false pretences, in ill-advised support of their MPS colleague(s) so as to undermine Mr MITCHELL then one might thereafter conclude that any inaccuracies they spoke were driven by foul motives, rather than explained in other ways. The problem is that the evidence simply does not allow this to be a sensible conclusion.

26. If there is no wider conspiracy either between the West Midlands Region Federation officials and those in London or between the three West Midlands Federation officials themselves, is there anything in the specific circumstances surrounding the expression of the two identified inaccuracies that would support a conclusion that those inaccuracies were dishonestly deceitful?

27. *The “fire-fight” comment (Inspector MACKAILL):*

- (i) The officers deny any dishonest intent. There is no direct evidence to assist in establishing their intent. Inspector MACKAILL’s comment is not given any particular emphasis by him, it comes amongst a general stream of remarks at the Sky news conference. It is not picked up by the assembled reporters, it is not subject of any specific mention in Mr MITCHELL’s s.9 witness statement dated 15/2/13, it is not specifically addressed in any way by the IO in his report (although the comment is quoted), nor by Ms GLASS in her letter. Furthermore, later in the same news conference Inspector MACKAILL actually gives a more accurate account of the same part of the meeting (at tickertape mark 17:47:11) and I understand from the IO’s report that he does the same in an interview with ITV News later that same day. This leads me to conclude that the first, inaccurate, iteration of the comment was not intended to be particularly noteworthy by Inspector MACKAILL nor was it so regarded by those who heard it. If Inspector MACKAILL was intent on delivering a dishonest and deceitful remark for a corrupt purpose he would have emphasised it and/or repeated it (and certainly not adjusted it) until he was sure his purpose had been achieved. He did no such thing.
- (ii) Furthermore, Inspector MACKAILL does go to some lengths to attempt to be fair to Mr MITCHELL when he is conducting the Sky News conference. Although it is not broadcast on Sky as they cut to it too late, his first remarks are to explain Mr MITCHELL’s repeated “profound apology, with feeling” for that which he acknowledges he did wrong. Inspector MACKAILL returns to this later and explains that the meeting was professional, he was grateful for the chance to meet Mr

MITCHELL, etc. These are hardly the comments of a man set on a pre-ordained course to dishonestly and deceitfully cause Mr MITCHELL to be undermined.

28. *The “bad apples” reference (Sergeant JONES):*

- (i) Sergeant JONES denies any dishonest intent and, as with the “fire-fight” comment, I am left to infer any intent from the circumstances. Although I maintain that the way Sergeant JONES phrased this remark did result in an inaccuracy I would accept that others may regard that as a pedantic conclusion. Sergeant JONES’ inaccuracy is not a glaring one and, as with the “fire-fight” comment from Inspector MACKAILL above, it is not picked up on, complained about or even apparently noticed as significant by the interviewer. This hardly supports an inference that Sergeant JONES had the requisite dishonest and deceitful intent in his mind when he made the remark.

29. I return to the elements that will need to be made out to support a suggestion that Sergeant JONES has any case to answer; I find that it is possible to conclude that two inaccurate comments were made in the relevant press interviews/briefings, one by Sergeant JONES himself and the other by Inspector MACKAILL in the presence of Sergeant JONES. I find that these comments can in no way be regarded as false by virtue of the fact that there was no dishonest deceit behind them.

30. In that regard the allegations against Sergeant JONES fall away and he has no case to answer in either Gross Misconduct or Misconduct.

31. Given that his conduct attaches to his duties as a PFEW representative, any learning or performance issues for the officer will be left to them to assess and address. I have no basis on which to take any further action in respect of Sergeant JONES.

G. CANN
ACC (O)

Finalised: 1 October 2013

ADDENDUM 1

1. I copied my decision log to DCC CHESTERMAN on 1 October 2013.

2. DCC CHESTERMAN’s view, expressed in a letter to the IPCC, was that Insp. MACKAILL should receive some management action. I understood that DCC BRUNTON shared this view so far as DS HINTON was concerned.

3. In light of this I reconsidered my position, expressed in §31, that for Sgt JONES any such advice was better left as a matter for PFEW, rather than for WMP. Whilst content that my view expressed in §31 remains correct, it is appropriate for this force to take management action in respect of Sgt. JONES in addition to and independent of any action that PFEW may or may not choose to take. This is because it is the only way I can guarantee that Sgt. JONES has the benefit of hearing such advice and/or receiving such action.

4. At approx. 0845hrs 16 October 2013 I met Sgt JONES at the WMP Events Control Suite. I explained the outcome of my decision and the status of it.

G. CANN
ACC(O)

Finalised: 19 October 2013

ADDENDUM 2

1. On 1 October 2013 I finalised a decision in respect of a misconduct matter concerning Sgt. JONES following a meeting he had participated in with Rt. Hon. Andrew MITCHELL, MP.

2. On 2 October 2013 I sent the note of this decision to DCC CHESTERMAN of West Mercia Police.

3. On 19 October 2013 I provided an addendum to that decision note concerning my approach on the outcome of the matter.

4. In making my 1 October 2013 decision I considered a range of material, listed at §4 of the note. This material included the *Case Summary of Conduct Matter CM/95/12* (§4, xiii).

5. This *Case Summary* was described, by DCC CHESTERMAN who supplied it to me, as the final investigation report which had been authorised as a final report by the IPCC although it was understood at the time (1st October 2013) that the IPCC were not supportive of the recommendations of no case to answer.

6. Prior to providing it to me, DCC CHESTERMAN explained that the conduct matter had been under investigation by West Mercia Police since 24 December 2012. In describing the chronology since then, he explained that along the way there had been a difference of view between the IO (DI SMITH) and the SIO (CI REEKES-WILLIAMS). The SIO had made a file note setting out that, on one aspect of the findings, he disagreed with the IO. This had been made plain to the IPCC, under whose supervision the investigation was being conducted.

7. Upon reading the final report I noted that it was jointly authored by both the IO and the SIO.

8. At approx. 1800hrs on 16 October 2013 I was provided with a document; *Further comment and conclusion—CI Jerry REEKES-WILLIAMS (SIO)*—hereafter the “SIO’s written rationale”.

9. The SIO’s written rationale sets out in detail a view—albeit on a single element of the matter—contrary to that expressed in the final investigation report. Particularly, it concludes that all three officers under investigation, including Sgt JONES, have a case to answer in Misconduct.

10. I had not seen this document before and I was not aware of its existence. When I saw the document I saw that it was considerably longer and more detailed than what I had understood the “file note” to be. DCC CHESTERMAN advised me that he too had not seen the SIO’s written rationale, prior to approx. 1600hrs 16 October 2013.

11. In the circumstances and given my duty to ensure that any decision I have made has been properly arrived at (ie, that I was in possession of all the relevant information and arguments at the time I made it), I wish to assess the information contained within this written rationale. I wish to do this to determine whether, had I been aware of it at the time I made my original decision, it would have been capable of affecting that decision.

12. I have considered whether I should undertake a process to ensure that there is no other material that might impact on my original decision. I have decided not to do so because I have no reason to believe any such material exists. Of course, I cannot rule out the possibility that such material may arise in future but I have good grounds for believing that if such material does exist it would have been brought to me. I have participated in numerous telephone conferences with colleagues from West Mercia Police in the last few days. This is the only material that has emerged. The significance that this force placed on its revelation cannot have been lost on our colleagues from West Mercia. I feel sure that had they been aware of any other material possibly falling into a similar category they would have offered it up.

13. I have considered whether I should review any material that has been created since I made my decision on 1 October 2013; for example, the press release and associated material from the IPCC. I have decided not to do so. My task here is to determine whether material exists which, had I known of it on 1 October 2013, would have been capable of impacting on my decision.

14. I will undertake this exercise in two phases: Information and Significance Assessment and, if required, Decision Review.

(i) Information and Significance Assessment:

(a) Is there any new information in the SIO’s written rationale?

(b) Is there any new argument in the SIO’s written rationale?

(c) If either “a” or “b” are made out, is this new information or argument relevant?

(d) If the answer to “c” is yes, is this new relevant information or argument significant enough that it could have affected my decision on 1st October.

(ii) Decision Review

(a) If “d” is made out, I will review, or arrange for someone else to review, my original decision.

15. I am assessing whether, had I known these things at the time of the original decision, they are capable of requiring consideration of a review of that decision.

INFORMATION ASSESSMENT

16. I have reviewed the SIO’s Written Rationale and found that there is no new information within it. (see *Appendix A to Addendum 2*)

17. I have reviewed the SIO’s Written Rationale and found two new arguments (sections 1 & 3) within it. I shall deal with these new arguments below individually. Having said that, whether or not these new arguments are inherently different from each other is debateable because, in essence, the combined argument that flows through §1–4 (inc) of the SIO’s Written Rationale is that by virtue of what the officers said/failed to say in the meeting with Mr MITCHELL it can be inferred that they were satisfied with his account. This combined argument is actually not new to me, but I have chosen to set the threshold for “newness” deliberately low so as to avoid any possibility that I fail to fully consider anything that might be significant.

18. Both the arguments in §17 above pass the “relevance test” (at §14, i, c).

19. Neither of the arguments in §17 above pass the “significance” test (at §14, i, d).

20. The argument at §1 of the SIO’s Written Rationale fails the “significance” test because it only relates to Sgt. HINTON. Even if the SIO is correct in his assessment of Sgt. HINTON’s views—and I do not believe he is—it does not mean that Sgt. JONES felt the same way. Moreover, it is plain from the exchange that Sgt JONES has with Mr MITCHELL immediately after these comments that he is far from content with the explanation(s) he has heard thus far.

21. The argument at §3 of the SIO's Written Rationale also fails the "significance" test. For accuracy, I note that there is actually no argument made out in §3 but it seems only fair to the SIO to infer that he is making the same argument in §3 that he has made in §1: namely, that because of what the officers said/failed to say they must have been satisfied with his account. It fails the "significance" test because: one, as a general principle it is not safe to hold that simply because a statement is not directly and immediately challenged that statement must have been accepted by those who heard it; and two, a better reading of this specific exchange is to see the words that follow from Sgt. JONES as a neutral acknowledgement of Mr MITCHELL's comment so that he (Sgt. JONES) can return to the topic he wants to discuss.

CONCLUSION

22. I have determined that there is nothing in the SIO's Written Rationale that would have affected my decision on 1 October. There is no reason to move to Phase 2 of this process and conduct a Decision Review.

23. Therefore, my decision that Sergeant JONES has no case to answer in either Gross Misconduct or Misconduct stands.

24. Sergeant JONES should receive Management Action from this force.

G. CANN
ACC(O)

Finalised 21 October 2013

ADDENDUM 3

1. On 21 October 2013, I received a second version of the typed transcript of the covert recording made by a Conservative Party official of the meeting between Mr MITCHELL and three officers from the PFEW on 12 October 2012. I had asked for this transcript to be produced by my officers from the audio recording received from West Mercia Police. I did this because when I listened to the recording at the start of my decision-making process I noticed what I perceived to be a number of minor differences which I did not consider to be material to my decision at the time. Subsequently, I became aware that West Mercia Police were coming to a view that there may have been some irregularity in their procedures. Given this I decided to make absolutely sure that there were no material differences between the recording and their transcript.

2. At the time I received it I had finalised my Addendum 2 decision, although I had not finalised my record of that decision. Neither the knowledge of, nor the content of, the second transcript affected my Addendum 2 decision.

3. In the circumstances and given my duty to ensure that any decision I have made has been properly arrived at (ie, that I was in possession of all the relevant information and arguments at the time I made it), I wish to assess the information contained within this second transcript. I wish to do this to determine whether, had I been aware of its content at the time I made my original decision, it would have been capable of affecting that decision.

4. I will undertake this exercise in two phases: Information and Significance Assessment and, if required, Decision Review.

(iii) Information and Significance Assessment:

(e) Is there any new information in the second transcript?

(f) If "a" is made out, is this new information relevant?

(g) If "b" is made out, is this new relevant information significant enough that it could have affected my decision on 1st October.

(iv) Decision Review:

(b) If "c" is made out, I will review, or arrange for someone else to review, my original decision.

INFORMATION ASSESSMENT

Is there any new information in the second transcript?

5. I have read that second transcript. There are a number of differences apparent when it is compared to the original West Mercia transcript.

6. In the course of making my 1 October decision I had listened to the audio recording of the meeting. Therefore I had heard everything that is contained in the second transcript. In that sense there is no new information within it.

7. It is correct to say that thereafter in my decision making process I relied more on the original transcript than on the recording. It is possible, therefore, that differences in the second transcript, although not new to me, may not have been in my consciousness when I made my 1 October decision.

Is this new information relevant?

8. There is only one item that may be regarded as “new” (subject to the qualification in §5 and §6 above) and relevant. The other differences do not alter the overall sense of the exchanges between Mr MITCHELL and the PFEW officials.

9. This new, relevant difference occurs at time point 38:20 in the recording and on p. 21 of the second transcript. I have italicised the “new” comment below, it is Mr MITCHELL who is speaking and he says:

“...there is nothing new or different I have said today *to the very little which I have said so far...*”

10. The phrase occurs in a longer comment from Mr MITCHELL in part of the meeting when he explains that he has not said anything new or different in the meeting. When I made my decision on 1 October I knew that his position was that he had added “nothing” (or at least “very little”—he uses both terms) new or different. What I was not conscious of, because it was not included in the transcript, was that Mr MITCHELL was himself saying that he felt he had actually said “very little” up to this point.

11. This is relevant as it might go to this point: to what extent, if at all, are the PFEW officials correct to say that they are not satisfied with Mr MITCHELL’s account given to them in the meeting.

Is this new relevant information significant enough that it could have affected my decision on 1st October.

12. I do consider that the extra phrase “...*to the very little which I have said so far...*” is significant enough that it could have affected, by way of supporting, my decision on 1 October.

13. It could have supported my decision because Mr MITCHELL seems to be saying that he has said very little on the matter to date and that he has added nothing, or very little, that is new or different to that existing limited account.

14. The comments from Inspector MACKAILL after the meeting that “..he is continuing to refuse to elaborate on what happened...” might be understandable given that Mr MITCHELL has described his position in this way.

G. CANN
ACC(O)

**Letter from Paul McKeever, Chairman, Police Federation of England and Wales, to Ian Edwards,
Ken MacKaill and Simon Payne, 26 September 2012**

RE: POSTER CAMPAIGN

It has come to our attention that three forces in three region (West Midlands, West Mercia and Warwickshire) have commissioned a campaign which includes a personal attack on the Prime Minister.

While we understand the sentiment and anger such wording would seek to convey, we urge you to withdraw this particular campaign as a matter of urgency and in the best interest of our Members.

We feel some of the dialogue between the PFEW and government has become too personal and unhelpful—this is why we have refocused everything we do toward positive engagement with politicians; only by doing this can we possibly hope to influence the important decision making processes.

Please understand that the Joint Central Committee will always support direct engagement on a local level with Members, the media and political parties but it is our strongly held belief that making matters personal will compromise the very people’s interests we are supposed to look after.

We would be most grateful if you would assist us with the current communications strategy, as circulated in the strategy document following the Chairman’s meeting in Birmingham in June. We would be happy to meet with you at your earliest opportunity.

Paul McKeever
Chairman, Police Federation of England and Wales

In support from:

Julie Grocutt, Chairman, Constables Central Committee.

John Giblin, Chairman, Sergeants Central Committee.

Alan Jones, Chairman, Inspectors Central Committee.

Stephen Williams, Chairman (Elect), Police Federation of England and Wales.

**Letter from Ian Edwards, Ken MacKaill and Simon Payne, to Paul McKeever, Chairman,
Police Federation of England and Wales, 27 September 2012**

Thank you for your letter dated 26th September 2012 concerning the campaign that we are running in the Midlands regarding unfair cuts to policing.

This campaign is being run on behalf of our members and has received overwhelming support from rank and file officers within our region and nationally.

The view of our members and of ourselves is to continue with this campaign.

Simon Payne, Warwickshire Police Federation

Ian Edwards, West Midlands Police Federation

Ken MacKaill, West Mercia Police Federation

Written Evidence submitted by David Shaw, Chief Constable of West Mercia Police, 25 October 2013

During my appearance before the Home Affairs Select Committee on Wednesday, you asked that all those present at a meeting that was held at Hindlip Hall on 1 August 2013, provide a copy of any notes that they made. I write on my own behalf, and on behalf of Chief Inspector Reakes-Williams, who was also asked for a copy of his notes of that meeting.

As I was ultimately responsible for West Mercia Police's investigation into the conduct of Messrs MacKaill, Hinton and Jones, I would like to make absolutely clear the context in which that meeting was held and its purpose.

The meeting was not a decision-making meeting and it is not out of the ordinary for there to be no formal minute; it was an opportunity to gather together everyone who needed to hear the evidence in the case, and to do so in one sitting. It was essentially an 'Evidence Briefing', as is now a matter of record. The decisions of the three Appropriate Authorities were taken, independently, after this meeting.

The Investigating Officer considered that it was important for the Appropriate Authorities not only to consider the documentary evidence, but also for them to hear the tape recording of the meeting between Mr Mitchell and the three officers and to see the recording of the interview that Inspector MacKaill gave to the press immediately afterwards.

The meeting was held at Hindlip, so it made sense to include my Head of Legal Services, Miss Fishwick, as she is based here and there was the potential for legal advice to be needed at a future date (eg Legal Services are often asked to advise on draft "charges" where it is determined that there is a case to answer). It was also valuable for DCI Doyle from West Midlands Police to be there so that she could, in due course, brief ACC Cann who was on holiday.

Had this been a meeting at which some form of decision was to be made, I would have expected formal minutes to be taken. I emphasise however that the purposes of this meeting was simply for a briefing to be given on the investigation. No decisions were to be taken and no decisions were taken at the meeting.

A substantial part of the meeting was devoted to listening and watching the recordings, which required a degree of concentration. In addition, the Appropriate Authorities present—DCC Chesterman (West Mercia Police) and DCC Brunton (Warwickshire Police)—knew that they would be handed at that meeting or soon afterwards a large file containing the investigator's report (Version B) and the supporting evidence. Thus, the taking of detailed notes was not practical or necessary. Some of those present did make what they have described as 'rough notes'—purely for their own use.

A brief formal record of the meeting was made by Chief Inspector Reakes-Williams in his policy log, as was entirely appropriate.

To assist the Committee, and in response to the requests you have made, I therefore enclose on behalf of West Mercia Police:

- Rough note of DCC Chesterman.
- Rough note of DCI Reakes-Williams.
- Rough note of DI Gerry Smith (this note is dated 31 July 2013, but DI Smith is confident it relates to the 1 August instead).

I trust that these written records and my explanation will now clarify the nature of the meeting.

Finally, I wish to confirm that Her Majesty's Inspectorate of Constabulary has identified a Chief Constable for me to ask to determine afresh whether Inspector MacKail has a case to answer for gross misconduct, misconduct or has no case to answer. I hope that this will be completed imminently.

David Shaw
Chief Constable, West Mercia Police

Rough note of DCC Chesterman

main speaker
Supt Hudson Es. 12/10/13
Ken MacKail MP. Don't speak during meeting.
Chris Jones. P.
Andrew Mitchell MP.
Doreen Perry - Jenson. Agair Car Park
(Quint in car)) S. / C. ?
SH. Haven't said what you did say.
Don't want to inquire - don't talk with current speaker.

positive plus candidus a good husband
I would say
nothing else when I divorce
I would say
I would say
I would say

Rough note of DCI Reakes-Williams

- Don't tie him down, press for full account.
- Appear to accept his account?
- nurse later, then fires Juller etc - they wouldn't have known that.
- Access to interviews. (1 each)
- distance from Federation (hearing for Fed, not organisation.)
 - their own! poor judgement.
 - liaison with four media officers.
- Judgement / clumsiness - potential to be misleading.
- Standards of Prof. Beh. - fairness + impartiality.
- Ken; only 1 comment is inaccurate - reactive not proactive.
- Separate Chris from Stuart & Ken.

• Make clear that decision to hold meeting that was made by the Fed.

• reflect poor judgement.

• No IPCC have jurisdiction over Fed officials.

• Learning for Fed - keep police post office updated.
Expectation

= judgement / → MISLEADING

→ DISCREDIT KNOWLEDGE ON POLICE FED.

→ MATERIALLY CORRECT. ON A PHASE - REACTIVE.

→ CHAIR JONES THAT NOT USED THAT PHASE

→ WERE UP AS 3 RELEASE INDIVIDUALS.

• Examples / IMPARTIALITY.

• DISCRIMINATIVE CONDUCT → NOT IMPARTIAL.

Rough note of DI Gerry Smith

- Case of pharmacy under pressure in a media interview.
- Representing ICS not police service - Recommendation.
- Underlying conduct.

"Intermediary"

"Exactly"

↳ suggesting that he does not want to provide more detail... Get right

Interpretation.

Consent

• Well advised, properly prepared Recommendation

Independent judgement

Management Action.

(Senators.)

(Some PAYED)

Meeting & not a police I/V.

Written Evidence submitted by Chris Sims, Chief Constable of West Midlands Police, 25 October 2013

I am writing in response to the Home Affairs Select Committee request, made during the meeting on Wednesday 23rd October 2013, for information regarding the number and outcome of misconduct meetings and hearings in West Midlands Police.

Please find listed below details of the number of police officers who have been subject to misconduct proceedings. I have provided details of outcomes from April 2012 to March 2013 and from April 2013 to the present.

MISCONDUCT MEETING OUTCOMES

01/04/12–31/03/13

Final Written Warning—9

Written Warning—16

Management Advice- 11

No Further Action—23

01/04/13–25/10/13

Final Written Warning—1

Written Warning—9

Management Advice—5

No Further Action—3

MISCONDUCT HEARING OUTCOMES

01/04/12–31/03/13

Officers Dismissed without Notice—12

Final Written Warning—1

Management Advice—1

01/04/13–25/10/13

Officers Dismissed without Notice—3

No Further Action—4 (from a single case)

I trust that the above is sufficient but please contact me again should you require further detail or clarification.

The Committee's request for notes relating to the meeting on 1 August is being co-ordinated by West Mercia Police and our response to that request will form part of a submission made by them on behalf of the three forces.

Chris Sims,
Chief Constable of West Midlands Police

25 October 2013

Written Evidence submitted by Andy Parker, Chief Constable of Warwickshire Police, 28 October 2013

HOME AFFAIRS SELECT COMMITTEE- "PLEBGATE"

At the conclusion of my evidence to the Committee on 23 October, you invited me, along with Chief Constable David Shaw and Chief Constable Chris Sims, to provide you with any other relevant material or anything else we believe may assist you in reaching your conclusions.

Having reflected, I believe there are matters on which clarification or further comment may assist you in your difficult role of considering the complex legislation and procedure involved in this case, and the finer detail of the source evidence, in reaching your final views.

1. *DS Stuart Hinton—advertently misled by a question from the committee*

At page 31–32 of the (uncorrected) transcript of oral evidence, the following exchange takes place:

Q201 Chair "Mr Hinton, I don't think you understand that we have received evidence from your chief constable, who will be giving evidence to us shortly, that he regards the process as being flawed.

DS Stuart Hinton “I am not aware of that, no”

Q202 Chair “That is what he said. What do you feel about that, the fact that the chief constable now wants this re-determined?”

DS Stuart Hinton “That is a matter for the Chief Constable. If that is his decision, I accept that as his decision, if he is entitled to do that, as I, up to this moment was happy to accept his decision previously”.

Clearly, this was not correct as DS Hinton is a Warwickshire officer and the redetermination is being considered by the Chief Constable of West Mercia, not by me. It was obvious to me, and others watching DS Hinton, that the assertion made by you had a visible impact upon him, his demeanour changed and he was clearly shaken. From that point on, it seemed that his position changed from a witness to him believing that he may potentially be facing a subsequent misconduct hearing and therefore his approach to giving evidence changed significantly. He was, no doubt, considering carefully the answers he gave in light of an incorrect belief that I had significantly changed my stance and may seek to redetermine the outcome of the misconduct allegation against him.

Whilst DS Hinton demonstrated very poor judgement on this particular occasion, he is on a day to day basis a professional and hard working police officer. I do not believe that he did himself justice before the Select Committee on Wednesday, however I also believe this partly due to his misunderstanding my position, as a result of the above questions which were mistakenly put to him, rather than to Inspector MacKaill of West Mercia Police.

As such, I would ask you to accept my assurance that DS Hinton’s response to the questions 262 to 267 relating to the use of the phrase “that woman” were, I believe, adversely affected by his mistaken belief that he may face a misconduct panel at some future time. 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. There is no excuse for the terminology used and I will be taking this up with him. However I would stress that knowing DS Hinton as I do, I am certain that his response to that issue was undoubtedly affected by the incorrect assertion which he was struggling to come to terms with regarding a potential redetermination by me, particularly having been put to him part way through his evidence to the committee.

2. Evidence of Deborah Glass, IPCC

Ms Glass was clear and unequivocal in her evidence that she expected the conclusion of the investigation to recommend gross misconduct and also that this would be the separate determination of the Appropriate Authorities. However, the IPCC were on notice on 31 July 2013, when CI Reakes-Williams and DI Smith met with Mr Bimson, that the highest level they were considering was misconduct, and not gross misconduct.

Further, and more concerning, in her response to Q122, Ms Glass concedes that when she telephoned DCC Chesterman to express her strong disagreement with the assessment by the Appropriate Authorities that the officers had no case to answer, she had not even listened to the recordings of the officer interviews or had access to the full evidence.

Q122 Mr Clappison “You told us you came strongly to the conclusion that there was a case to answer and you are disagreeing with the police authorities. Did you make that known to them?”

Deborah Glass “I did. As soon as I saw the final report I called the Deputy Chief Constable of West Mercia and I said “What is this? How did this come about?” and he said to me that all three forces had discussed this, they had taken legal advice and this was the view of all three of them. I continued to express a certain amount of astonishment at this and he said “Look, it is really important that you listen to the recording for yourself.” I said “Absolutely, I am going to do that. So I won’t make any judgments over the telephone over this conversation, but what I will do is go back, get all of the evidence, review all of that.”

From this exchange it is clear, on her own admission, that Ms Glass had formed a strong view on this matter without considering the full evidence. All three Appropriate Authorities reached their determination only after they had carefully considered all the available evidence.

3. Incorrect statement/misunderstanding at Q478 about timing of Warwickshire Police internal review

Following a line of questioning over how I had addressed the apparent procedural error, I confirmed that I had asked Deputy Chief Constable Brunton—the Appropriate Authority for Warwickshire who had initially determined this matter on 2 August—to reconsider the issue having had sight of all versions of the Investigating Officer’s report, including those containing the two conclusions and the final version with the recommendation of no case to answer. I also confirmed that it had made no material difference to his decision:

At Q478, you then mistakenly comment “We understand that but he has not done it since last week”. This is incorrect, however I did not have the opportunity to correct it at the time.

As a result of being advised of the procedural errors at the conclusion of the investigation, on Sunday 20 October I sent DCC Brunton copies of all the relevant versions of the report and asked him to reconsider them

and confirm his position to me, in writing, as to whether or not those additional documents would have had a material impact on his decision making.

Despite being abroad and on holiday at this time, DCC Brunton undertook this review and confirmed to me by email at 12.21pm on Monday 21 October that the material would not have changed his decision. Whilst I am not able to share a copy of the email with you as it covers other matters in addition to his determination having considered the additional material, it does state “Had I had sight of the above documents at the time I considered all of the information and submitted my findings I do not believe that I would have come to a different view.”

4. Question of notes taken at the briefing of Appropriate Authorities on 1 August 2012

You asked at the conclusion of the committee hearing on 23rd October, for each Force to provide copies of any notes taken during the briefing on 1 August 2012. The only representative from Warwickshire Police was DCC Brunton and he made some notes on the first page of the ‘Case Summary of Conduct Matter CM/95/12 (DRAFT)’ with which he had been provided prior to the briefing. This is attached as Appendix ‘A’. He also wrote down a few rough notes on an A4 sheet of paper which is also attached, Appendix ‘B’. It should be made clear that this was not a standard meeting, but rather a briefing by DI Smith and CI Reakes-Williams to each of the Appropriate Authorities, where they outlined the case and showed them the various media recordings and played the recording of the meeting between the officers and Mr Mitchell. It was explained that DI Smith felt there was no case for the officers to answer and that CI Reakes-Williams agreed there was no gross misconduct but did believe there was a case to answer for misconduct.

The Appropriate Authorities were not provided with any written material to support either conclusion, but took away all the material to make their own detailed consideration. DCC Brunton then asked for further material relating to Inspector MacKaill and PS Jones in order that he could also assess any potential collusion or conspiracy between them and DS Hinton. The Appropriate Authorities considered the written source material, based upon the verbal briefing they had been given and the viewing of the recordings. In the case of DCC Brunton, this was done the day after the briefing, whilst the content of the briefing was fresh in his mind.

It is also important to note that as far as my appropriate authority was concerned, DI Smith was the Investigating Officer. This is confirmed in the case summary and supporting documentation which has already been provided to you.

I hope this letter will assist the committee in carefully considering the evidence you have seen and heard, and in formulating your conclusions. However if there is any further information which you feel we may have and which may further assist you, we would be happy to provide it to you.

Andy Parker

Chief Constable
Warwickshire Police

APPENDIX A

CM/95/12

RESTRICTED

Page 1 of 18

Mitchell Allegation - Page 10

Case Summary of Conduct Matter CM/95/12 (DRAFT)

Officers under investigation

Inspector Kenneth MACKAILL
Sergeant Christopher JONES
Detective Sergeant Stuart HINTON

- *media knowledge to meet*
- *To ascertain what was said*
- *facts - honesty + integrity*
- *time*
- *No time to plan media strategy*
- *Context - main objective*

Background

The officers subject to this investigation are representatives of the Police Federation. Inspector MACKAILL is the chair of the West Mercia branch, Sergeant JONES is the secretary of the West Midlands branch and Sergeant HINTON was at the material time the secretary of the Warwickshire branch.

→ "I thought you lot were supposed to bring help up"

*"never used those words"
"notly new being"*

On the 12th of October 2012 the officers attended a meeting with the Right Honourable Andrew MITCHELL MP at his constituency office in Sutton Coldfield. Mr Gareth PARRY-JONES, a Conservative Party press officer, was also present.

The attendees had met to discuss the "Plebgate" affair. At the conclusion of the meeting the officers briefed members of the national media who had gathered outside.

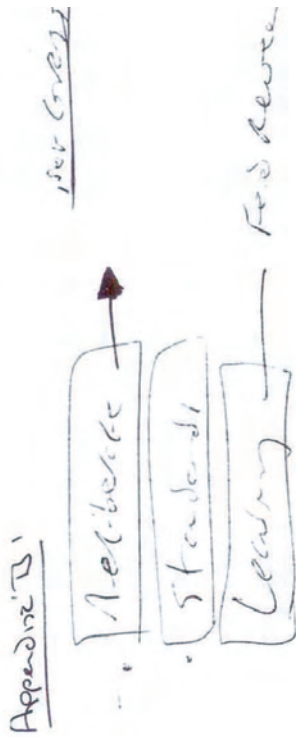
Alleged Misconduct

It is alleged that during the media briefings on the 12th of October 2012 the officers gave a false account of the meeting with Mr MITCHELL in order to discredit him.

Case Summary

On the evening of the 19th of September 2012 Mr MITCHELL was involved in a well publicised incident with police officers at the gates of Downing Street. The incident has been widely referred to in the press as the "Plebgate" affair.

Following this incident the national media reported that Mr MITCHELL was alleged to have insulted the officers by using derogatory words like "plebs" and "morons". The media relied on an alleged leaked document widely referred to as the "police log." Mr MITCHELL has repeatedly denied making these comments and the circumstances of this incident are being investigated by the Metropolitan Police Professional Standards Directorate under Operation Alice.



Type ^{Article}

Too much focus on net - quality

What did he say?

What did he say?



Media

- distance?
- Role of feed
- independence of feed

I/c Term

- net GPRS
- business - discovery
- in-feder - Suppression
- Active for work - off



Written Evidence submitted by Dame Anne Owers, Chair, Independent Police Complaints Commission, 29 October 2013

Thank you for inviting Ms Deborah Glass and me to give evidence to the Committee last week. We were grateful for the opportunity to provide further detail around the statement Ms Glass made on 15 October 2013 regarding the circumstances surrounding the meeting between the Police Federation and the Rt Hon Andrew Mitchell MP in September 2012.

I note your letters dated 28 October 2013 to Ms Glass and me requesting (1) copies of any correspondence we have sent and received in relation to this investigation and (2) notes of any meetings between IPCC investigator Steve Bimson and Chief Inspector Reakes-Williams. I have responded to these points below and have also provided further information in relation to other matters which the Committee may find helpful.

1. CORRESPONDENCE IN RELATION TO THE INVESTIGATION

1.1 Attached to this letter are the following pieces of correspondence:

- Letter to DCC Simon Chesterman from Ms Glass dated 6 September 2013 (A).
- Letter from DCC Simon Chesterman to Ms Glass dated 3 October 2013 (B).
- Email chain between DCC Simon Chesterman and Ms Glass between 3 and 7 October 2013 (C).
- Letter to DCC Simon Chesterman from Ms Glass dated 10 October 2013 (D).
- Letter to DCC Simon Chesterman from Ms Glass dated 14 October 2013 (E).
- Letter from DCC Simon Chesterman to Ms Glass dated 15 October 2013 (F).
- Letter from Ms Glass to Ron Ball PCC dated 16 October 2013 (G).
- Letter from Bob Jones PCC to me dated 17 October 2013 (H).
- Letter from Ron Ball PCC to Ms Glass dated 22 October 2013 (I).
- Letter from me to Ron Ball PCC and Bob Jones PCC dated 22 October 2013 (J).

2. INTERACTION BETWEEN IPCC INVESTIGATOR STEVE SIMSON AND CHIEF INSPECTOR REAKES-WILLIAMS

2.1 Following the evidence provided last week by Chief Inspector Reakes-Williams, we were asked whether the IPCC had, at any stage, issued a direction to the SIO for him not to share the conclusions of his report with the appropriate authorities. Ms Glass made it clear at the hearing that in a supervised investigation, the IPCC would not have any powers to issue such a direction.

2.2 We have now discussed this with Mr Simson, and I attach an extract from his policy book (K). 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 Simson 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 (extract from Mr Bimson's policy book attached at (L)), it was made clear that there should be one set of conclusions and that we considered there was a case to answer for gross misconduct. Our expectation was that, once the report was completed, all three appropriate authorities would then have the report and its conclusions.

2.3 From the evidence given to the Committee on Wednesday, it now appears that there were several procedural irregularities in the production of the final report in relation to all three officers. The final report should have contained the opinion of the investigating officer (Mr Reakes-Williams) about whether there was a case to answer, which we now know it did not. The report and its conclusions should then have been provided to the three forces, as appropriate authorities, to make their separate decisions about whether there was a case to answer. It would appear that between 31 July, when the IPCC and West Mercia discussed the draft report, and 12 August, when the final report was sent to Mr Bimson, the roles of the investigating officer and appropriate authorities became conflated.

3. MODE OF INVESTIGATION

3.1 The Committee expressed its strong view that this should have been an independent investigation. Both Ms Glass and I explained the reasons behind our decision: that it was aligned to the decision to supervise the investigation into the original incident, and at the time of decision we could not know whether it would also become a large and complex undertaking. We fully agree that we should be resourced to investigate such matters, and we hope that the proposed transfer of resources will allow us to do so. As we pointed out, the appropriate authorities nonetheless had the benefit of our independent assessment, which they chose to ignore.

3.2 Members of the Committee asked why it was not possible to seek additional resources from the Home Office for these investigations. Unfortunately, investigative capacity is not something that can immediately be made available at short notice. Additional financial resource needs to be converted into people. Either we

would have had to second in police officers (which would run contrary to the Committee's expressed views in its last report) or else we would have had to recruit new staff, which in our experience can take up to six months before they are operative. Neither would, I believe, have helped allay public concern in this matter. Nor could we have diverted resource from, for example, the investigation of deaths, without damage to those investigations and to bereaved families. Looking forward, we would hope to be resourced in a way that gives us the capacity to deploy, where necessary, sufficient staff to investigate matters of such clear public concern.

4. EVIDENCE PROVIDED BY CHIEF CONSTABLES

4.1 I have read the transcript of evidence provided by other witnesses at the hearing last week and wanted to respond to a couple of specific points made by Chief Constable David Shaw and Chief Constable Chris Sims.

4.2 Mr Shaw asserted, in an exchange with Mr Clappison, that he was unable to reconsider the decision after receipt of Ms Glass's letter dated 6 September 2013 because the process was closed. That is not the case. As we told the Committee, the process was concluded as far as the IPCC was concerned, once the investigation was completed; however it is clear that legally the appropriate authorities were able, to reconsider their decision following Ms Glass's letter.

4.3 Mr Sims, in response to a question from Mr Ellis, said:

"I think it would have been interesting and instructive if Ms Glass had had to have the rigor of making a decision. In actual fact, what she has provided is a really public facing narrative about the event but she has not—and has chosen not to because of the decision to have it as a supervised investigation—had to make a decision. I stand by the officer in West Midlands, who has reviewed all the evidence against the allegation and come up with an objective decision."

4.4 This implies that fv1s Glass's statement, unlike that of the appropriate authority, was not based objectively on the evidence. We strongly refute this. Ms Glass took the opportunity to review all the evidence for herself, and her statement records the decision she would have made had it been hers to make.

5. CURRENT STATUS OF INVESTIGATION

5.1 Given the procedural irregularities which have recently come to light, the Committee asked the IPCC to consider whether it had any jurisdiction to redetermine this investigation. We have sought the advice of leading counsel on this point and will write further on this very shortly.

I hope that the information above is useful in the Committee's continuing inquiry. If there is anything further that I can assist with then please do not hesitate to get in touch.

Dame Anne Owers, Chair, Independent Police Complaints Commission (IPCC)

APPENDIX A

LETTER TO DCC SIMON CHESTERMAN FROM MS GLASS DATED 6 SEPTEMBER 2013

INVESTIGATION INTO CONDUCT OF INSPECTOR MACKAILL, SERGEANT JONES AND DETECTIVE SERGEANT HINTON REGARDING MEETING WITH ANDREW MITCHELL MP

Thank you for the report and the underlying evidence, all of which I have now reviewed. I note the report, but have a number of observations about the conclusions.

As the IO notes, the allegation against the officers is that they deliberately misrepresented what Mr Mitchell had said during the constituency office meeting on 12 October 2012 when they gave media interviews immediately afterwards. The appropriate authority's assessment of the conduct of all three officers was that if proven, it would amount to gross misconduct. The conclusions of the investigation are that there is no case to answer as there was no deliberate intention to lie.

In my view the evidence points to a different conclusion. The context is extremely important. On 12 October 2012- the week after the Conservative Party conference at which Federation members were seen wearing PC Pleb T-shirts—it was well known that Mr Mitchell was fighting for his political life, a matter which was plainly in the minds of all three officers and their media advisor.

I have listened very carefully to the recording of the meeting on 12 October. It is evident that the parties had very different agendas -that Mr Mitchell saw the meeting as an attempt to apologise and defuse the situation, while the officers intend to focus on "his version of events"—Sergeant Jones gives a briefing to the press before the meeting where he says "I'll just be asking him to give us his version of events and tell us precisely what he did say. If he avoids the subject or if he dances round it then and we didn't resolve the matter, then I think he does need to go".

What follows during the meeting, in my view demonstrates quite an extraordinary lack of good faith on the part of the Federation representatives. Mr Mitchell makes his apology, and clearly hopes he can "draw a line" under the incident. Sergeants Hinton and Jones keep the focus on his version of events—which Mr Mitchell answers, including repeatedly explaining that he has not publicly given a detailed account because he does not want to accuse the MPS officer of lying. The officers do not ask him for a fuller account, but repeatedly point

to the “discrepancy between the two accounts” and the integrity implications this has on the MPS officer. They repeatedly assert that as a result of Mr Mitchell’s account the MPS officer’s “integrity is no longer intact” and Sgt Jones suggests that the officer may have committed a criminal or serious misconduct offence as a result of “commit[ting] to paper a falsehood” which under their code they would be obliged to report to the MPS Professional Standards Department. DS Hinton says, “I have no choice, my code of conduct to the police is that we have to without exception report the fact that another officer is possibly corrupt.” In fact none of the officers do so at all, but immediately leave the meeting and tell the waiting media that it is Mr Mitchell who must be lying.

Although all deny arranging for the media to be there, and Federation media advisor John Gaunt states that the press “must have guessed the location”, I find it inherently implausible that the officers, having travelled to the meeting with Mr Gaunt who, according to DS Hinton, “had been receiving calls from the media asking him when they were going to arrive”, could have been surprised by or unprepared for the media attention.

DS Hinton also confirmed that they all agreed before the meeting that “it was an honesty and integrity issue in relation to the records made by the officers at the gates of Downing Street”. In the circumstances I cannot see what Mr Mitchell could have said to the officers, short of agreeing with the MPS officer’s account, which would have affected the public position they were likely to take after the meeting.

Turning to the officers’ accounts in interview, all state that Mr Mitchell had been given the opportunity to give a full account, that he chose not to do so, and it was therefore not inaccurate when they said “... he’s continuing to refuse to elaborate on what happened” (MacKaill), “He still won’t say exactly what he did say” (Hinton) and “The person who is lying should resign” (Jones). While Sgt Jones’s public statements focus on the integrity issue, I note that in interview he fully agrees with his colleagues’ accounts.

In my view these responses are both disingenuous and misleading. From the recording, it is evident that Mr Mitchell answers the question of “what he did say”. He is not asked to elaborate or give a fuller account. He plainly recognises that the account he gives is at odds with the MPS officer’s account but “because of his respect for the police ... and the fact that this might well be a genuine mistake” says he does not wish to openly accuse that officer of lying. As noted above, it is precisely the fact that he gives an account at odds with the MPS officer that feeds their “concerns” about integrity, ie one of them must be lying, and in their public statements following the meeting it is equally clear they have decided it must be Mr Mitchell rather than the officer.

I also cannot accept the ex post facto justification of Inspector MacKaill, that because Mr Mitchell provided a more detailed account in December, this confirmed the accuracy of his statement in October. Mr Mitchell’s more detailed statements were made after the Channel 4 programme in December which cast doubt on the MPS officer’s version of the original incident, and of course at a time when Mr Mitchell had nothing further to lose in his relationship with the police. I find Inspector MacKaill’s assertion that “if Mr Mitchell had given a full account they would have accepted it and left the public to decide” inherently implausible. The whole tenor of the discussion was that Mr Mitchell and the MPS officer had different accounts, regardless of the level of detail he provided.

During the meeting itself Sgt Hinton refers to being ready to “move on” and “I appreciate your candour”, while their statements to the media plainly reflect their collective view before the meeting, that it was “an honesty and integrity issue”. I accept that the excerpts appearing in the news bulletins are not complete, and that the officers themselves are not responsible for what the media chooses to run, but they are responsible for the language they use.

In the media and political climate of the day it is inconceivable that they could have been in any doubt of the impact of statements to the effect of “he’s refused to tell us what he did say” on the pressure being brought on Mr Mitchell. As police officers they had a responsibility to present a fair and accurate picture. In my view a member of the public, listening to them speaking to the media after the meeting, would have interpreted their words as meaning that Mr Mitchell did not give an account of what occurred in Downing Street, that he had been evasive in his responses to them and therefore had a case to answer.

The IO notes that if the officers lied in order to deliberately discredit Mr Mitchell, the question is what was their motive for doing so? He also notes, and I agree, that “they were running a successful, high profile, anti-cuts media campaign and the account that he provided to them did not fit with their agenda.” This was a very obvious motive for their statements to the media. I have considered the argument that they could not have lied as they knew a witness was present but I do not agree that this makes a material difference—they did not know they were being recorded, and a verbal or written account is potentially deniable in a way a recording is not.

In my view, the evidence strongly suggests that all three officers gave a false account of the meeting in a deliberate attempt to support their MPS colleague and discredit Mr Mitchell, in pursuit of a wider agenda. This is an issue of honesty and integrity and/or discreditable conduct, not merely naive or poor professional judgment, and I cannot see what has changed since the conduct was assessed to be gross misconduct. The conduct is provable and any issues of mitigation should be for a panel to consider.

I await your response as soon as possible.

Yours sincerely

Deborah Glass,
Deputy Chair
Independent Police Complaints Commission (IPCC)

APPENDIX B

LETTER FROM DCC SIMON CHESTERMAN TO MS GLASS DATED 3 OCTOBER 2013

INVESTIGATION INTO CONDUCT OF INSPECTOR MACKAILL, SERGEANT JONES AND DETECTIVE SERGEANT HINTON REGARDING MEETING WITH ANDREW MITCHELL MP

Thank you for your letter of 6 September 2013. This case is complicated by the fact that it involves three police forces and separate Appropriate Authorities. The delay in responding is as a result of the requirement for each of the Appropriate Authorities to consider your letter and our responses in respect of the officer we are responsible for.

You have written to me as the investigative lead and in this capacity I now respond on behalf of the three Appropriate Authorities. Each of us has independently considered the evidence in this case and the culpability of our individual officers.

In respect of their meeting with Mr Mitchell the officers were acting in their capacities as representatives of the Police Federation of England and Wales, they were not undertaking general police duties. Clearly this does not in any way exonerate them from the Standards of Professional Behaviour for police officers.

Having considered the evidence, which has involved listening to the tape of the meeting and viewing/listening to the media coverage, the Appropriate Authorities cannot reconcile our independent review of the evidence with your interpretation of the same evidence which you say "strongly suggests that all three officers gave a false account of the meeting". You also state that they "immediately leave the meeting and tell the waiting media that it is Mr Mitchell who might be lying". None of the officers tell the media that Mr Mitchell "might be lying"; they tell the media that Mr Mitchell is "continuing to refuse to elaborate on what happened", "refused to tell us what he did say" etc. Neither of these statements is factually incorrect, Mr Mitchell did not elaborate on what happened in Downing Street and he explains his reasons for choosing not to do so. (not wishing to impugn the officers' integrity etc.). During his briefing to the waiting media Inspector MacKaill provides this context and makes Mr Mitchell's reasons for not elaborating clear.

It is accepted that, as with any verbal account, the words used may be open to interpretation depending upon the perspective of the reviewer; however, we do not accept that the three officers have deliberately given false accounts of the meeting and consequently we do not believe that a case of Gross Misconduct or Misconduct is made out. Our view is that the officers have demonstrated poor judgement in arranging and attending the meeting in the first place, in light of this our position is that Management Action is a proportionate response.

Simon Chesterman
Deputy Chief Constable

APPENDIX C

EMAIL CHAIN BETWEEN DCC SIMON CHESTERMAN AND MS GLASS BETWEEN 3 AND 7 October 2013

From: Chesterman, Simon
Sent: 07 October 2013 18:52
To: Deborah Glass
Cc: Reakes-Williams, Jeremy; 'Gareth Cann'; Brunton, Neil
Subject: RE: ****URGENT**** Letter re: Andrew Mitchell MP
Importance: High

Dear Ms Glass

Further to my e-mail below, I can confirm that the view of the three Appropriate Authorities, supported by legal advice, is that we should follow due process as defined in Schedule 3 of the Police Conduct Regulations 2003. Not to do so may set an unhelpful precedent and undermine public confidence if we are perceived to have worked around the Regulations owing to Mr Mitchell's status.

In the absence of a complaint against police by Mr Mitchell, the matter was referred to the IPCC, the referral contained the following:

This has the potential to be a high profile investigation. There is also potential for the impartiality of the police investigation to be questioned. It is the view of the Appropriate Authority that the IPCC should be given the opportunity to conduct an independent investigation or as a minimum supervise the investigation.

The IPCC decided that the matter should be dealt with as a Supervised matter. As a result of this and the fact that Mr Mitchell is not a complainant, the law does not afford him a right of Appeal.

If Mr Mitchell wants to be afforded the status of a complainant, we would record a complaint from him. In addition, I understand that, at any time during a Conduct investigation, the IPCC has the power to change the status of the investigation and consequently its powers to direct.

At this time Mr Mitchell's status is that of an Interested Party and as such the Regulations afford him the right to receive updates on the investigation and its findings. Unfortunately therefore I cannot, at this stage, agree to disclosure of the Conduct investigation report to him as he is not entitled to it. Subject to his wishes, if he does decide to become a complainant, we would at that stage review disclosure and his access to material.

The above is based upon our interpretation of the Regulations, if you disagree with this interpretation of the legal position I would be grateful for the opportunity to reconsider. I would be grateful if, during your meeting tomorrow morning, you could ascertain Mr Mitchell's wishes so that we can respond appropriately.

Yours sincerely

Simon

From: Chesterman, Simon
Sent: 07 October 2013 17:06

To: 'Deborah Glass'
Cc: Reakes-Williams, Jeremy
Subject: RE: Letter re: Andrew Mitchell MP
Importance: High

Dear Ms Glass

I chaired a Gold Group earlier with the Appropriate Authorities from Warwickshire and West Midlands Police present, together with a legal advisor. I will follow this email up with a more comprehensive response shortly, but as a holding position the Gold Group concluded that we must follow due process. In summary, at this time Mr Mitchell has not complained and in order to be afforded the status of a complainant we would have to ascertain his intentions and subject to his wishes, record a complaint from him. As stated, I will come back to you shortly, but cannot agree to disclosure of our report until we clarify his status going forward.

Regards

Simon

From: Deborah Glass
Sent: 07 October 2013 16:16

To: Chesterman, Simon
Cc: Reakes-Williams, Jeremy
Subject: RE: Letter re: Andrew Mitchell MP

Thanks for this. Having re-read the report it would appear that the only member of the public named is a xxx—is this the name you wish to redact? Grateful if you would either confirm asap or provide a redacted copy, as I have a meeting with Mr Mitchell tomorrow morning.

Regards

From: Chesterman, Simon
Sent: 04 October 2013 17:42

To: Deborah Glass
Cc: Reakes-Williams, Jeremy
Subject: FW: Letter re: Andrew Mitchell MP

Dear Ms Glass

Thank you for your response. I can confirm that, subject to Mr Mitchell's wishes, he will be afforded the status of a complainant and provided with a copy of our investigation report.

It is normal practice to redact an investigation report prior to disclosure to a complainant if there are confidential matters contained within it. In this case I believe that the only redaction necessary relates to the name of a member of the public, I am having this checked and will be in a position to respond on Monday.

I would be grateful if you would not disclose the report until I have had the opportunity to resolve this issue.

Regards

Simon

From: Deborah Glass
Sent: 03 October 2013 19:36
To: PA to DCC Simon Chesterman
Subject: Re: Letter re: Andrew Mitchell MP
Message for Mr Chesterman

Many thanks. I confirm our conversation earlier today, that if Mr Mitchell wishes to be treated as a complainant, that you would regard it as appropriate to provide him with the report and a right of appeal.

I will clarify this with him when I meet him on Tuesday. In the event that he wishes to be treated as a complainant I assume you will have no objection to my providing him with a copy of your report.

From: PA to DCC Simon Chesterman
Sent: Thursday, October 03, 2013 05:14PM

To: Deborah Glass
Cc: Brunton, Neil; 'Gareth Cann'
Subject: Letter re: Andrew Mitchell MP

Deborah

Please find attached a letter sent on behalf of DCC Simon Chesterman.

Regards

PA to DCC Simon Chesterman

APPENDIX D

LETTER TO DCC SIMON CHESTERMAN FROM MS GLASS DATED 10 OCTOBER 2013

INVESTIGATION INTO CONDUCT OF INSPECTOR MACKAILL, SERGEANT JONES AND DETECTIVE SERGEANT HINTON REGARDING MEETING WITH ANDREW MITCHELL MP

Thank you for your letter of 3 October, which I understand to be the 23(7) response on behalf of the appropriate authorities of West Mercia, West Midlands and Warwickshire Police to the recommendations set out in the report. You have advised that it is the view of all three authorities that there is no case to answer, but that management action is an appropriate response to the findings of the report.

You have also advised that Mr Mitchell's status is currently as an interested party and he is therefore not entitled to receive the report. I would point out that under the Police Reform Act 2002, the rights of complainants and interested parties to be kept informed as to various matters are identical so it is artificial for a distinction to be made about provision of the report to Mr Mitchell because he is not a complainant. I refer you to the statutory guidance and paragraph 12.3, the relevant extract being as follows:

... In most cases the investigation report will be sent to the complainant and any interested person unless there is a reason under the harm test not to do so.

I do not consider that there is any reason, on application of the harm test, why Mr Mitchell should not receive the investigation report and ask that you revisit your decision not to give it to him.

On the basis that Mr Mitchell was not a complainant, I have sought to ascertain whether he now wishes to make a formal complaint. His view is that although he has not made a formal complaint he has made his allegations about the officers, and his views about their conduct, entirely clear, and he sees no point in making a formal complaint at this stage.

In the circumstances that the investigation into this high profile matter is concluded, but remains a conduct matter with no right of appeal, where I disagree with your assessment about whether any of the officers have a case to answer in respect of misconduct or gross misconduct, I think it is right that I make a public statement about the disagreement and the reasons for it. I will ensure you have sight of this statement before it is issued, next week.

Yours sincerely

Deborah Glass, Deputy Chair, Independent Police Complaints Commission (IPCC)

APPENDIX E

LETTER TO DCC SIMON CHESTERMAN FROM MS GLASS DATED 14 OCTOBER 2013

Please find attached an embargoed copy of my statement and accompanying transcript regarding the investigation relating to Rt Hon Andrew Mitchell MP. I am sending this to you ahead of publication which will be at approximately midday tomorrow.

I am providing an advance copy of this statement on a confidential basis. It is strictly embargoed until publication by the IPCC at approximately midday tomorrow. I trust that you will share this no further than with the other relevant appropriate authorities.

As always, it is possible that the final copy may be subject to minor changes in advance of publication.

I recognise that publication of the investigation report is a matter for you but in view of my letter dated 10 October 2013, I would encourage you to provide the report to Mr Mitchell and to publish it subject to any redactions required under the harm test.

Yours sincerely

Deborah Glass, Deputy Chair, Independent Police Complaints Commission (IPCC)

APPENDIX F

LETTER FROM DCC SIMON CHESTERMAN TO MS GLASS DATED 15 OCTOBER 2013

INVESTIGATION INTO CONDUCT OF INSPECTOR MACKAILL, SERGEANT JONES AND DETECTIVE SERGEANT HINTON REGARDING MEETING WITH ANDREW MITCHELL MP

I refer to your letter of 10th October and, in particular, the line:

“I refer you to the statutory guidance and paragraph 12.3, the relevant extract being as follows:

... In most cases the investigation report will be sent to the complainant and any interested person unless there is a reason under the harm test not to do so.

I do not consider that there is any reason, on application of the harm test, why Mr Mitchell should not receive the investigation report and ask that you revisit your decision not to give it to him.”

I have considered the guidance, which goes further than the regulations in setting out duties and obligations as to disclosure of information and, further, appears to be contradictory to paragraph 12.4 of the guidance—“In most cases the investigation report will be sent to the complainant and any interested person” (12.3) compared to “They may discharge their duty to inform complainants and interested persons of the findings of the investigation by sending them a copy of the investigation report” (12.4).[My emphasis]

Nevertheless, I am prepared to release a redacted copy of the report to Mr Mitchell in this case which will be forwarded via e-mail, I also attach the same.

Yours sincerely

Simon Chesterman, Deputy Chief Constable

APPENDIX G

LETTER FROM MS GLASS TO RON BALL PCC DATED 16 OCTOBER 2013

INVESTIGATION INTO CONDUCT OF INSPECTOR MACKAILL, SERGEANT JONES AND DETECTIVE SERGEANT HINTON REGARDING MEETING WITH ANDREW MITCHELL MP

I thought I should write in response to your comments yesterday about my statement on the above, to clarify the points you raised.

In relation to the mode of investigation, it is indeed correct that West Mercia Police initially referred this matter to the IPCC, and we determined that the matter should be supervised. That is because we had earlier decided to supervise the much larger Metropolitan Police investigation into police involvement in the original incident. We are simply not resourced at present to carry out independent investigations of that scale. It therefore made sense to deal with both linked matters in the same way.

It is not, however, correct to say that the IPCC was invited only last week to change the status of the investigation. Nor is it correct that the IPCC was asked several times to reconsider the mode of investigation. Such a matter would not in any event require an invitation; the IPCC can change the status of an investigation at any time while it is ongoing. In this case however the investigation was concluded and a final report had been written and submitted. We had no concerns about the quality of the investigation carried out by West Mercia Police. It was the conclusion we disagreed with. In that regard, I note that in the first draft report submitted to the IPCC in July the senior investigating officer did in fact conclude there was a case to answer for misconduct, although the final report, submitted in August, did not.

While it is clear that we can re-determine an investigation and re-do it independently if we believe that the original investigation was itself flawed, this is not the case here. The lawfulness of an IPCC decision to re-determine a completed investigation after the final report was submitted, and then re-open the investigation, simply to rewrite its conclusions, would have been highly questionable.

In relation to the IPCC disagreement with the findings, I wrote to Mr Chesterman on 6 September, after a detailed review of the evidence, to set out my views on the conclusions, in order to give the appropriate authorities an opportunity to reconsider the matter as they were free to depart from the findings set out in the

report. I received a response on 3 October, on behalf of the appropriate authorities of West Mercia, West Midlands and Warwickshire Police, that it was the view of all three authorities that there was no case to answer.

On the basis that Mr Mitchell was not a complainant, I then sought to clarify the position of the appropriate authorities in relation to providing him with a copy of the report and a right of appeal. Mr Chesterman advised me on 7 October that:

The IPCC decided that the matter should be dealt with as a Supervised matter. As a result of this and the fact that Mr Mitchell is not a complainant, the law does not afford him a right of Appeal.

If Mr Mitchell wants to be afforded the status of a complainant, we would record a complaint from him. In addition, I understand that, at any time during a Conduct investigation, the IPCC has the power to change the status of the investigation and consequently its powers to direct.

At this time Mr Mitchell's status is that of an Interested Party and as such the Regulations afford him the right to receive updates on the investigation and its findings. Unfortunately therefore I cannot, at this stage, agree to disclosure of the Conduct investigation report to him as he is not entitled to it. Subject to his wishes, if he does decide to become a complainant, we would at that stage review disclosure and his access to material.

As agreed, I then ascertained from Mr Mitchell whether he wished to make a formal complaint. His view was that although he has not made a formal complaint he has made his allegations about the officers, and his views about their conduct, entirely clear, and he saw no point in making a formal complaint at this stage.

I advised Mr Chesterman of this on 8 October. I also said that as the investigation into this high profile matter was concluded, with no right of appeal, and as the IPCC as the supervising body did not believe that the evidence supported the conclusion of no case to answer, it was right that we should make a public statement about the disagreement and the reasons for it. I also encouraged Mr Chesterman to provide Mr Mitchell with a copy of the investigation report and I understand that he has since done this.

Finally, while the circumstances of this case may have been unusual, it is not at all unusual for the IPCC to disagree with the findings of a supervised investigation. This is in fact explicitly provided for in the Police Reform Act, when a complainant can appeal to the IPCC against the outcome of a supervised investigation. We consider these appeals, and uphold them, on a regular basis.

If you would find it helpful if I explained our role further in a meeting, I would be happy to do so.

I am copying this letter to the individuals listed below for their information.

Yours sincerely

Deborah Glass, Deputy Chair Independent Police Complaints Commission (IPCC)

cc:

Bill Longmore, Police and Crime Commissioner for West Mercia
Bob Jones, Police and Crime Commissioner for West Midlands
Chief Constable David Shaw, West Mercia
Chief Constable Chris Sims, West Midlands
Chief Constable Andy Parker, Warwickshire
Rt Hon Theresa May MP, Home Secretary
Rt Hon Keith Vaz MP, Chair Home Affairs Committee
Rt Hon Andrew Mitchell MP

APPENDIX H

LETTER FROM BOB JONES PCC TO DAME ANNE OWERS DATED 17 OCTOBER 2013

Dear Dame Anne

I am writing to express my extreme concern about the letter sent yesterday, 16 October 2013, from Deborah Glass, your Deputy Chair, to my colleague Ron Ball into which I was copied, and her press release of 15 October 2013.

These have led to extensive media coverage over an alleged earlier report that purported to recommend disciplinary action, which was subsequently changed by senior officers. I have received assurances from my Chief Constable that West Midlands Police received only one report with recommendations which concluded that no misconduct proceedings were necessary, although management advice would be appropriate. I would therefore ask you personally to look into the investigation as I am assured that no West Midlands officer made any amendments to this report. West Mercia Police, as the lead investigating authority, can provide the information about the report.

I would hope your further investigation into the assertion in Deborah Glass's letter, which has led to media speculation that senior officers interfered with the investigating officer's report, would show that this is a gross distortion of what actually took place. If the position is as she suggests, given she has the power to change the

status of any investigation at any time, surely Deborah Glass should have immediately taken over this investigation.

Unless you have evidence to the contrary, I would expect an apology for what I consider to be an unwarranted attack on the integrity of the investigating officers.

I also want to express concern about the Deputy Chair's comments made in her press release of 15 October 2013 in which she explains her rationale for going public with her views. These were justified on the basis that she had to place her disagreement with the conclusions of the appropriate authorities on public record. The press release states that there was no complainant and as these matters were referred to the IPCC by forces there is no appeal process. My concern is that in this case, given the outcome of a thorough and full process, officers have been condemned by your Deputy in public with no opportunity for redress. As Commissioner I believe that the complaints and conduct regime must deliver fairness to all to have public confidence.

If I was to make an analogy with the criminal justice process, the press release is akin to a police officer commenting after a trial that the accused was, despite being acquitted, guilty as hell. In this analogy, the letter of 16 October 2013 is equivalent to the officer further stating that the judge nobbled the jury who wanted a guilty verdict. Any police officer taking such actions could be facing disciplinary action.

Your Deputy's actions have led to a position where the integrity and honesty of the investigating teams she was supervising have been vilified in Parliament and the media. To maintain the confidence of the public, those charged with governance of the police service and the service itself, the IPCC must be seen to act with transparency, integrity and fairness. I do not believe that this has been the case here.

I hope that you also share my disappointment that the letter to Ron Ball was picked up by the media before I had the opportunity to read it. I would ask you to look very carefully to see if any of your staff were in any way responsible for spinning an interpretation of the letter which unfairly slurs the integrity of all those involved in the investigation process. If there is any evidence to support this I would assume you would consider whether disciplinary action is necessary.

Given that your Deputy Chair's letter is in the public domain I have no choice but to publish this response.

Yours sincerely

Bob Jones, Police and Crime Commissioner

APPENDIX I

LETTER FROM RON BALL PCC TO MS GLASS DATED 22 OCTOBER 2013

INVESTIGATION INTO THE MEETING BETWEEN ANDREW MITCHELL MP AND OFFICERS OF WARWICKSHIRE, WEST MERCIA AND WEST MIDLANDS POLICE

I write in response to your letter to me of 16 October, which gives me great cause for concern on a number of fronts.

Firstly, I remain concerned that in a matter of such significant public interest when the trust and confidence of the public in the Police is so at risk of being undermined, the decision was taken by the IPCC that the investigation both into the original complaint and the subsequent events here in the Midlands, should be a supervised investigation by the forces themselves. We all have difficult decisions to make about the allocation of scarce resources and about priorities. I continue to believe that your decision was wrong in such a high profile matter.

Secondly, I accept that at any time, you could have taken over the conduct of the investigation. I now understand from your letter that you were content with the conduct of the investigation and that it was only the decision with which you disagreed. I will return to that point, but wish to comment on the suggestion in your letter that there were two reports and that the conclusion of the senior investigating officer changed between the two versions of the report. I understand that a more accurate version of events would be to say that in July the Supervising Officer did in fact offer an opinion that there was a case to answer for misconduct. This view however was different from the investigating officer who came to a different conclusion. The Deputy Chief Constable charged with making the final decision made his own judgement as he was entitled to do, that there was no case to answer although advice should be given for an error of judgement.

While there may be some discussion about the process followed by the two Police Forces and the advice of the IPCC the version of events in your letter has in my view led to a public perception that senior officers in Warwickshire Police interfered inappropriately in the drafting of the report. It has called into question in a totally unwarranted way the honesty and integrity of officers involved in this matter. Ironically in a case which involved officers allegedly misleading the public, you have yourself in my view misled the public.

I am also very concerned at your decision to disagree publicly with the judgement of the senior officers who took the decision that there was no disciplinary case to answer on the basis of a full and detailed investigation which you yourself stated was carried out in an appropriate way. It does seem to me that the action you took, when taken with your subsequent comments which cast doubt on the integrity of the process and of officers,

has been unfairly damaging to the reputation of the police. I am concerned that this has offended principles of national justice. These are values I understand should underpin the work of the IPCC.

I hope that you would feel able to clarify your position as a matter of urgency.

I would welcome your comments. I am very supportive of a strong and well resourced IPCC. I believe that is crucial to our just aim of ensuring the public trust and confidence in the Police.

I have copied my letter to those to whom you sent your original letter and as your letter was apparently inadvertently made public, have made my response public. I have also copied it to Dame Anne Owers who I know has been in correspondence with my counterpart in the West Midlands, Bob Jones.

I look forward to hearing from you.

Ron Ball, Police and Crime Commissioner

APPENDIX J

LETTER FROM DAME ANNE OWERS TO RON BALL PCC AND BOB JONES PCC DATED 22 OCTOBER 2013

Dear Messrs Jones and Ball

You have separately written to me about your concerns about the handling of the West Mercia case, and these matters will of course be discussed in detail tomorrow before the Home Affairs Select Committee. We have also offered meetings with you, as it would be helpful to discuss these matters face to face.

However, in advance of those meetings I would like to clarify, for the avoidance of any doubt, that the IPCC did not pass on to the media the letter sent to you by Ms Glass. It was a private letter, designed to clarify for your benefit the reasons why she had not determined or re-determined the investigation as independent- which included the fact that, up until the final draft, she believed that the conclusion would be that there was a case to answer. At no point has anyone from the IPCC suggested that there was anything untoward about the appropriate authority's decision not to support the Senior Investigating Officer's, or Ms Glass' conclusions. Indeed, our press office has spent some considerable time last week refuting any such suggestion when dealing with media enquiries.

I hope that this clarifies this point.

Dame Anne Owers, Chair, Independent Police Complaints Commission (IPCC)

DATE, TIME, ACTION NUMBER	
	<p>- Update to interested party / EPC in due course. = Meeting 31/7 or 1/8</p>
<p>25.7.13 17.30</p>	<p>Tel. call from CE Peaker-Williams. He has put comments on report of Garry Smith. CS find no misconduct. JAW find Misconduct. He will forward to me. He does not want to be seen to pressure CS to change his comments. He is receiving pressure from Det Doyle West Midlands to send them a copy of the report - asks for my views. My position is this should not happen. It is a supervised investigation, EPC need to be satisfied with Em. & Report and this is not completed until we have signed off the report. At that stage it will be sent to all AA's. If necessary I can have e-mail sent to WDD explaining this position. JAW who concerned that report can be leaked out. I advise him to make a paper decision based</p>

DATE,
TIME,
ACTION
NUMBER

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on his concerns and the issues are have discussed. I feel it is unfair of WMP to put pressure on DRW in this way.
He agrees to send me the report and will not send to WMP.

26.7.13
12.20h

Contacted by Det Doyle WMP PSD,
Explained her concern about the lack of information they have on investigation around Jones / Mackrell / Hinton.
They have to date only received bland updates
(I say, perhaps this should have been raised earlier - she agrees)
Feels that force not properly updated.
Business issues of reporting, need to prevent leaks, potential changes to report once seen by J.P.C.C, which may completely change recommendations.
Discussed what will happen with information and DD states this will allow force to make decisions re - role of officer, ? suspension etc.
She will then brief Dep. to the effect that she is happy with the investigation.

DATE,
TIME,
ACTION
NUMBER

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She assures me that any information she is given will be kept confidential - but if she feels she needs to know more she will contact me.

She will send me an e-mail on the issue that she will keep confidential.

I state E will inform JRW that she can be updated on the investigation - up to the point of the sanctions and the level of misconduct being considered.

WMP will not have the report until it is seen by EPCC and signed off.

E-mail to JRW regarding update to Deb Doyle WMP - sent 14.00hrs.

31-7-13

11.00hrs

JRW / JS / SB.

Transcripts of Radio interview Steve Millard today.

C. Jones: does not use main phrase - 'does not say what he did say'.
Natalie does not call for resignation.

DATE,
TIME,
ACTION
NUMBER

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No notes/footage from pre-meeting

Jones notes - reflect content of meeting.

Force must decide on its position.

Given my view re - this is Gross Misconduct

- SRW feels I not completely honest with account
- it is misleading → I = this G.M.

GS - made an error - has allowed a
misrepresentation. Does not believe KRM has
'lied' - has allowed misrepresentation to occur.

* Will discuss between themselves - then Legal
and Dep.

Learning: Federation mechanisms are being
reviewed

- may add one or two comments

- G.S. - doesn't feel local Fed should call
for Govt Minister to resign - should be
a national Fed.

- Not appropriate for regions to be acting

DATE,
TIME,
ACTION
NUMBER

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alone in such high profile cases.

Update to Andrew Mitchell that draft report completed, shared with SAC - some further work to be completed - advice from legal to be obtained

I am happy with investigation and evidence gathered
- Interviews acceptable.

DG 3106 :

Anna O'Rourke 3179.

Written Evidence submitted by Deborah Glass, Deputy Chair, Independent Police Complaints Commission, 29 October 2013

I am writing in reply to your email earlier today in which you drew my attention to a statement made by Chief Constable Parker of Warwickshire Police in a letter to your Committee dated 28 October 2013. You have asked for my response in relation to this matter.

I think it is important to set out the chronology here. The Investigating Officer's "severity assessment", ie the assessment of conduct made at the start of the investigation, was gross misconduct for all three officers. All three officers were interviewed on that basis.

I reviewed the draft report (in which the Investigating Officer concluded misconduct) on 29 July 2013. At that stage I would not have reviewed the underlying evidence, that would have been the role of our investigator as necessary. In relation to the conclusion in the draft, I emailed our investigator, who I knew was meeting the Investigating Officer the following week, to say that the seven questions the Investigating Officer had listed were broadly the ones I would have raised to confirm there was a case to answer, but that I could not see what had changed since the conduct was assessed to be gross misconduct.

My call to DCC Chesterman on receipt of the final report was therefore to express my surprise at its conclusions, given the direction in which we understood the investigation was going. I did not know when I called him, whether he (as appropriate authority) was even aware of them. I was clear in that conversation that I was not making any definitive judgements on the case over the telephone. I agreed during that conversation that it was necessary for me to fully review all the evidence before I came to a judgement, and that is what I did the following week.

I wrote to DCC Chesterman on 6 September 2013, having reviewed all the evidence. The Committee have been provided with a copy of this letter.

In view of the above, I refute Chief Constable Parker's suggestion that I "had formed a strong view on this matter without considering the full evidence".

I trust that this assists but do come back to me if you require any clarification.

Yours sincerely

Deborah Glass, Deputy Chair, Independent Police Complaints Commission

October 2013

Written Evidence submitted by Andy Parker, Chief Constable of Warwickshire Police, 29 October 2013

I write in response to your letter of yesterday's date, in which you ask for further documents and information.

1. Notes and Minutes of Meetings with Chief Constables to Discuss the Investigation.

I can confirm that I have not had any meetings or discussions with the relevant Chief Constables in respect of the live investigation into this matter.

Deputy Chief Constable Nell Brunton acted on my behalf as Appropriate Authority during the investigation. His notes made on the briefing of 1st August have been submitted to you.

2. Information about previous Disciplinary Investigations—DS Stuart Hinton

Stuart Hinton has an unblemished record of over 21 years police service. There is only one allegation recorded on our system in relation to DS Hinton. This is a complaint in 2009 relating to the seizure of a mobile phone and the taking of a witness statement. The matter was assessed as "not misconduct" and it was finalised as unsubstantiated with "no action" against the officer.

DS Hinton has received three Chief Constables Commendations, the most recent in 2013 and two Diversity Awards for his work with LGBT communities.

Andy Parker

*Chief Constable
Warwickshire Police*

Written Evidence submitted by Neil Brunton, Deputy Chief Constable of Warwickshire Police, 29 October 2013

HOME AFFAIRS SELECT COMMITTEE—“PLEBGATE”

Thank you for your letter received by email on 28th October, seeking any notes from the meeting held on 151 August 2013. I attach herein a copy of those notes, which you will already have received as appendices to the letter sent to you from Mr. Parker yesterday (28 October 2013). I note that Mr. Parker has previously referred to these notes as Appendix A and B.

In your letter you also ask for any notes around the decision-making meeting following the briefing meeting. A decision-making meeting was not held. I independently reviewed all the information and formulated my own decisions. I directly recorded my notes (Appendix C) onto a word document at the time of my review.

It should be noted that I did make some very brief personal notes during the period between the end of the meeting in West Mercia on 151 August 2013 and prior to recording my findings on the word document on 2nd August 2013. I have attached a copy of these notes (Appendix D)

Yours sincerely

Neil Brunton
Deputy Chief Constable
Warwickshire Police

Appendix A
CM/95/12

Transcript + audio recording - linked + filed in
Mackaill's collection - page 10
RESTRICTED Page 1 of 18

Case Summary of Conduct Matter CM/95/12 (DRAFT)

Officers under investigation

Inspector Kenneth MACKAILL
Sergeant Christopher JONES
Detective Sergeant Stuart HINTON

- media challenge to him
- To ascertain what was said
- false hearsay + allegations
- Note in to HM media Xerox
- Context - media at liberty

Background

The officers subject to this investigation are representatives of the Police Federation. Inspector MACKAILL is the chair of the West Mercia branch, Sergeant JONES is the secretary of the West Midlands branch and Sergeant HINTON was at the material time the secretary of the Warwickshire branch.

"I thought you lot were supposed to be helping us"
"Never was there words very new thing"

On the 12th of October 2012 the officers attended a meeting with the Right Honourable Andrew MITCHELL MP at his constituency office in Sutton Coldfield. Mr Gareth PARRY-JONES, a Conservative Party press officer, was also present.

The attendees had met to discuss the "Plebgate" affair. At the conclusion of the meeting the officers briefed members of the national media who had gathered outside.

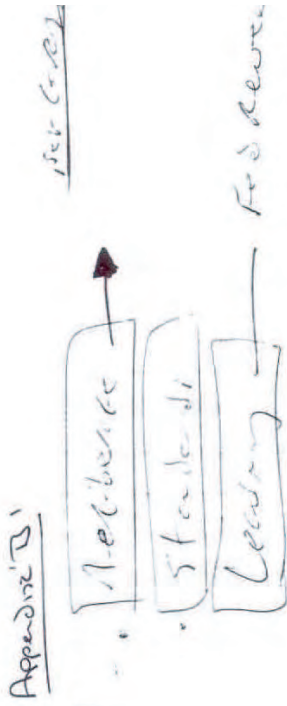
Alleged Misconduct

It is alleged that during the media briefings on the 12th of October 2012 the officers gave a false account of the meeting with Mr MITCHELL in order to discredit him.

Case Summary

On the evening of the 19th of September 2012 Mr MITCHELL was involved in a well publicised incident with police officers at the gates of Downing Street. The incident has been widely referred to in the press as the "Plebgate" affair.

Following this incident the national media reported that Mr MITCHELL was alleged to have insulted the officers by using derogatory words like "plebs" and "morons". The media relied on an alleged leaked document widely referred to as the "police log." Mr MITCHELL has repeatedly denied making these comments and the circumstances of this incident are being investigated by the Metropolitan Police Professional Standards Directorate under Operation Alice.



False account
disclosed

Time ^{public}

How much forest on net - 2011

What is the way?

What is the way?

Print
Print
Print

Print

Print

Print

Media

- distance?
- Rate of fall
- independently of price

I/O

- net gains
- baseline
- net losses - substitution
- net loss for work - up

Interview

Print

Print

Print

Misconduct allegation against DS Stuart Hinton

Views from DCC Neil Brunton - Warwickshire Police

Summary of facts

Meeting with Mr Mitchell

On 12th October 2012 DS Hinton attended a pre-arranged meeting with the Right Honourable Andrew Mitchell MP at Mr Mitchell's constituency office. Also present was Inspector Kenneth MacKaill, Sergeant Christopher Jones and Mr Gareth Parry-Jones (Conservative party press officer).

The meeting lasted some 45 minutes and unbeknown to the officers (and without their consent) the meeting was recorded by means of tape recording.

During the meeting DS Hinton made reference to having issues with Mr Mitchell as to why he hasn't said publicly what he actually said to the Metropolitan Police Officers. DS Hinton requested Mr Mitchell to tell him what he did say to the officers in London.

In response to this request and as part of Mr Mitchell's response he said, "The incident was very brief. I complied with the officer and I picked up my bicycle but I did say under my breath but audibly in frustration **I thought you lot were supposed to fucking help us**"

There were no supplementary questions to this response and this is the only time that Mr Mitchell mentioned what he actually said to the officers in London. Throughout the interview he spoke of words that he didn't use.

Before concluding the meeting DS Hinton said "I appreciate your candour and we appreciate you have gone beyond what you said to the media"

Mr Mitchell replies, "Well I have confirmed what I said to the media before"

Media interviews

During an interview with BBC Midlands today DS Hinton said, "He (Mr Mitchell) has come out with what he's not said **but he is not saying what he did say** and that has caused an integrity issue"

During an interview with Radio 5 live DS Hinton said, "He (Mr Mitchell) **still won't say exactly what he did say**"

DS Hinton had also been present when Insp Mackaill spoke to the media directly after the meeting with Mr Mitchell. Inspector Mackaill had said "He's continuing to **refuse to elaborate** on what happened" and "**He refused to tell us what he did say**"

Interview with DS Hinton

DS Hinton stated that the main reason for the meeting (from his perspective) was to understand what had happened in London.

Throughout his interview DS Hinton stated that the conversation was dominated around what Mr Mitchell had not said and that given the officers accounts he was left (at the end of the meeting) with the impression that Mr Mitchell hadn't said what he said to the officers during their conversation.

The following responses during interview reflect this position;

"I absolutely emphasised that he was at pains to point out that he didn't use certain phrases that the media had certainly got on which was around the plebs, morons and things like that and I did make the point, not only at this interview but at other interviews as well that I didn't feel that he said what he did say"

"At the end of the meeting when we came out I was left with very much the impression that he hadn't told us what had gone on and hadn't expanded beyond a comment that he'd said he said."

"But when you take what the exchange is supposed to have been, according to the officers or according to the reports of what the officers have put, then I very much left the meeting a feeling that he hadn't really said what had gone on in the exchange and hadn't given an account of what had gone on and what he'd really said"

"That was my opinion and my take on where we were when we left the meeting"

Regulation 15 notice

I understand that the regulation 15 notices served on DS Hinton states that he gave a false account of a meeting with Andrew Mitchell MP in a deliberate attempt to discredit him.

Personal observations

Having listened to the transcript of the interview with Mr Mitchell MP, viewed media material, seen the investigating officers summary report and having had sight of the tape transcripts of interviews with DS Hinton my observations are as follows;

- The meeting was pre-arranged
- The meeting was tape recorded without the officers consent but nevertheless provides an accurate account of what was said
- The majority of the interview includes what was not said by Mr Mitchell as well as discussing honesty and integrity matters in respect of the notes made by metropolitan officers

- There is only one occasion where Mr Mitchell states what he did say to the Metropolitan officers. This is limited to a single sentence in their overall conversation
- It is apparent that the officers heard this particular comment but chose not to ask any supplementary questions
- It appears that DS Hinton formed the view (when he left the meeting) that Mr Mitchell had not provided a full account of what was said to the officers in London.
- Of the 2 statements made to the media by DS Hinton the following statement “He **still won’t say exactly what he did say**” tends to support DS Hinton’s understanding of the situation
- The statement made to BBC Midlands today “He (Mr Mitchell) has come out with what he’s not said **but he is not saying what he did say** and that has caused an integrity issue” could be interpreted that Mr Mitchell had said nothing during the meeting and therefore incorrect and misleading to the media and general public.
- DS Hinton in his interview makes it clear from his perspective that Mr Mitchell had not expanded beyond a single comment

Assumption

It appears to me from both DS Hinton’s and Inspector Mackaill’s media interviews that they both left the meeting feeling that Mr Mitchell had not provided a full account of what he said to the officers in London. This is reflected in the following comments during their media interviews.

Mackaill - He’s continuing to **refuse to elaborate** on what happened”

Hinton - He **still won’t say exactly what he did say**”

This is again reinforced in DS Hinton’s interview as follows;

“At the end of the meeting when we came out I was left with very much the impression that he hadn’t told us what had gone on and **hadn’t expanded beyond a comment that he’d said he said.**”

Standards of professional behaviour

Restricting my comments to DS Hinton I have considered the standards of professional behaviour as follows;

Honesty and integrity

1. I have considered whether DS Hinton acted with integrity, was open and truthful in his dealings with the media thereby securing public confidence.

Whilst the statement made to BBC Midlands today could be seen as incorrect and thereby misleading I do not believe that this was a deliberate manner to deceive anyone.

The statement made to Radio 5 live tends to support DS Hinton's account in interview.

2. I have also considered whether DS Hinton knowingly made any false, misleading or inaccurate statement.

It is clear that the statement made to BBC Midlands today is **inaccurate** when taken in the context of a single response. I do not believe, however, that there is evidence that this was knowingly false or knowingly misleading. I refer to my previous observations and assumption.

I do not believe that DS Hinton has acted dishonestly and without integrity

Discreditable conduct

I have considered whether DS Hinton's actions has discredited the police service or undermined public confidence in policing.

I note that when considering discreditable conduct it is the **underlying conduct** of the officer, which should be considered.

I also note that in the interests of fairness, consistency and reasonableness the test is not solely about media coverage but has regard to all the circumstances.

There is no doubt (in my mind) that where an officer deliberately misleads, misinforms or provides inaccurate information then public confidence would be significantly undermined.

In this particular case all of the factual evidence, the officers interview and indeed assumptions suggests to me that the officer has **not set out to mislead or misinform** the media or the general public but **has provided inaccurate information** (to BBC Midlands today) from his meeting with Mr Mitchell.

In considering whether this inaccurate information amounts to discreditable conduct one has to take account of the underlying conduct of the officer. It is my view that the information provided by DS Hinton to BBC Midlands Today has been provided (in DS Hinton's mind) within the context of the full conversation, which took place between Mr Mitchell and Metropolitan officers.

As part of this investigation it should be noted that Police Federation officials work to different rules and governance/constitution to that of individual forces. This is important given that at the time they were representing the Police Federation and not

their respective force. Nevertheless they were acting, as Police Officers and their conduct at all time should comply with the standards of professional behaviour. Whilst it is apparent that DS Hinton has put himself into a difficult environment, ill-prepared to deal with national media and has provided an inaccurate statement to BBC Midlands Today given my assessment of the facts, his interview and my own observations and assumptions **I do not believe that his underlying conduct has been such that he has breached the standards of professional behaviour.**

I believe that there is much learning for DS Hinton and I would propose to provide words of advice.

I understand that the Police federation are conducting their own review for future learning purposes.

N.E. Brunton
Warwickshire Police

u Not being the first
Centre of Notion debate was
'what did Mitchell say'

3 police officers in room
when Mitchell said leaked
'I thought you lot were
supposed to be keeping Lee us'
Went from
Court
↓
from
Court

Surprising no supplementary questions
↓
around - about scene Leaky + Keys

End of meeting
Iturza "I appreciate your candour,
and we appreciate you have gone
beyond what you said 1- in the media
⊗ suggests he heard the other stated

See the quotes for Stuart
in media interviews + 2

Need to see level of questioning
1- interview of case 3

'And they hear what Mitchell say
and if so why did they not
say so 1- interviews with Mitchell

Mitchell "I thought you lot were supposed to be helping help us"

"Never used those words (murder + P1-5)

Mackail "Continuing to refuse to elaborate on what happened"

"He refused to tell us what he did say"

John Hinton

"He will not tell us exactly what he said"

John

Hinton

"Not saying what he did say" —

"He still won't say exactly what he did say" —

"Approach London. Gone beyond what he said" —

James

doesn't say refuse to say

Last statement
Mitchell

— looking in eye and telling the world I

Written Evidence submitted by DS Stuart Hinton, 29 October 2013

EVIDENCE OF DS HINTON TO HAC 23 OCTOBER 2013

1. Thank you for your letter dated 28 October 2013 in relation to my evidence before the Home Affairs Committee on 23 October 2013.

2. I have been asked to address two questions by noon on Tuesday 28 October 2013. For ease of reference these questions are:

1. Are you able to explain to whom you were referring in the meeting on 12 October when you used the phrase "this woman that the Conservative Party have"?

2. If you did not use this phrase, are you able to offer any explanation as to what you said that might have been mistranscribed in this way?

3. As to question (1), the short answer is that I must have been referring to the Home Secretary. I set out below a longer answer.

4. As to question (2), this does not arise given my answer to the first question.

THE TRANSCRIPT

5. The Committee will understandably be concerned at the accuracy of my answers to questions 262–267. I apologise to the Committee that it has become necessary to clarify these answers. The answers given to the Committee were to the best of my knowledge and belief at the time and were not knowingly inaccurate. The meeting itself was over a year before my appearance before your Committee.

6. Prior to giving evidence to the Committee I had read the transcript of the meeting with the Rt. Hon. Andrew Mitchell M.P. on 12 October 2012, but had not listened to the recording itself since my interview several months before as part of the misconduct inquiry. The misconduct proceedings were narrowly concerned with whether we had misrepresented what Mr. Mitchell had said rather than this paragraph.

7. On the face of the transcript the passage in question is one short paragraph out of a meeting of some 45 minutes duration. The passage did not result in any question from me.

8. As originally transcribed it read “...the reform of this woman that the Conservative Party have...” When answering questions from your Committee I did not remember saying this; it did not appear to make sense (it implies reforming a woman); and the point appeared somewhat out of context with the rest of the transcript.

9. Subsequent to my appearance I have listened to the recording and attempted to produce a more accurate transcript. My interpretation of the recording is as follows:

DS Hinton

Look look we have said today that look it is time to move on, we as you know as a Federation have um um have have issues with er the the reform agenda that this woman, (unclear words, “from?”) the Conservative party, have

AM MP

(unclear words) I can, I think...

DS Hinton

Let me, let me just finish and to be perfectly honest sorry and before I, we’re just moving on here and I don’t know if Chris [*Sgt. Jones*] or Ken [*Insp. MacKail*] have anything else you’d like to ask around the issue of Downing Street because I’ve had the question ... Chris have you got anything?

Sgt Chris Jones

Did you make any notes of what you said?

AM MP

I made a note of the exchange...

10. In context I accept 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.

11. 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.

HAC QUESTION 267

12. As to my negative reply to Committee question 267, I observe that I was in fact asked two questions, namely (1) whether my comment as to “that woman “ (in fact, “...that this woman... “) was a “classic example of the disrespect and [my] disgraceful conduct on that day”, and (2) that I was clearly referring to the Home Secretary.

13. I believed my single answer to these questions, namely “no”, was accurate at the time I answered the questions in Committee. I now realize that it was inaccurate so far as the second of the two questions is concerned. I unequivocally apologise to the Committee again for having to correct this answer. The correction is a direct consequence of having listened to the specific part of the recording.

14. My answer to the first question remains the same: no disrespect to the Home Secretary was intended.

15. If I can assist the Committee in any other way I would be most willing to do so.

Yours sincerely

DS Stuart Hinton

Letter from Jon Gaunt, Media Adviser, to the Chair of the Committee,

DATED 29 OCTOBER 2013

QUESTION 1

We had been running a long campaign on behalf of many Police Federations that started just before the Olympics and the G4 controversy to highlight what our clients thought were the dangers that the 20 percent cuts to Policing would have on the public.

As the Conservative Party conference was being held in Birmingham this provided a focus for the campaign.

The campaign was all about the cuts and the consequences to the public as the Federations saw it.

PC Pleb was just one issue that arose during the period of the campaign.

Our clients wrote to David Cameron and Andrew Mitchell requesting separate meetings to discuss the cuts. David Cameron did not respond but Andrew Mitchell accepted an invitation to talk about the cuts and his comments at the gates.

I think all concerned hoped that the meeting on the 12th of October would bring some clarity to what Mr Mitchell had or had not said and also of course it kept the cuts story alive in the papers for more days, which as a PR firm we wanted for our clients.

QUESTION 2

The initial invitation or letter to Mr Mitchell was the idea of Ian Edwards and was issued by the Federation.

I had a meeting with the three reps before the meeting to discuss what we thought Mr Mitchell might or might not say and I travelled with them to the meeting.

The Federations issued a press release saying that the meeting was happening but not where the location was.

We tweeted about the meeting to gain more publicity for the cuts campaign and to keep the story alive.

QUESTION 3

No we did not as we did not know what was going to be said in the meeting and the Officers constantly remarked that all they wanted was clarity from Mr Mitchell.

QUESTION 4

No I did not as I was not in the meeting with Mr Mitchell and I had no time or opportunity to talk with the Officers after their meeting with him.

QUESTION 5

We were hoping that by the end of the meeting we and everyone else would know what Mr Mitchell had actually said at the gates and that the matter would be over.

QUESTION 6

Yes I did advise them to try and get out before six so that we would make the six o'clock news. We were engaged as Media and PR advisors so it is our job to get the maximum exposure for our clients. However the three officers whilst listening to my advice said that they would not stop the meeting if they felt they were getting somewhere. As it happens I am told, by them, that the meeting had reached a natural conclusion by about 5.45. I was not in the meeting so I had no influence over this.

QUESTION 7

We have had several contracts with the PFEW over the years but the one I presume you are referring to is the six month one we were granted by the then Chairman Paul McKeever, Ian Rennie, Martin Mordecai and Steve Williams?

This contract was brokered by Mr Williams who wanted us to help on a national basis with the 20 percent cuts campaign.

There was a clause in the contract, which allowed them to end the contract after two months if they so wished. They exercised this clause but gave us no reason either verbally or in writing for why they did so. So it is quite wrong to say that we had the contract terminated for not following orders.

QUESTION 8

We ran a highly successful campaign, which kept the Police cuts story and the consequences of those cuts on the front pages for weeks and weeks.

This started before the Olympics when we exploited the G4 security debacle and made the point that only Police can Police.

When Plebgate exploded we took full advantage of it to push our clients' message out to the general public. However it was not our aim to oust a Minister. Our clients were simply trying to establish the truth whilst we were keeping the Police cuts story on the front pages.

We think it is also important to stress that we were not engaged by any Police Federation to solely work on the cuts campaign. We were first engaged by all of them to help with media training, press liaison and the effective use of social media.

Written Evidence submitted by Chris Sims, Chief Constable of West Midlands Police, 30 October 2013

I am writing in response to your letter of 28th October 2013 and in furtherance of my letter dated 25th October 2013, both relating to requests for information following the Home Affairs Select Committee Meeting of 23rd October 2013.

In my letter of 25th October, I made reference to West Mercia Police collating submissions from the three forces relating to the meeting of 1st August 2013. I have now been made aware that the West Midlands Police records did not form part of the West Mercia Police submission and, therefore, please find attached notes of this meeting completed by DCI Doyle, a covering report from DCI Doyle relating to these notes, and a report from DCI Doyle to ACC Cann dated 2nd September 2013, in which she makes reference to the meeting.

In your subsequent letter dated 28th October 2013, you requested information relating to two areas. I am mindful of the deadline that was placed on that information being provided but I hope that you understand the reason for the delay as per the discussion with your office. I can now provide the following answers:

1. In response to your request relating to point one, being any notes or minutes of any meeting between myself and fellow Chief Constables to discuss the investigation into the conduct of Inspector MacKaill and others, I can confirm that DCI Doyle attended the meeting on 1st August and that I did not have any meetings with my fellow Chief Constables to discuss the investigation.
2. In response to point two, information about any previous disciplinary investigations involving Sgt Chris Jones, it seems likely from reviewing the transcript of the Home Affairs Select Committee Meeting of 23rd October that the officers may have misunderstood this question. I can confirm from police records that Sgt Chris Jones has been subject of thirteen disciplinary investigations during his service.
3. Of these, two were subject of a local resolution with the complainant, three were closed by dispensation, five were unsubstantiated and two resulted in action being taken against Sgt Jones.
4. Of the cases resulting in action, the first, from 1996, related to a complaint regarding the use of force, for which Sgt Jones received advice from the Assistant Chief Constable, and the second, from 2006, related to the performance of duties for which Sgt Jones received advice.

I trust that the above is sufficient but please contact me again should you require further detail or clarification.

Yours sincerely

Chris Sims,
Chief Constable of West Midlands Police,

October 2013



RESTRICTED

WG401 (11/97)

MEMORANDUM

To:
ACC Cann

Ref:

From:
DCI Deb Doyle

Ext:
8800 3129

Date:
25/10/13

SUBJECT:
Request from Home Affairs Select Committee

Sir,

Following the request from The Home Affairs Select Committee I attach a copy of my notes from the meeting I attended on 1st August 2013 at West Mercia Police Headquarters.

I keep a 'Day Book' that I use to document rough notes from meetings I attend. The two pages attached are the only notes I have from the meeting on 1st August. The majority of notes I made whilst listening to the recorded interview between Andrew Mitchell and the three Federation Representatives. I focussed on capturing the references to PS Chris Jones only in order to report back to you.

On the second page I made a note of the conversation that took place around lessons that could be learnt from the incident.

DCI Debra Doyle
Professional Standards Department
West Midlands Police

West ~~15~~ Listening to Tape 11/01/20

CS says Police Officer notes were published in the Telegraph.

CS can't understand why AM doesn't want to take it any further because he is alleging serious misconduct.

AM didn't want to escalate because his apology had been accepted. He claimed he did not accept what was reported in press - police notes was accurate. He did not want to escalate.

CS - could not accept this - we should be able to trust officers - this has marred their reputation

Pointed out to AM - could be Pervert Course Justice (By other Fed Rep)

CS - stresses would certainly be a misconduct.

Conversation stalls because Fed Officers can't just let it go that AM's account differs so dramatically from police account - without it becoming a misconduct / Criminal investigation.

Fed Rep - talks about this being the first time he has articulated it this way. AM denies this - he says he hasn't said anything different or new.

Fed officers says he is duty bound to report it to Met PSD, corrupt officer-falsifying document.

Fed have instigated their own "Learning The Lessons." National Fed conducting this.

Need to make it clear this was not supported by the Forces.

The Learning must be for the Fed NOT the Forces.

Fed - could keep Forces press officers informed of such things.



NOT PROTECTIVELY MARKED

WG401 (11/97)

MEMORANDUM**To:**
ACC Gareth Cann**Ref:****From:**
DCI Deb Doyle**Ext:**
8800 3129**Date:**
02/09/13**SUBJECT:**
Complaint by Mr Andrew MitchellBackground

The officers subject to this investigation are representatives of the Police Federation. Inspector Mackaill is the chair of the West Mercia branch, Sergeant Chris Jones is the secretary of the West Midlands branch and Sergeant Hinton was at the material time the secretary of the Warwickshire branch.

On the 12th of October 2012 the officers attended a meeting with Mr Andrew Mitchell MP at his constituency office in Sutton Coldfield. Mr Gareth Parry-Jones a Conservative Party press officer was also present.

The attendees had met to discuss the 'Plebgate' affair that had taken place on 19th September 2012 in Downing Street. At the conclusion of the meeting the officers briefed members of the national media who had gathered outside.

Alleged Misconduct

It is alleged that during the media briefings on the 12th of October 2012 the officers gave a false account of the meeting with Mr Mitchell in order to discredit him.

Investigation

The complaint was received from Mr Mitchell following a Channel 4 News report that featured an audio clip from the meeting on 12th October 2012 and selected media coverage that followed. The way the report was choreographed gave the impression that Mr Mitchell gave a full account of what happened in Downing Street on 19th September 2012 during the meeting yet Inspector Mackaill left the meeting and immediately informed the awaiting media that Mr Mitchell had in fact refused to tell them what had happened on that day.

Inspector Mackaill was the only person subject of the allegation initially, hence the investigation began with West Mercia PSD, supervised by the IPCC. During the course of the investigation the IPCC requested that Sergeant Chris Jones and Sergeant Hinton were referred to them and form part of the investigation. As a result we referred Sergeant Jones and served Regulation 15 Notices on him on 4th April 2013. It was agreed with West Mercia that although they would incorporate Sergeant Jones into the investigation we would remain the Appropriate Authority for him.

On 1st August 2012 on your behalf I attended West Mercia Headquarters and met with DCC Simon Chesterman, DCC Brunton, DCI Jerry Reakes-Williams (West Mercia SIO) and the West Mercia solicitor. The meeting came at the conclusion of DCI Reakes-Williams investigation and the purpose of the meeting was to review the evidence and discuss Appropriate Authority

recommendations. We listened to the audio recording of the 45 minute discussion that had taken place on 12th October 2012 between Andrew Mitchell and the three Federation Representatives and then watched the recording of the press conference that took place immediately after the meeting had concluded. We were provided with written copies of further media interviews that the three officers had been involved in following the meeting.

It became obvious reviewing all of the evidence how the reporting by the Channel 4 News had actually only selected small quotes from both the meeting and the subsequent press coverage in a way that potentially gave the impression the officers had misled the press. When all of the evidence was reviewed it was clear Inspector Mackaill had tried extremely hard to give an accurate account of what had taken place in the discussion and had remembered most of the comments made by Andrew Mitchell word for word. It was an exceptionally long press conference and it was one of his very last comments stating Andrew Mitchell had refused to tell them what had taken place in Downing Street and called for his resignation. In order to understand what led to this it should be listened to in the context of the questioning by Michael Crick that led Inspector Mackaill down this route.

In relation to Sergeant Jones he played no part in the press conference apart from standing behind Inspector Mackaill. He did subsequently take part in briefing the press but he did not repeat Inspector Mackaill's comments and he did not call for Andrew Mitchell's resignation. When he was interviewed by BBC Midlands Today he stated the matter had now become an integrity issue. When asked if Andrew Mitchell should resign he said "The person that's not telling the truth needs to go." He repeated similar comments when he was interviewed on BBC Radio 5 Live.

Recommendations

My assessment of the evidence produced was that Sergeant Jones had not breached any Standard Of Professional Behaviour. DCC Chesterman and DCC Brunton agreed with my assessment.

DCC Chesterman had agreed to be the single point of contact for the IPCC with the understanding that we would remain the Appropriate Authority for Sergeant Jones. With this DCC Chesterman submitted a report to the IPCC recommending NFA for Sergeant Jones along with NFA for Inspector Mackaill and Sergeant Hinton.

DCC Chesterman has made me aware that the IPCC disagree with his recommendations and they believe there is a case for Gross Misconduct. DCC Chesterman has invited the Commissioner Deborah Glass to listen to the audio tapes and watch the whole press conference before she makes a final recommendation. Once this meeting has taken place DCC Chesterman intends to invite us back to discuss the matter before he submits another report into the IPCC.

I am unsure what evidence Commissioner Glass has to justify a case of Gross Misconduct against Sergeant Jones because I have not been provided with any evidence that could support this claim. There was a suggestion by DCI Reakes-Williams that the IPCC were considering that all three officers were acting together in misleading the press. The evidence provided rebuts this allegation because the press conference in question took place less than a minute after the conclusion of the interview with Andrew Mitchell. There was absolutely no possibility that the three officers had the opportunity to collude before Inspector Mackaill spoke to the press.

I now await a further update from DCC Chesterman following his meeting with Commissioner Glass.

It has been agreed between all three Appropriate Authorities that the officers will not be informed of any decision until the matter has been resolved with the IPCC.

DCI Debra Doyle
Professional Standards

Written Evidence submitted by Deborah Glass, Deputy Chair, Independent Police Complaints Commission, 31 October 2013

INVESTIGATION INTO CONDUCT OF POLICE FEDERATION REPRESENTATIVES ON 12 OCTOBER 2012

You are of course aware of the above, which I understood to be concluded when the final report was received on 12 August 2013. Although I disagreed with the conclusion of no case to answer for each of the officers, after taking advice, I determined that I was unable to re-open and re-determine the investigation, simply because I did not agree with the conclusions, as this would be an abuse of process. It is indeed the case that the legislation states a mode of investigation can be redetermined at any time but logically, this can only apply where an investigation is open.

You are also aware of the evidence I have given to the Home Affairs Select Committee about the mode of investigation, given the views expressed that this should have been an independent investigation at the outset. I have explained the reasons behind our decision: that it was aligned to the decision to supervise the investigation into the original incident, and at the time of decision we could not know whether it would also become a large and complex undertaking. I fully agree that the IPCC should be resourced in a way that gives us the capacity to deploy, where necessary, sufficient staff to investigate matters of such clear public concern, but that is not the situation at present.

The evidence given by the investigating officer, Cl Reakes-Williams to your Committee on 23 October 2013 demonstrates that there were a number of procedural irregularities between the production of the draft and final West Mercia reports. This was the first time I was made aware of the key procedural irregularity that the final report did not contain the opinion of the investigating officer as required by regulation 20 of the Police (Complaints and Misconduct) Regulations 2012, but instead erroneously recorded the view of the appropriate authorities.

I was asked by the Committee when I gave evidence if I would seek legal advice on whether, in light of the procedural irregularities, I was able to re-determine the investigation. I have now sought legal advice on this issue and I have further reflected on the evidence given before the Committee, the provisions of paragraph 15(5) of schedule 3 to the Police Reform Act and, in particular, the public interest in these matters being properly concluded.

As it is now clear that the investigation was never completed because a final report that adhered to the requirements of regulation 20 was not written, I consider that the investigation remains open. To remedy the irregularities and conclude the investigation, a final report now needs to be produced that accords with the regulations because the purported final report is so flawed as to be null and void. Because of this, any decision making that followed by the appropriate authorities was also void.

In these circumstances it is open to me to re-determine the mode of investigation and I have decided to do so.

In my view the only mode of investigation that would satisfy the public interest and maintain confidence in the police oversight regime is an independent one, carried out by the IPCC's own staff, and this is what will now take place. In the interests of fairness to all parties, no-one involved in the original investigation will be involved in the independent investigation. I am in any event stepping down from operational responsibilities and the Commissioner responsible for the investigation will in future be Deputy Chair Rachel Cerfontyne.

I attach for your information a statement which we intend to issue when your Committee publishes its report into this matter at 00.01 hrs on Sunday 3 November 2013 and request that you keep this confidential until that time⁶. I am providing this statement to the three Chief Constables, the three Police and Crime Commissioners and Mr Mitchell, with a similar request.

Yours sincerely

Deborah Glass, Deputy Chair, Independent Police Complaints Commission

October 2013

Written Evidence submitted by Chris Sims, Chief Constable of West Midlands Police, 2 November 2013

RE: LEADERSHIP AND STANDARDS IN THE POLICE: FOLLOW-UP

I refer to your report received today embargo'ed until midnight.

Having read the select committee report a narrative of the findings and its reasons is clear. It is not my responsibility or right to respond to these.

I do however feel it is appropriate that I respond to an area where I feel the committee has drawn a conclusion and an observation on which it did not draw complete evidence. This relates to the comments concerning ACC Cann, whom the committee did not hear evidence from, nor was I asked to give evidence over the West Midlands request to see the West Mercia Report.

⁶ <http://www.ipcc.gov.uk/news/ipcc-redetermines-investigation-conduct-police-federation-representatives-after-meeting-andre-0>

The report narrative suggested that West Mercia Police were under pressure from West Midlands Police to release the report before it was sent to the IPCC. The conclusions of the report suggest the motive may have been because ACC Cann may have been seeking to improperly access the report and seek to change its conclusions. This is a serious inference to draw which should have a basis if made.

To assist the committee in this area:

West Midlands made a request to see the West Mercia report as it believed the report, then in existence, was the final report going to the IPCC although it had not then been sent. This request was made by email on the 22 July 2013 by DCI Deborah Doyle of the Professional Standards Department. The Force accepts it is factually correct the report should not have been sought at this point in the procedure.

The request was checked with the IPCC by the West Mercia Investigating officer and West Midlands Police were advised the report should not be seen by them at this stage.

On the 22nd July DCC Chesterman of West Mercia Police spoke to DCC Thompson of West Midlands Police during a telephone conversation on other matters. DCC Chesterman confirmed this conversation in an email later that day to DCC Thompson and DCC Brunton of Warwickshire confirming the report should be not shared at this stage and indicating there would be a meeting of appropriate authorities when the report was completed. DCC Chesterman and Thompson subsequently confirmed these arrangements in a telephone conversation. West Midlands made no further request for the file from West Mercia Police.

After the 22nd July West Midlands Police spoke and were in written correspondence, through DCI Doyle, with the IPCC Investigator over when the report would be shared with the Force and in what format. DCI Doyle subsequently attended the meeting of all three forces and recorded the details in a report to ACC Cann, (the committee has this document). You will also note the IPCC have been clear they saw no impropriety in the actions of senior officers in the case. They were aware of the West Midlands Police's enquiries over the file.

Thought out this time ACC Cann was on annual leave and had no involvement. ACC Cann also did not attend the meeting of Appropriate Authorities. His decision making was confined to the report submitted to him which was the one approved by the IPCC and signed by the Investigating Officer.

West Midlands Police are happy to furnish the documents detailing the request to West Mercia Police and correspondence with the IPCC and feel there is no material before the Committee that indicates a intention or approach to alter the investigating officers report by West Midlands Police.

I would ask you look as a matter of urgency at the points and observations relating to paragraph 12.

Yours Sincerley

Chris Sims
Chief Constable
West Midlands Police

Written Evidence submitted by Andy Parker, Chief Constable of Warwickshire Police, 4 November 2013

I have now had time to reflect on the manner in which you have dealt with my evidence, both written and oral, to the Home Affairs Select Committee and I am concerned that you appear to have misrepresented what I have said in a way that is likely to mislead the public.

In my written submission to HASC I made the following observations:

- At the relevant time, I believed the statutory process was correctly followed by the investigating authority and the Appropriate Authorities in this case.
- Legal advice has been received which confirms that the decision reached by the Appropriate Authorities—based upon the material before them, and the assurances they had been given at that time as to the IPCC's approval of the process and investigation -was rational and can be justified.

17. The IPCC has now been advised of the procedural error that occurred and I am advised their initial view is that they no longer have locus over this investigation and cannot direct the Forces to take particular action. I therefore determined that it was important to assess whether consideration of the report in the correct format and at the correct time would have had a material impact upon the decision of the Appropriate Authority. I therefore asked DCC Brunton to consider the finalised report, and he has done so, and confirmed that this would have made no difference to the conclusions he reached. The final report itself recommends no disciplinary action and DCC Brunton concurs with the recommendation that there is no case to answer.

These statements were provided to you prior to the Home Affairs Select Committee (HASC), in time for you to carefully consider them and you had the submissions available to you for reference at the committee.

Given that you had this information I find it concerning that you appear to have publicly misrepresented my views at the Committee.

At the Committee, when questioning DS Stuart Hinton, you say:

Q201 Chair: “Mr Hinton, I don’t think you understand that we have received evidence from your chief constable, who will be giving evidence to us shortly, that he regards the process as being flawed.”

And

Q202 Q1 Chair: “That is what he said. What do you feel about that, the fact that the chief constable now wants this redetermined?”

My position was clear in that I didn’t want the matter redetermined and I later confirmed this in my oral evidence to the committee.

Letter 28th October

I felt it important in the interests of fairness to bring to your attention the fact that whether inadvertently or not, you misled my officer. I wrote a letter to you on the 28th October 2013, in good faith, outlining this misrepresentation and I reproduce the relevant extract below:

Dear Mr Vaz,

Home Affairs Select Committee- “Plebgate”

At the conclusion of my evidence to the Committee on 23 October, you invited me, along with Chief Constable David Shaw and Chief Constable Chris Sims, to provide you with any other relevant material or anything else we believe may assist you in reaching your conclusions.

Having reflected, I believe there are matters on which clarification or further comment may assist you in your difficult role of considering the complex legislation and procedure involved in this case, and the finer detail of the source evidence, in reaching your final views:

1. DS Stuart Hinton—inadvertently misled by a question from the committee

At page 31–32 of the (uncorrected) transcript of oral evidence, the following exchange takes place:

Q201 Chair “Mr Hinton, I don’t think you understand that we have received evidence from your chief constable, who will be giving evidence to us shortly, that he regards the process as being flawed.

DS Stuart Hinton “I am not aware of that, no”

Q202 Chair “That is what he said. What do you feel about that, the fact that the chief constable now wants this redetermined?”

DS Stuart Hinton “That is a matter for the Chief Constable. If that is his decision, I accept that as his decision, if he is entitled to do that, as I, up to this moment was happy to accept his decision previously”.

Clearly, this was not correct as DS Hinton is a Warwickshire officer and the redetermination is being considered by the Chief Constable of West Mercia, not by me. It was obvious to me, and others watching DS Hinton, that the assertion made by you had a visible impact upon him, his demeanour changed and he was clearly shaken. From that point on, it seemed that his position changed from a witness to him believing that he may potentially be facing a subsequent misconduct hearing and therefore his approach to giving evidence changed significantly. He was, no doubt, considering carefully the answers he gave in light of an incorrect belief that I had significantly changed my stance and may seek to redetermine the outcome of the misconduct allegation against him.

Whilst DS Hinton demonstrated very poor judgement on this particular occasion, he is on a day to day basis a professional and hard working police officer. I do not believe that he did himself justice before the Select Committee on Wednesday, however I also believe this is partly due to his misunderstanding my position, as a result of the above questions which were mistakenly put to him, rather than to Inspector MacKaill of West Mercia Police. As such, I would ask you to accept my assurance that DS Hinton’s response to the questions 262 to 267 relating to the use of the phrase “that woman” were, I believe, adversely affected by his mistaken belief that he may face a misconduct panel at some future time. 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. There is no excuse for the terminology used and I will be taking this up with him. However I would stress that knowing DS Hinton as I do, I am certain that his response to that issue was undoubtedly affected by the incorrect assertion which he was struggling to come to terms with regarding a potential redetermination by me, particularly having been put to him part way through his evidence to the committee.

The comments in this letter are from my perspective. I was watching this interaction live on a large screen outside HASC. I can state what I saw and the visible impact this had on Stuart Hinton. This is primary evidence of what I saw and heard. I can also give my view of Stuart Hinton’s character—I have worked with him and again can state what I have seen.

Your response to my letter again regrettably misrepresented my position and stated view.

In that letter you state:

“I am concerned that you have written to the Committee representing the views of DS Hinton”

I would be very grateful if you could point out where I have given the view of DS Hinton. I clearly stated that I believed he would have been adversely affected by being misled by yourself. This changed him from a witness to a person who is to be investigated, which is a significant matter. I genuinely believed that in assessing the evidence given by DS Hinton, you would want to consider the impact of your actions. I brought this to your attention in the interests of fairness and justice and to invite you to take a view.

I did not at any time say Stuart Hinton’s view is and your assertion that I represented his views is incorrect.

The only occasion I refer to any direct speech was when referring to, ‘that woman’. state it is my belief that he is referring to the Home Secretary. I do not seek to change what DS Hinton said or offer his view.

LEADERSHIP AND STANDARDS IN THE POLICE: FOLLOW UP

You published your report on 3rd November 2013 and you made the following comments in respect of myself:

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.

I do not believe that this accurately reflects my evidence and is misleading and damaging to my reputation. Where have I sought to correct the evidence of Stuart Hinton? I have not sought to correct his evidence. I have asked you to consider the impact of your misleading statement on him. It is for you to consider the impact and that is why I raised it, in good faith with you.

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.

I feel it is regrettable that my evidence and the views I have expressed, in an open and transparent way, have been consistently misrepresented. I make it very clear that in my view he was adversely affected by the incorrect assertion that I wished for the matter to be re-determined. I do not assert that he misled the Committee because he may face a misconduct panel. Of course any evidence must be given openly and honestly, but in any fair process witnesses must be treated with dignity and respect. I ask you to consider that if a witness is misled by a member of the Committee then that is a serious matter and must be rectified.

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.

Again, in this paragraph of the public report I do not feel that you accurately reflect my position when you say that I am offering excuses for and explanations of the evidence given by other witnesses. Is highlighting an error and asking the Chair to take a view on its impact on a witness an excuse?

I think it is doing the right thing in the interests of fairness and justice. I clearly state in my letter, ‘*There is no excuse for the terminology used and I will be taking this up with him*’. This cannot be interpreted as making excuses.

You refer to me making excuses for other witnesses. The only other people mentioned in my letter are Deborah Glass and Neil Brunton and I make no excuses for them . It would appear that this aspect of the report is inaccurate.

You say that in my letter, I assert that I can provide a better explanation than the one given in evidence due to him ‘*knowing DS Hinton as I do*’. I do not assert that I can provide a better explanation and the quote used is taken out of context which has the effect of being misleading.

I wrote—‘Knowing DS Hinton as I do, I am certain that his response to that issue was undoubtedly affected by the incorrect assertion which he was struggling to come to terms with regarding a potential redetermination by me, particularly having been put to him part way through his evidence to the committee’.

Lastly, you suggest that Mr Brunton's decision was irregular. I am not sure why the Committee has come to that view.

DCC Brunton made his original decision based on all the material facts. He had not seen the opinions of the Investigating Officer or his supervisor before coming to that decision. The views of Inspector Smith and Chief Inspector Reakes-Williams were seen by the Committee as critical. In light of this, DCC Brunton carefully reviewed the views/conclusions and came to the decision that this did not affect his original decision. This is hardly surprising as these were views rather than evidence. There was nothing improper about how this was done. The fact that he completed this whilst on holiday indicates the importance that he and the force put on this matter. It is disappointing that your interpretation is misleading and damaging to the reputation of my force.

I would ask that you publicly correct the misleading statements that have been made, which I consider damaging to my reputation and that of the force.

Throughout this matter I have endeavoured to act with integrity and transparency—I will continue to do so and look forward to your response.

Andy Parker QPM
Chief Constable

Written Evidence submitted by David Shaw, Chief Constable of West Mercia Police, 4 November 2013

RE. INSPECTOR MACKAILL

Thank you for your letter of 30 October 2013 in which you ask for information about any previous disciplinary investigations involving Inspector MacKaill.

Our records show that since Inspector MacKaill joined West Mercia Police in 1992 he has been the subject of ten disciplinary investigations.

Eight of these investigations arose from complaints by members of the public and two of these resulted in Inspector MacKaill receiving words of Advice.

There have, in addition, been two misconduct investigations, instigated by the Force, one of which is the present investigation concerning the Right Honourable Andrew Mitchell MP. The other resulted in Inspector MacKaill receiving a written warning in 2005. This is the written warning that Inspector MacKaill volunteered to the Committee when giving his evidence.

The complaint that Inspector MacKaill told the Committee about is one of the eight complaints I have referred to above.

Yours sincerely

David Shaw
Chief Constable

Written Evidence submitted by Sergeant Chris Jones, West Midlands Police, 5 November 2013

1. On 23 October 2013 I voluntarily attended as a witness before the Home Affairs Committee and gave evidence.

2. The Committee published a report dated 30 October 2013. At paragraph 7 of that Report the Committee set out the following:

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):

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

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.

3. The Committee did not give me any opportunity to address the criticism it makes of answers I gave on 23 October 2013 before it completed and distributed its report dated 30 October 2013.

4. I have considered the transcript of the hearing of 23 October and, with all due respect to this Committee, do not accept that I provided misleading answers. I believe that I did answer the questions I was asked, and I am grateful for the opportunity now to address the highly-critical, and widely-publicised, criticisms of the Committee on merit.

5. As a matter of context, I was invited to attend the Committee hearing of 23 October at relatively short notice. I was placed on notice for the first time that I would be required as a witness at about 11:00 on 22 October 2013. I was abroad at the time with my family and returned early to do so.

6. I was not put on notice as to the specific areas on which I would be questioned. I believed that the Committee wished to explore whether the accounts I and other officers had provided following the meeting with the Rt. Hon. Andrew Mitchell MP on 12 October 2012 were misleading.

7. There was no suggestion before the hearing that we would be questioned as to our disciplinary records as police officers, and the point appears to have arisen spontaneously.

8. I emphasise, however, that I do not object to having been asked questions as to my record in terms of misconduct. I had not examined my personal record before I gave evidence. Officers have no reason as a matter of routine to examine their history of complaints. I also accept that the Chief Constable has accurately reflected the available information in his letter to this Committee dated 30 October 2013 [written documents 226—227].

9. As his letter reflects, whilst I have been made subject to some 13 complaints in the course of my career, not a single complaint has resulted in any misconduct or disciplinary finding. None of the relevant complaints were made subject to any charge under the applicable Police (Conduct) Regulations. I also observe that a high proportion of officers whose duties include direct operational contact with the public attract complaints. This is most particularly the case where the officer in question is either a response or custody officer. A high proportion of the complaints made about me relate to periods when I was a custody sergeant.

“ADVICE” DIFFERENTIATED FROM DISCIPLINARY FINDINGS OR OUTCOMES

10. In relation to the two matters for which I am recorded as having received advice, the fact I received advice does not amount to a “disciplinary” finding or sanction (“outcome”). A supervising officer may give advice whether or not the underlying complaint is established. It is entirely neutral as to merits in that sense. The officer receiving advice has no right to object.

11. I observe that “Advice” of this sort is not a matter that should be recorded in the “Contents of personal records” under regulation 15 of the Police Regulations 2003.

12. Under the 1999 and 2004 Police (Conduct) Regulations (“the conduct regulations”) an alternative to a formal misconduct charge, for less serious matters of misconduct, was a “written warning”. Unlike “advice”, such written warnings required the affected officer formally to admit that his or her conduct amounted to professional misconduct. Such written warnings represented a formal determination of misconduct and became part of an officer’s discipline record.

13. If the misconduct was not admitted and dealt with by way of written warning, the matter would be addressed formally under the applicable conduct regulations.

14. For completeness, this historic form of written warning ended with the implementation of the 2008 conduct regulations. It is wholly distinct from the written warnings, and final written warnings, that arise as formal “outcomes” under the respective 2008 and 2012 Police (Conduct) Regulations following a formal finding of misconduct or gross misconduct.

15. The short—and simple—fact is that I have no disciplinary (or “misconduct”) findings recorded against me, either by way of written warning or otherwise.

SPECIFIC CRITICISMS BY THE COMMITTEE

16. In this context, I address the analysis of the Committee in its Report of 30 October 2013. The Report suggests that the Committee “...asked explicitly whether any of the officers concerned had been disciplined for misconduct on a previous occasion” and that I “...failed to give a full account of [my] disciplinary record when asked”.

17. With all due respect to the Committee, I cannot accept this interpretation of the transcript.

18. The relevant passages are at questions 318—320 and 333 of the transcript. For ease of analysis I rehearse them in turn.

Questions 318—320

19. The transcript sets out the following:

Q318 Dr Huppert: That is why it is very helpful that we have a transcript. You refer to unblemished conduct. Can I take it as read that none of the three of you have had any complaints about anything to do with this? Is that correct? It would be good if you could all say yes or no.

DS Stuart Hinton: Yes.

Inspector Ken MacKaill: I have had one complaint for a member of the public that was not upheld.

Q319 Dr Huppert: About what sort of thing? Was it related to this?

Inspector Ken MacKaill: Yes.

Q320 Dr Huppert: Thank you. But none from the other two of you? Thank you.

20. As I interpreted this question at the time, and still do, Dr. Huppert was asking whether anyone had complained about “anything to do with this” and complaints “related to this”. My interpretation is and remains that the “this” in the question was referring to the meeting involving Mr. Mitchell.

21. My answer—albeit given by gesture rather than word—is accurate to this question and remains so: neither Mr. Mitchell, nor any member of the public, complained about my conduct following the meeting of 12 October 2102. As the passage reflects, a member of the public had complained formally about the conduct of Inspector MacKaill in connection to this incident and, on investigation, that complaint was unsubstantiated. No such formal complaint was made by a member of the public as to my conduct in relation to Mr. Mitchell.

Questions 333, 334

22. As to matters arising under question 333, the relevant passage is as follows. The Chair had just made some critical remarks as to the quality of our evidence, and indicated that we were at liberty to stay for the evidence of the relevant three chief constables. Insp. MacKaill then sought to address his previous understanding of questions 318—320 as follows:

Inspector Ken Mackaill: Can I just clarify one question that Dr Huppert asked, and it was on the conduct matters? I thought his question was relating to this incident. I think it was, on reflection, probably in general, is that right? Yes, I have a written warning from eight years ago. I was answering out of context.

Q334 Dr Huppert: Just in case there was a lack of clarity, do any of the others have anything? No, just one from eight years ago.

23. In the very limited amount of time I had to consider the point, I interpreted the intervention of Insp. MacKaill to refer to proven matters of misconduct, including written warnings. I did not believe that either Insp. MacKaill or Dr. Huppert were referring to every complaint that had been made against us during our careers, or complaints that had ended simply in advice.

24. I interpreted Dr. Huppert’s question 334 in the same way. I interpreted the “anything” in the question to mean formal misconduct findings under the conduct regulations, or written warnings. I still interpret the question in that way.

GENERAL OBSERVATIONS

25. Had I been asked whether I had ever been made subject to a complaint, then of course I would have answered that question “yes”.

26. As the record demonstrates, I was not asked, as the Committee asserts that I was, “whether I had been made subject to disciplinary procedures”.

27. Had I been asked whether any such complaint had resulted in an adverse disciplinary finding or sanction then I would have answered “no”. In the language of the Committee, I have not been “disciplined” for “misconduct on a previous occasion”.

28. The Committee has concluded that it “...does not believe that [I] could have failed to recognise the question that was being asked”. For the reasons I have given, I respectfully disagree.

CONCLUSION

29. I hope that this response addresses the conclusions that the Committee has already expressed as to my answers on 23 October 2013. I am disappointed that I was not at least given the opportunity to address such serious, and hugely damaging, criticism on merit before the Committee published its Report.

30. If, contrary to my interpretation of the transcript, I have “failed to recognize the question that I was being asked”, then I apologise. The basis of any such failure of recognition however is reflected in this written

document. I do not believe that on a proper analysis my answers misled the Committee. If this was the case, then this was wholly unintentional.

Sgt. Chris Jones

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