



**THE INDEPENDENT POLICE  
COMPLAINTS COMMISSION**  
WHO WILL GUARD THE GUARDIANS?

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## **Acknowledgements**

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We wish to acknowledge the help and support of Stop Political Terror and the Free Babar Ahmad campaign in compiling the information required for this report. Special thanks to Maryam Ahmad for primary source materials, interview and her tireless efforts in campaigning for justice for Babar Ahmad.

## Foreword

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Based on the investigation into the raid on the home of Babar Ahmad and his subsequent complaint of serious police misconduct, this report takes a look at how the new police complaint system - changed in the wake of the McPherson Inquiry into the murder of Stephen Lawrence – is already failing minority victims.

It is with great sadness that IHRC has published this report. Having campaigned with many other organisations and groups for a proper and fair inquiry into the allegations made by Babar Ahmad, we found ourselves in the position of watching those charged with holding the police to account on behalf of the taxpayer, simply pandering to the sensitivities raised by the case and allowing the police authorities to dictate its agenda to it.

We hope that by highlighting these concerns, the Independent Police Complaints Commission is able to reflect on why it already has a poor reputation amongst those it should serve and maybe find ways of addressing these issues so as to prevent it too becoming a compliant instrument of authority to be used against the weak, vulnerable and marginalised in society.

We end in the hope that the IPCC's long-awaited and promised report into the Babar Ahmad complaint will allay the concerns expressed herein.

Islamic Human Rights Commission

# **1 INTRODUCTION**

**Quis Custodiet Ipsos Custodes?<sup>1</sup>**

*Juvenal*

The Independent Police Complaints Commission (IPCC) became operational on 1st April 2004 and replaced the Police Complaints Authority as the guardian of the complaints procedure. The legal framework for the investigation of complaints arises from the response from two consultations<sup>2</sup> initialised by The Home Office which eventually culminated in the Police Reform Act 2002.

The IPCC has overall responsibility for the system of complaints against the police in England and Wales. It has stronger powers than its predecessor to initiate, carry out and oversee investigations into complaints or allegations of misconduct and is also responsible for monitoring the way complaints are handled by local police forces. Therefore, it is the aim of this report is to see whether the legal framework of the IPCC has resulted in a confidence-inspiring mechanism to deal with complaints of procedural improprieties of the police force and furthermore to commit its new "guardianship role"<sup>3</sup> to scrutiny.

The IPCC differs from the old Police Complaints Authority in its independence and its powers to run, manage and supervise investigations. The IPCC's eighteen independent commissioners, by law, cannot have worked for a police force. The IPCC investigators also have greater powers of investigation and rights of access to police premises, documents and information. For the first time, a person making a complaint can appeal to the IPCC if they feel they have not been given sufficient information by the police or if they are unhappy with the outcome of an investigation by the police.<sup>4</sup> In light of the increasingly hostile environment and circumscription of civil liberties since the Anti-Terrorism legislation the police force have an increased responsibility to execute their duties using measured and reasonable methods, in order to retain the integrity, trust and confidence that they represent in their role as "gatekeepers" to the criminal justice system.<sup>5</sup>

It has a statutory duty to ensure that misconduct and complaints against the police are properly investigated. One of its statutory objectives is to increase public confidence in the police by demonstrating independence, integrity and accountability in the complaints system. Through their Guardianship function the IPCC has a statutory duty to oversee the operation, performance and improvement of the police complaints system.

By outlining the processes of the IPCC and illustrating the procedure involved using a recent case study, this report will aim to better understand where the IPCC stays true to its promise and where it falls short.

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<sup>1</sup> 'Who will guard the guardians?' is the translation of this quote from Juvenal's Satires and it often used metaphorically in the context of people or organisations who require the same services they provide

<sup>2</sup> In May 2000, the government started consultation on a new complaints system with '[Complaints against the Police: A Consultation Document](#)', setting out the emerging framework in December in '[Complaints against the Police - Framework for a New System](#)'

<sup>3</sup> [The Guardian](#) : Wednesday September 24, 2003. Nick Hardwick, Chair of the IPCC

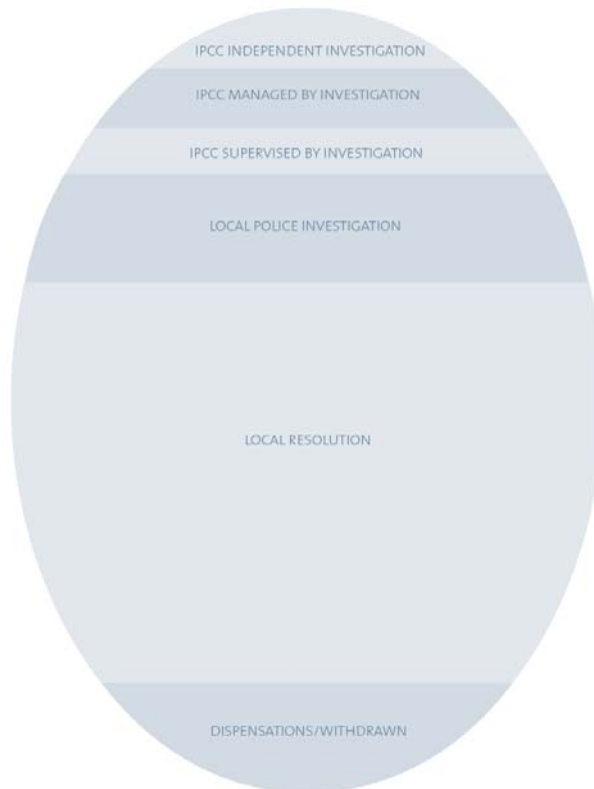
<sup>4</sup> The Advice Services Alliance (ASA). 12th Floor, New London Bridge House, 25 London Bridge Street, London SE1 9SG

<sup>5</sup> Prenzler and Ronken 1999, p3

## **2. COMPLAINTS PROCEDURE OVERVIEW**

### **2.1 The Complaints Procedure**

The diagram below illustrates how different complaints are handled according to their severity and importance. The Police Reform Act 2002 states that it is the duty of the Commission to determine the form the investigation should take when a complaint or recordable conduct matter is referred to it.<sup>6</sup> Paragraph 15(3) states that in making the determination the Commission shall have regard to (a) the seriousness of the case and (b) the public interest.



**The Police Complaints System<sup>7</sup>**

#### **2.1.1 Local Resolution**

Not constrained to formalities, local resolution seeks to build confidence in this cost-effective method in order to improve a community's views about policing in their area and should lead to increased public confidence and better two-way communication. Local Resolution is not concerned with apportioning blame or disciplinary actions. These cases are not referred to in officers' personal development plans, staff appraisals or in any subsequent misconduct hearing.

Furthermore, it is emphasised that nothing an officer says during Local Resolution can be used later in a misconduct process for the same matter.

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<sup>6</sup> Schedule 3, paragraph 15(2)

<sup>7</sup> Illustration Source: May 2005 IPCC Leaflet. Ref COM/17 Independent Police Complaints Commission, 90 High Holborn, London, WC1V 6BH

Officer Supervisors will usually deal with Local Resolutions and officers may be asked to comment on the complaint. Any explanation given is purely voluntary and does not have to be transmitted to the complainant.

Nobody can apologise on the behalf of an officer unless there is specific authorisation. It provides the opportunity for a complainant to explain his or her concerns to the police and receive an adequate response. Individual police forces have their own practices and methods for local resolution of complaints and will inform complainants of this process when they record a complaint. If the complainant thinks that the procedures they agreed to for the local resolution of their complaint were not followed, he or she can appeal to the IPCC.

More serious matters may be subject to a local investigation by police, an investigation by the police which may be managed or supervised by the IPCC, or an independent investigation by the IPCC.<sup>8</sup>

### **2.1.2 Local Police Investigation**

In some cases, an investigation may be deemed appropriate. The extent of an investigation is judged to be proportionate to the complaint or allegation of misconduct. In all cases the police force are encouraged to learn from the outcome of an investigation. The complainant has the right of appeal to the IPCC.

### **2.1.3 IPCC Supervised Investigation**

This is an investigation conducted by, and under the direction and control of, the police but supervised by an IPCC Commissioner. This applies when the IPCC decides that a complaint or allegation of misconduct is of considerable significance and probable public concern. The complainant has the right of appeal to the IPCC.

### **2.1.4 IPCC Managed Investigation**

A managed investigation is conducted by the police but under the direction and control of the IPCC. Usually, such an investigation takes place when the alleged recordable conduct matter is of such significance and probable public concern that its investigation needs an independent element.

### **2.1.5 IPCC Independent Investigation**

An independent investigation is conducted by IPCC staff into incidents that cause the greatest level of public concern, have the greatest potential to impact on communities or have serious implications for the reputation of the police service. There is no right of appeal against a managed or independent investigation except through judicial review.

## **2..2 Objectives of a New Complaints Procedure<sup>9</sup>**

- increased public confidence and trust in the police and in the complaints system as a whole;
- increased accessibility, openness and independence;
- quicker resolution of complaints;
- improved communications with complainants;
- improved collection, collation and reporting of data.

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<sup>8</sup> The Advice Services Alliance (ASA). 12th Floor, New London Bridge House, 25 London Bridge Street, London SE1 9SG

<sup>9</sup> Home Office published a consultation document on 17 May 2000 which was based on a KPMG study commissioned by the Home Office on "Feasibility of an Independent System for Investigating Complaints Against the Police" and a study by Liberty on "An Independent Police Complaints Commission". Published Dec 2000 - Complaints Against the Police Framework for a New System [<http://www.homeoffice.gov.uk/docs/policec.html>]



### **2.3 IPCC Inspection of Police Complaints**

Section 18 of the Police Reform Act 2002 places a duty on the chief officer and Police Authority to allow access to the IPCC to premises and documents and other things on those premises to any person nominated by the IPCC for the purpose of:

- an investigation it is undertaking managing or supervising; or
- examining the efficiency and effectiveness of the arrangements in that force for the handling of complaints and other conduct matters.

However, in order to effectively discharge its Guardianship function, the IPCC will require information from police forces and will undertake visits to forces, where Commissioners and staff will discuss the nature of current processes and any issues or trends which may be appearing from data. These visits will not constitute formal inspection, but may include areas that the formal inspection process will cover in later years.

The IPCC has the power to conduct investigations itself, or to manage or supervise police investigations into complaints or allegations of misconduct. The IPCC also has a wider responsibility to monitor and work to improve the way that complaints are handled by local police forces – this is their ‘guardianship’ role. Members of the public, including witnesses who make complaints, have new rights, including the right to be kept fully informed of the progress of the investigation into their complaint and a right of appeal to the IPCC in certain circumstances. The IPCC has the power to issue statutory guidance to be followed by police forces in complaints matters.

Serious grievances, involving death, severe injury, alleged racism or large-scale corruption automatically go straight to the Independent Police Complaints Commission. But in other cases, it is up to the relevant police service or the individuals concerned to bring the matter to the attention of the IPCC, which then decides whether to pursue it.

Some investigations will be carried out by police under the direction of the IPCC, but the most serious cases may be subject to full, independent civilian investigations.

### **3. CASE STUDY: BABAR AHMAD**

**"The quality of our investigations will be key to the credibility of the organisation as a whole."<sup>10</sup>**

- Nick Hardwick, Chairperson IPCC (2003)

The strength of the claim of the IPCC can only be speculated upon in theory but affirmed in practice. In order to determine how the IPCC is failing in its objectives, the case of **Babar Ahmad** displays affirmatively how police complaints are still lacking in their investigative vigour and tainted still by inexplicable oversights and irresponsible laxity in dispensation of statutory powers.

#### **3.1 The Arrest**

In December 2003 Babar Ahmad, a British citizen and Imperial University employee, was arrested under the Terrorism Act 2000 in London. Mr. Ahmad had no previous criminal record.

On 2nd December 2003, at 5.40 a.m. Mr Ahmad and his wife were asleep in their house. The front door was broken down and several armed policemen came running up the stairs shouting in an abusive manner. As he saw the eight armed officers dressed in riot gear, approaching his bedroom, Mr. Ahmad raised his hands. They pushed him hard against the window, which shattered with the sheer force. They then threw him onto the floor and started to beat him whilst using offensive language. The heavily armed officers beat him continuously. Mr. Ahmad offered no resistance at any point. They kicked and punched his head and body and handcuffed him. His wife was witness to these scenes. A couple of female officers then took his wife, into another room. They also handcuffed her, despite the fact that she was not part of the anti-terrorist operation.

The swearing and striking continued and Mr. Ahmad was taken downstairs into a carpeted room used for prayers. The officers walked in heedlessly with their shoes on and threw things across the room in an area of the house which was reserved and respected by the occupants for religious practices<sup>11</sup>. They exposed him by pulling down his trousers and pulled roughly on his private parts. They then began to twist the metal handcuffs behind his back until he screamed. The officers then placed him in the Muslim prayer position of prostration and said, "Where is your God now? You are in prayer," whilst mocking and laughing.

The officers then marched him to the police van outside whilst stamping on his bare feet with their boots. They continued in this manner on the way to Charing Cross Police Station. Two officers were in the back of the van with him. He was strangled once and then a second time with a much tighter grip. The officer said to him "You are going to remember this day for the rest of your f\*\*\*\*\* life, do you understand me you f\*\*\*\*\* bastard?"

Once the van arrived at the police station, the officers stopped their abuse and escorted him inside. Mr Ahmad had visible difficulties in walking. Inside the police station the two officers removed their helmets and Mr. Ahmad saw them for the first time. He noted their appearance and memorised their identification numbers.

In police custody, his solicitors came with a digital camera and took nineteen photographs of his injuries. The Forensic Medical Examiners who called to see him, failed to act in an unbiased way. They denied him proper medical treatment or attention on the grounds that it would be practically difficult. His head was throbbing and his body was in pain. On the second visit on 3 December 2003, they refused to arrange a skull x-ray or even give him an ice-pack to soothe the swelling as "logistically it might not be possible because of security".<sup>12</sup>

On 3rd December 2003, an independent doctor was called in by his solicitors. Dr Adnan Siddiqui,

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<sup>10</sup> The Guardian : Wednesday September 24, 2003. Nick Hardwick, Chair of the IPCC

<sup>11</sup> Muslims remove footwear in areas reserved for prayers, sometimes even their entire house to conform to religious stipulations regarding cleanliness and prayer.

<sup>12</sup> Babar Ahmad Witness Statement: 9 January 2004

an experienced General Practitioner, he examined him in the presence of one of the Forensic Medical Examiners. He identified more than 50 injuries, including two potentially life-threatening ones. Mr. Ahmad had blood in his ear canal, which had not been examined by the police doctors. This medical sign signifies possible skull fracture and warrants an x-ray. Mr. Ahmad was denied this. He also had blood in his urine (which was also neglected by the Forensic Medical Examiners), which pointed to damage or bruising of the kidneys.

Mr. Ahmad was kept and questioned for six days in police custody. His house was searched intensively for three days. His computers, printer and various documents were taken away for analysis. Samples of his DNA and fingerprints were taken and distributed.

Mr Ahmad was released on 8th December 2003 without charge.

### **3.2 The Evidence**

After his release in December 2003 Mr. Ahmad filed a complaint regarding the police misconduct, which was overseen by the Independent Police Complaints Commission (IPCC). A few days later he saw an eminent, independent medical expert; Mr Manolis Gavalas, a consultant in Accident and Emergency at University College Hospital, London. Mr Gavalas identified and confirmed more than 50 injuries on Mr. Ahmad's body and the two life- threatening ones. He wrote an extensive report in which he commented, "There is clearly unequivocal evidence that he [Mr. Ahmad] was subjected to a harrowing physical and psychological assault by police officers. He was clearly badly beaten up although in a reasonably controlled manner ... aimed at inflicting significant soft tissue trauma with pain, but not to cause any life-threatening injuries."

In summary, the evidence of Mr. Ahmad's assault includes:

- Dated photographs of the injuries taken by the solicitors on the day of his arrest
- Two independent doctors' reports, including one by a hospital consultant in Accident and Emergency
- Eye-witness account from Mr. Ahmad's wife
- Mr Ahmad's own statement, including a detailed description of two of the officers who assaulted him and their ID numbers, which he had memorised
- CCTV footage of his visibly shaken state on arrival at Charing Cross Police Station
- Inspector Nash's response to Mr Ahmad's complaint on 3 December 2003 was that it was "obvious" that Mr Ahmad was "in agony"<sup>13</sup>

Refer to **Appendix D** for further Medical Evidence.

### **3.3 The Complaints Procedure**

Mr Ahmad's complaint was formally referred to the Police Complaints Authority (as it was then) for supervision on 7 January 2004. The Chief Officer of the Metropolitan Police Service (MPS) then compiled a report outlining his recommendations and any further disciplinary action which the IPCC Commissioner could either choose to ratify or push for an alternative course of action.

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<sup>13</sup> Commissioner Pritchard's IPCC report dated 14 January 2005 detailing misconduct aspects of Mr Ahmad's case

The complaint having been investigated by the Metropolitan Police Service Directorate of Professional Standards, was submitted in a final report on the 26 May 2004 by the Investigating Officer to the IPCC; which replaced the Police Complaints Authority on 1 April 2004.

Independent expert medical opinion was then obtained from Dr Guy Norfolk, with an interim statement from the IPCC on 5 August 2004 stating satisfaction with the Metropolitan Police Service's investigation into the complaint.

The Criminal Prosecution Service announced their decision on 10 September 2004. The Final IPCC conclusions outlining misconduct aspects in Mr Ahmad's case was sent to the complainants on 14 January 2005.

The Complaints procedure failed to ensure that an unbiased report was produced given the omission of vital evidence. Inexplicably, the IPCC report was finalised without reference to such materials despite Mr Ahmad's legal representation pointing out the deficiency; and consequently disciplinary action was recommended for a single officer in an incident where at least six officers participated in the whole operation.

For example, there are multiple discrepancies in the police's version of events which changed no less than 4 times over the course of the investigation. Police officers initially informed Senior District Judge Timothy Workman at Bow Street Magistrates Court on 3 December 2003 that Mr Ahmad's injuries were "*old injuries and that he was making it all up.*" A short while later when challenged by Counsel for Mr Ahmad, the police informed the Judge that they believed "*some of the injuries*" were old. DI Bambro was notified of this by Mr. Ahmad at an early stage of the investigation. Furthermore, in a letter from Mr Dru Sharpling of the CPS to Mr Stephen Timms MP (East Ham) dated 24 November 2004, the CPS stated that Mr Ahmad violently struggled and resisted arrest. Finally, a letter from the IPCC to Mr Ahmad of 14 January 2005 stated that it was not disputed that Mr Ahmad's injuries were fresh, and not old and that the officers used excessive force against Mr Ahmad. The IPCC however stated that although there was "*excessive use of force*" that "*undoubtedly occurred*" which "*could only have been done deliberately*". . . "*the tribunal could not be sure on a balance of probabilities which officer was responsible for the excessive use of force.*" Consequently, the IPCC recommended that only one of the officers be brought before a disciplinary tribunal for the excessive force. On 13 April 2005, the Police Misconduct Tribunal found that there was no case to answer against the officer in question. The Chair of the Tribunal concluded that the officer "*acted professionally with great bravery. We support his actions: he should be commended and not castigated.*"

The inevitably partial redress was lacking due to several key factors which remain unresolved to date:

- (i) The Investigating Officer's final report failed to include Mr Ahmad's three final Medical Reports. The IPCC's formally expressed satisfaction of the MPS report in the absence of such important evidence prejudices the whole investigation.
- (ii) Dr Guy Norfolk, the accepted medical opinion by the IPCC did not physically examine Mr Ahmad
- (iii) At least four further doctors who personally examined Mr Ahmad were not consulted during the investigation
- (iv) Police officers' testimony at Bow Street Magistrates Court on the 3 December 2003 differs from the IPCC final report. No explanation is given for such a discrepancy
- (v) The MPS Report was finalised in absence of the three expert medical reports. As a consequence the CPS did not receive all the evidence relating to the case before deciding not to prosecute any of the officers
- (vi) The 'excessive force' used by one of the officers did not explain what the rest of the officers' conduct was during the police operation
- (vii) Mr Ahmad's alleged violent struggle was not reported by the police officers themselves, and no photographic evidence was recorded of any injuries sustained by any of the officers

- (viii) The only Medical Report that was used during the investigation was not provided to the Ahmad family
- (ix) The IPCC report mentioned “albeit relatively minor” injuries despite extensive medical evidence that two of the injuries were potentially life-threatening
- (x) The IPCC report failed to address Mr Ahmad’s allegations that he was forced into the Muslim position of prayer and mocked about the existence of “his God”
- (xi) The yellow ‘Witness’ board placed outside Mr. Ahmad’s house during the course of the investigation contained very general information and not specific information (e.g. on such-and-such date a man was assaulted by Police officers, etc.) as is usually found on such notice boards. The board simply said that an incident took place involving the police. Therefore, it is unlikely that any eyewitnesses would understand what the board was referring to.

Although the IPCC repeatedly concluded that it believed Mr Ahmad’s allegations to be true, it ultimately failed to recommend that effective action be taken against the officers involved, simply because it thought that it was unlikely that a tribunal of police officers would find in favour of Mr Ahmad. For example, regarding the use of excessive force, the IPCC stated that “those blows amount to an assault . . . and could only have been done deliberately.” However, it goes on to state that it would not bring such an allegation to the tribunal as “it is not possible to say which of the four officers was the person who either punched or slapped you.”<sup>14</sup> This indicates that it was not the truth or the damning evidence which was important to justice but merely whether a tribunal of police officers would believe a terror suspect’s word over that of a fellow police officer.

### 3.4 Overall Result

**“Police Officers tend to stick together and support each other and that is what they will probably do in this case...”<sup>15</sup>**

The IPCC refused to re-investigate the complaint or recommend a Public Inquiry to the Home Office despite the oversight in neglecting vital evidence crucial to Mr Ahmad’s case. The conclusion that there was sufficient evidence for a disciplinary charge against only one officer is a wholly unsatisfactory response to the complainant who suffered potentially life-threatening injuries. Furthermore, several aspects of the case and testimonial evidence discrepancies were not dealt with in a thorough manner leaving many of the complainant’s qualms unanswered.

For a system that demands justice, independence, integrity and openness<sup>16</sup> it is disappointing that such a case has emerged. The effects of such a case on the ethnic minorities of Britain cannot be underestimated and recalls the claims of “institutional racism” of the Stephen Lawrence Inquiry; an era of the Metropolitan police which the public believed was over.

In order for the public to have confidence in the police force it is vital that such acts of misconduct are subjected to the appropriate scrutiny and that each and every misdemeanour is justified and transmitted to the complainant. Otherwise the theoretical social contract which binds the public and the police in trust and confidence will rescind to leave only cynicism and revulsion.

Mr Ahmad and family are seeking an urgent Public Inquiry into their case to resolve the remaining questions left unanswered by the investigation and furthermore are inquiring into civil remedies for their case.

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<sup>14</sup> Commissioner Pritchard’s IPCC report dated 14 January 2005 detailing misconduct aspects of Mr Ahmad’s case

<sup>15</sup> Detective Inspector quoted per Arani & Co. letter dated 24 March 2005 in response to IPCC Investigation conclusions

<sup>16</sup> Criteria for Investigation document. IPCC. 30 June 2004 [Refer to Appendix A]

## **4. Conclusion**

The IPCC must stay true to the principles upon which it was founded and must be proactive in its determined stance to hold the insularity of the police force to account. It is an untenable position that such grave actions can occur without full transparency and accountability. It is for this reason why such cases must be initiated by an independent body and be concluded by the same. The age of the Metropolitan Service reporting its own affairs is tantamount to a condemned man choosing his own sentence.

The disclosure of all documents as they are received by the IPCC should be similarly available to complainants who have been subjected to unjustified use of force during the operation. It is only until the method, form and manner of the investigation is expatiated and made available to the complainants that a robust system of accountability will emerge. To be truly independent the IPCC must emphatically cut all ties, informal and formal, with the police force who have thus far still to prove their integrity in such cases of public concern.

It remains to be seen whether in the current framework the IPCC can rise from the ashes of the Lawrence Inquiry and more recently from the covert operations of the Anti-Terrorist Branch, to overcome the hindrances which thus far makes the IPCC in its current form, a wholly unsatisfactory response to state sponsored injustice.

## **APPENDIX A: IPCC Criteria for Investigation**

### Criteria for Investigation

#### Introduction

1. The decision about which form of investigation should be adopted by the IPCC and decisions to be made about related matters will be a serious ones. The decisions will have implications for all concerned – the complainant, the person who is the subject of the complaint, witnesses, the appropriate authority, the IPCC itself and, not least, the public.

2. The Commission has duty to ensure that people's complaints against the police are properly investigated, using its legal powers to intervene and investigate. In performing that duty the IPCC will assist in increasing public confidence in the police by demonstrating its independence and by securing the integrity and accountability of the complaints system.

3. The Commission has a duty to exercise the powers and perform the duties conferred on it in the manner it considers best calculated for the purpose of securing the proper carrying out of its functions and it may do anything which appears to it to be calculated to facilitate or is incidental to or is conducive to the carrying out of its functions.

4. In considering both the selection and the re-selection of the mode of investigation the IPCC will have regard to its core values:

- Justice
- Independence
- Valuing Diversity
- Integrity
- Openness

4. This Code is designed to ensure that everyone affected by its decisions know the principles that the IPCC will apply when making its decisions and carrying out its work. By applying those principles the IPCC will treat all those involved in the process fairly.

#### General Principles

5. Each case is unique and must be considered on its own facts and merits. However, there are general principles that apply to the way in which IPCC Commissioners and Staff must approach every case.

6. Commissioners and Staff must be fair, independent and objective. They must not let any personal views about ethnic or national origin, sex, age, religious beliefs, political views or the sexual orientation of the complainant, the subject of the complaint or any witness influence their decisions. They must not be affected by improper or undue pressure from any source.

7. In determining or re-determining the form of an investigation Commissioners and Staff must always act in the interests of justice.

8. The IPCC is a public authority for the purposes of the Human Rights Act 1998. The IPCC must apply the principles of the European Convention on Human Rights in accordance with the Act.

#### The Police Reform Act 2002

9. The IPCC has a duty to determine whether a complaint referred to it should be investigated.<sup>17</sup> It has the same duty in relation to recordable conduct matters that are referred to it<sup>18</sup>. The effect of this is clear, the Commission must assess whether a complaint or recordable conduct matter merits investigation. It has no discretion.

10. Where a complaint or recordable conduct matter is referred to the IPCC and the IPCC has determined that the complaint or matter should be investigated then it has a duty to determine the form that the investigation should take - it has no discretion.<sup>19</sup> It does have the discretion to:

- determine the type of investigation to be pursued<sup>20</sup>;
- re-determine the type of the investigation, after it has initially reached a decision on the form it should take<sup>21</sup>;
- discontinue an investigation once one has started subject certain limitations.<sup>22</sup>

11. The investigation may take the form of:

- An investigation by the appropriate authority on its own behalf
- An investigation by that authority supervised by the IPCC
- An investigation by that authority under the management of the IPCC
- An independent investigation by the IPCC

12. In determining the form of the investigation the IPCC must have regard to two factors:

- the seriousness of the case
- the public interest.

#### Seriousness of the Case

13. Appropriate authorities have a duty to refer to the IPCC any complaint alleging, or any recordable conduct matter involving, conduct that has resulted in death or serious injury<sup>23</sup>.

14. They also have a duty to refer to the IPCC:

- alleged conduct which constitutes-
  - (i) a serious assault;
  - (ii) a serious sexual offence
  - (iii) serious corruption;
  - (iv) a criminal offence or behaviour which is liable to lead to disciplinary action which is aggravated by discriminatory action;<sup>24</sup> or
  - (v) a serious arrestable offence, within the meaning of section 116 of the Police and Criminal Evidence Act 1984, or
- alleged conduct which arises from the same incident<sup>25</sup>.

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<sup>17</sup> Sch. 3, para. 5

<sup>18</sup> Sch. 3, para. 14

<sup>19</sup> Sch. 3, para. 15(1)

<sup>20</sup> Sch. 3, para. 15(3)(4)

<sup>21</sup> Sch. 3, para. 15(5)

<sup>22</sup> Sch. 3, para. 21 and the Police (Complaints and Misconduct) Regulations 2004, Reg. 7

<sup>23</sup> Sch. 3, paras. 4(1) and 13(1)

<sup>24</sup> Paragraphs (i) to (iv) are defined by the Mandatory Referrals Guidance.

<sup>25</sup> Paragraphs 4(1) and 13(1) of Schedule 3 to the Police Reform Act 2002 and the Police (Complaints and Misconduct) Regulations 2004



15. All such conduct can be regarded as constituting a serious case for the purposes of determining the form of the investigation. The fact that the matter that has been referred to the IPCC is a serious case does not mean that the IPCC has to mount an independent investigation what it indicates is that some form of investigation should occur unless the public interest dictates otherwise. Within 'seriousness' there is a sliding scale which, at the bottom end will indicate that an investigation by the appropriate authority on its own behalf and at the top end will indicate an independent investigation by the IPCC.

### Public Interest

16. The term 'public interest' is not defined in the Act. There are however a number of factors that will tend to indicate that one form of investigation is more appropriate than another and whether, once an investigation has begun whether another form of investigation is appropriate or whether the investigation should be discontinued.

#### *Factors indicating the form of an Investigation*

a. The alleged conduct of a person serving with the police<sup>26</sup> has resulted in death or serious injury.

b. The alleged conduct was:

- racially or otherwise discriminatory motivated;
- involved more than one person serving with the police;
- pre-meditated;
- involved the use of a weapon or other implement.

c. The alleged conduct, if substantiated, is likely to be the cause of significant public concern.

d. The alleged conduct was part of an ongoing incidence of similar conduct by the individual who was the subject of complaint or within the police force in which the individual was serving.

e. The alleged conduct is such that the failure of the IPCC to either conduct or manage the investigation will substantially undermine public confidence in the police.

f. The alleged conduct is such that the failure of the IPCC to either conduct or manage the investigation will substantially undermine public confidence in the complaints system established under the Police Reform Act 2002.

g. The alleged conduct amounts, if substantiated, to a serious interference with the administration of justice or with the investigation of offences or a particular offence.

h. The alleged conduct, if substantiated, has resulted in a substantial unlawful financial gain for a person serving with the police or a substantial financial loss for another person.

i. The alleged conduct, if substantiated, amounts to a substantial interference with human rights.

17. When two or more of these factors appear to exist together in the case when the IPCC first determines the form of the investigation it will be more than less likely that the IPCC will wish to conduct or manage an investigation. However, if only one factor is present it will not preclude a decision being made to manage or conduct an investigation. Similarly, the presence of two factors or more will not necessarily result in managed investigation or an investigation conducted by the IPCC.

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<sup>26</sup> 'a person is serving with the police' if he is member of a police force, he is an employee of a police authority who is under the direction and control of a chief officer of police, or he is a special constable under the direction and control of a chief officer of police. Police Reform Act 2002, s. 12(7)

18. An example of where it is more likely that an investigation will be managed or conducted by the IPCC is where one of the factors is a death or serious injury that has occurred as a consequence of either a positive or a negative action by a person serving with the police. In contrast where a person serving with the police assaults a member of the public or another person serving with the police and the assault does not result in serious injury, did not involve the use of a weapon or implement and was not pre-meditated, while meriting investigation, might be more suitable for an investigation by the appropriate authority, whether or not supervised by the IPCC.

19. Another example of where the IPCC may be more than less likely to determine to conduct or manage an investigation is where it is alleged that two or more person serving with the police have secured a substantial unlawful financial gain as a consequence of corruption or other serious criminal conduct, particularly if it involves a serious interference with the administration of justice or with the investigation of offences or a particular offence. In contrast petty or opportunist theft of property by a person serving with the police, while meriting investigation, might be more suitable for an investigation by the appropriate authority, whether or not supervised by the IPCC.

20. These examples must not be taken as determining the form of investigation in any particular case they are simply used to indicate how a range of factors may be used to indicate the appropriate form of investigation. Each case is unique and must be considered on its own facts and merits.

#### European Convention on Human Rights

21. Where the alleged conduct of a person serving with the police has resulted in death or serious injury Articles 2 and 3 of the European Convention on Human Rights may be engaged. If they are engaged, the IPCC, as a public authority under the Human Rights Act 1998, has an obligation to determine a form of investigation that is an effective independent investigation that does not have any hierarchical or institutional connection with those implicated in the events. It would only not have to do that where there has been an inquest that satisfied Article 2. An independent investigation into a death conducted by the IPCC itself would satisfy the requirement of independence under Article 2. An IPCC managed investigation into a death involving the police would satisfy the requirement of independence under Article 2 of the Convention provided that it was conducted by an external police force. Not all death or serious injuries that occur following contact with the police will engage Article 2 or 3. For example where the death was obviously from natural causes or the police contact was sufficiently remote from the time of the death or serious injury.<sup>27</sup>

#### Resources

22. One of the factors that the IPCC may take into account in determining the form the investigation shall take is the resources that are available to the IPCC to conduct the investigation that is the subject of the determination. However, in doing so the IPCC must have first correctly identified the factors in the case which indicate whether the investigation should be conducted or managed by the IPCC or whether the investigation should be conducted by the appropriate authority, whether or not supervised by the IPCC. The IPCC is entitled to take into account the competing demands for resources from other cases, so long as those competing demands do not compromise its human rights obligations if, in the case under consideration, fundamental human rights are engaged.

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<sup>27</sup> See *Jordan v UK* (2001) ECtHR, *McShane v UK* (2002) ECtHR, *Edwards v UK* (2002) 35 EHRR 487, *R (Wright) v Secretary of State for the Home Department*, *R v Secretary of State for the Home Department ex p Amin* (2003) UKHL 51 and *R v Police Complaints Authority ex p. Green* (2004) UKHL 6

23. Having regard to the above the IPCC is likely to determine the form of investigation in the following way:-

a) An independent investigation will be conducted by the IPCC into incidents that cause the greatest level of public concern, have the greatest potential to impact on communities or have serious implications for the reputation of the police service.

b) An IPCC managed investigation will be conducted when a complaint or alleged recordable conduct matter is of such significance and probable public concern that the investigation of it merits being under the direction and control of the IPCC but does not merit a fully independent investigation.

c) An IPCC supervised enquiry will be conducted when the Commission decides that a complaint or allegation of misconduct is of such significance and probable public concern that supervision of the investigation by the Commission is necessary.

d) A local investigation by an appropriate authority on its own behalf without any IPCC input into the investigation will be appropriate where the Commission concludes that none of the factors identified in paragraphs 20 to 21 exist and the appropriate authority has the necessary resources and experience to carry out an investigation without external assistance.

#### Re-determining the type of the investigation

24. The IPCC may at any time during the course of an investigation, including one by the appropriate authority, make a fresh determination of the form the investigation shall take.<sup>28</sup> The factors that the IPCC must consider are the same as those that the IPCC will have considered, however, the result of the re-determination must flow from the facts of the case revealed during the course of the investigation and, save for the issue of resources available for the investigation, no external factors should be taken into account. The re-determination must be based on the individual merits.

#### Discontinuation of the Investigation

25. The IPCC may require the discontinuance of an investigation which is being carried out by an appropriate authority on its own behalf or under the supervision or management of the IPCC of any complaint or matter:<sup>29</sup>

- in which the complainant refuses to co-operate to the extent that the IPCC considers that it is not reasonably practicable to continue the investigation;
- which the complainant has agreed may be subjected to local resolution;
- which the IPCC considers is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints or conduct matters;
- which is repetitious<sup>30</sup>; or
- which the IPCC otherwise considers is such as to make it not reasonably practicable to proceed with the investigation.

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<sup>28</sup> Sch. 3, para. 15(5) – (7)

<sup>29</sup> Sch. 3, para. 21(1)

<sup>30</sup> It is repetitive if it is substantially the same as a previous complaint (whether made by or on behalf of the same by or on behalf of the same or a different complainant), or it concerns substantially the same conduct as a previous conduct matter; it contains no fresh allegations which significantly affect the account of the conduct complained of; or no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and as respects the previous complaint or conduct matter, either the requirements of paragraph 23(7) of Schedule 3 to the 2002 Act were complied with; the complaint was locally resolved; the complainant gave notice that he withdrew the complaint; or the IPCC gave the appropriate authority permission to handle the complaint in whatever way it saw fit. See Police (Complaints and Misconduct) Regulations 2004, Regs. 3(2) and 7(1) practicable to proceed with the investigation.

26. The IPCC may not discontinue an investigation that it is conducting itself unless –

- the complainant refuses to co-operate to the extent that the IPCC considers that it is not reasonably practicable to continue the investigation;
- which the complainant has agreed may be subjected to local resolution;
- the IPCC considers it is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints or conduct matters;
- it is repetitious;
- which the IPCC otherwise considers is such as to make it not reasonably

**As agreed by Commission 30 June 2004**

**Subject to review and revision**

**12 July 2004**

## **APPENDIX B : Sequence of Events of Babar Ahmad's case**

2 December 2003:	Mr Ahmad arrested, assaulted by police officers in London, UK
3 December 2003:	Police Officers give testimony to Senior District Judge Timothy Workman at Bow Street Magistrates court
8 December 2003:	Mr Ahmad released without charge. Files complaint against police assault to Independent Police Complaints Commission (IPCC)
7 January 2004:	Complaint officially referred to Police Complaints Authority
10 January 2004:	Mr Gavalas Medical Report completed
26 May 2004:	Investigating Officer (Metropolitan Police Service) was submitted to IPCC
15 July 2004:	Metropolitan Police passes case of Mr Ahmad's assault by police to Crown Prosecution Service (CPS)
5 August 2004:	IPCC stated satisfaction with MPS Report
4 September 2004:	Dr. Sturgeon's medical report completed
10 September 2004:	CPS Announces decision that they felt that there was "insufficient evidence" to prosecute the police officers who assaulted Mr Ahmad
25 October 2004:	Commissioner writes to MPS with misconduct recommendations. Concludes that there is sufficient evidence for one of the officers involved to face a disciplinary charge under the Code of Conduct for excessive force.
14 January 2005:	Commissioner writes to Mr Ahmad and family regarding the misconduct aspects of the case. Concludes that there is sufficient evidence to formally discipline one of the several Anti-Terrorist Branch Police Officers involved in Mr Ahmad's case
17 February 2005:	Meeting with IPCC, Mr Ahmad and family at HMP Woodhill Prison
24 March 2005 :	Mr Ahmad and family formally reject decision to carry out misconduct proceedings against only one of the officers.
13 April 2005:	Police Misconduct Tribunal finds no case to answer against single officer accused of using "excessive force".

**APPENDIX C : Photographic Evidence**





APPENDIX D : Independent Medical Report

**Mr Manolis Gavalas FRCS FFAEM**  
**Consultant in Accident & Emergency Medicine**  
**The University College London Hospitals**

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NHS Secretary: (020) 7387 9300 Ext 8439  
Private Secretary: (020) 8360 0932 or 078 0829 5575  
Mobile: 07764 613 123  
Fax: (020) 7380 9610  
My Ref: NCL/AHMAD\_161203  
Your Ref: LC.LC.KH.A0037002

# Medical Report

NAME	Mr Babar Ahmad
ADDRESS	[REDACTED]
DATE OF BIRTH	[REDACTED] (right-handed)
MARITAL STATUS	Married, no children
DATE OF ACCIDENT	Tuesday 2 December 2003
OCCUPATION AT TIME OF ASSAULT	IT Analyst for Imperial College
CURRENT OCCUPATION	Same
TOTAL TIME OFF DUE TO INJURY	One month. There was no financial losses.
DOCUMENTS AVAILABLE	1. Request for a medico-legal report by Ms Louise Christian of Christian Khan solicitors dated 15 December 2003. 2. Report compiled by Dr Siddiqui. 3. CD Rom with a video clip and still pictures dated 02 December 2003.
DATE, PLACE AND U.C.H. DURATION OF EXAMINATION	16 December 2003, Private Patients' Wing, The consultation lasted for 1 hour and Mr Ahmad was unaccompanied.
DATE OF REPORT	Examination findings dictated on 16 December 2003. This report has been finalized in its present Form on 10 January 2004.



INTRODUCTION AND OBJECTIVES OF REPORT

I am a fully trained consultant in Accident & Emergency medicine. I started training in this field in 1988.

I have personally dealt with a large number of cases of trauma, both acute and chronic. I have been a consultant in Accident & Emergency medicine at University College Hospital since 1995. This Department deals with around 70,000 patients per year, many of whom present with injuries following assault. We also deal extensively with head injuries, chest trauma and upper and lower extremity fractures and soft tissue injuries. I have admission rights and admit all head injury patients with the exception of those requiring urgent neurosurgery. I also run my own review clinics dealing with minor fractures and soft tissue injuries, especially sprain of the spinal column.

I have been carrying out medico-legal work since 1995 and have a great deal of expertise in compiling reports for the use of court in personal injury, medical negligence and criminal cases.

In the last five years I have appeared in court and given evidence for both claimants and defendants in the region of 20 cases. I have also aided the courts in attending pre-trial conferences and compiling agreed statements with expert colleagues.

The aim of this report is to describe clearly in a chronological manner the client's mechanism of injury and subsequent morbidity suffered (if any).

The report will analyse any treatment administered and review the results of any investigations. The report will also analyse in a chronological manner any contemporaneously recorded history and examination findings at various clinics, hospitals or other surgeries (if applicable) on the proviso that records are made available to me at the time of compiling this report.

In the body of this report, sometimes technical words will be used but when describing the history established during consultation an attempt will be made to use the patient's said words.

It is clearly impossible to incorporate in the report, verbatim, all of the pre-injury and post-injury documentation in various records if these are made available to me. I will therefore summarise relevant entries in a non-verbatim manner.

The report will detail examination findings. Again, technical terms will be used when describing examination findings.

Although I have no psychiatric qualifications, in my role as an emergency consultant I will be able to advise whether the patient should be referred to a psychiatrist for the compilation of a detailed psychiatric report.

#### SUMMARY OF INSTRUCTIONS

To produce a full detailed report on the following:-

- Injuries sustained in the incident under review.
- Relevant pre-incident medical history (if records are made available to me).
- Treatment received.
- Present condition.
- Dealing in particular with the capacity for work.
- Prognosis.
- Establish extent and duration of continuing disability.
- Comment on areas of impact on daily living.
- Comment on level of inconvenience caused by continuing disability.
- Comment on resolution.
- Review of medical notes.

I understand that my duty is to provide the court with an independent expert opinion.

MECHANISM OF INJURY (MOI) EXAMINATION, INVESTIGATIONS, TREATMENT AND PROGRESS AS STATED BY THE PATIENT AND BY REVIEW OF RECORDS PROVIDED.

I saw and examined in my private rooms Mr Babar Ahmad, now 29 years of age following injuries sustained in the early hours of Tuesday 2 December 2003 whilst at home. He advised me that he was upstairs in his bedroom asleep with his wife. He was wearing thin nightclothes. His wife was in her nightdress. It was approximately 5:40am when he was suddenly awakened with a bang on the outside door. He got up in a reflex reaction and looked outside and realized that there were a number of police officers in riot uniforms.

He was very shocked and shaken and for the first few minutes could not apprehend why the police were banging on his door at that time. He recalls that the police officers were shouting. He recalls that they were using strong flash lights.

Within a split second Mr Ahmad realised that his house was being raided. He clearly linked that raid to the then political events surrounding potential terrorist acts in London. He advised me that events subsequently occurred very rapidly. He was numb with fear and recalls his wife shaking with emotional shock. Within a split second, police officers were upstairs in his bedroom. He was grabbed by police officers and pushed against the window. He realised that his outside door had been smashed as the police officers had entered his home in a forceful manner. As he was standing dazed and confused he was punched and kicked all over his head, torso and extremities. He was pushed violently to the floor with his face to the floor and had his extremity and torso forcefully stamped on. His initial ordeal lasted 2 or 3 minutes. He could not keep count of the number of punches and kicks he received although he recalls that the police officers were wearing gloves.

Mr Ahmad was pleading with police officers to stop assaulting him. However, not only did his assault come to an end but police officers grabbed him by his genitals and pulled him all over like a dog on a lead. At the time he was stunned and did not resist at all with the exception of pleads to stop hurting him. He was also fully aware that his wife was overwhelmed with anxiety and emotional shock. He also recalls that he was being asked for his name and date of birth which he volunteered. He was told that he was being arrested under the Terrorism Act.

He had his rights read to him. He had his hands held forcefully behind his torso as he was on the floor and was brutally cuffed. However, the police officers did not stop at just forcefully cuffing Mr Ahmad but they twisted the cuffs by pulling on the cuffs to cause (he believes) more pain.

Mr Ahmad recalls then standing up. He was then forcefully pushed and thrown down the stairs into the hall. At the time police officers were deliberately stampeding on his feet. He reminded me that he was not wearing any socks or shoes at the time. He was also kicked on the knees and thighs and received further punches to his head.

Mr Ahmad also recalls that police officers kicked around personal items and shoes kept by the door, for religious reasons. Certain wedding presents and other fragile personal items were smashed and thrown.

Mr Ahmad recalls that his ordeal persisted further when they put him in uncomfortable and degrading postures. The police officers were very sarcastic and scorned Mr Ahmad's religion and beliefs. They were continuously swearing and using the 'F' word with constant kicks and punches. They also kept twisting and squeezing the cuffs to inflict more pain.

Mr Ahmad recalls a severe psychological insult. However, at the time he was very concerned with the wellbeing of his wife who witnessed Mr Ahmad's assault.

Mr Ahmad also recalls a senior officer giving instructions for his home to be searched. He was also exposed and subjected to a very degrading search himself with his genitalia exposed. He was personally searched although police officers were wearing gloves.

Mr Ahmad was overwhelmed with anxiety and shock and believes his family's dignity was violated continuously during his unprecedented assault by police officers.

Mr Ahmad recalls that he was subsequently thrown in a van, face down. He was still cuffed and police officers continued to swear and use the 'F' word with recurrent punches against his torso and extremities. Mr Ahmad advised me that the van drove away at high speed. On the way to the police station, two officers were pressing on the top and bottom of his torso. His face was on the floor and continuously rubbing against the floor of the van. They also pushed his knees against the steel leg of the seats. In transit he had further punches to his kidney area and upper spine. They were still pulling his cuffs. He also recalls a 20-30seconds attempt by police officers to "asphyxiate" him in a very frightening head lock. Police officers kept swearing at him and were very sarcastic about his religious beliefs and ethnicity. As he was about to choke, the police officers released the pressure and Mr Ahmad recalls almost losing consciousness.

Mr Ahmad was subsequently taken to a Charing Cross Police Station. He was dealt with by police officers on duty. He is 90% certain that the police officers' identification numbers were 183477 and 199400. At the time he was suffering intense pain all over and was very thirsty due to a very dry throat.

Mr Ahmad recalls he was attended to before being thrown into a cell by a nurse who examined him for two minutes. He believes he was not given any medication.

Mr Ahmad recalls he was left in his cell for some time. He was overwhelmed with anxiety and felt terrorised. He was uncertain as to what police officers would do to his wife who was a newly married Pakistani lady with strict moral and religious beliefs.

Mr Ahmad recalls that a police doctor attended his cell at approximately 8:00am. At the time he was in severe discomfort all over and he was bleeding slightly from certain wounds. He was also feeling short of breath. At the time he was heavily guarded.

Mr Ahmad advised me that the doctor in question only examined him superficially.

On day 2 of his arrest and imprisonment, Mr Ahmad recalls that he was re-examined by another doctor who documented his injuries in diagrams. He was prescribed painkillers but was not offered the opportunity to attend hospital.

I also understood that Dr Siddiqui, who examined Mr Ahmad on 3 December 2003, had his injuries illustrated in diagrams.

From a CD Rom, video clips and still pictures made available to me I established the following physical injuries:’

Video clip 1 was of poor quality but reveals some soft tissue injuries affecting the right lower extremity. The soft tissue injuries are particularly noted over the outer aspects of the right knee and over the right foot.

Video clip 2 is of poor quality but illustrates clearly Mr Ahmad’s soft tissue injuries affecting the left foot and left lower leg on the outer aspect.

Video clip 3 is comprehensive and of good quality. It reveals multiple contusions, haematomas, cuts and grazes affecting the left upper extremity, left shoulder and outer aspect of the anterior torso and left arm. Mr Ahmad’s face is well shown in this video clip. He is clearly verbalising with the person filming, who I suspect is a solicitor. The soft tissue injuries appear to be fresh. The facial injuries are particularly obvious, revealing significant left intra-orbital trauma with contusions, abrasions and grazes. There are also injuries on the right side of the neck in the form of contusion and grazes. There is significant right ear trauma on the pinna and post-auricular area. The anterior torso injuries are clearly documented in this video. There is also evidence of right upper extremity and elbow injuries on both dorsal and volar aspects. I was particularly impressed with the wrist injuries and there is the suspicion of a right dinner fork deformity on the right side.

The same video clip reveals Mr Ahmad’s posterior torso with significant contusions on the mid-thoracic spinal column in the form of grazes, bruises and abrasions. There is evidence of significant contusion of the left flank and over the left periscapular area. The posterior aspects of the left shoulder are also involved with soft tissue injuries.



Multiple still pictures were made available to me on the CD Rom. They reveal the following injuries:

- Left wrist medial and dorsal involvement with grazes, cuts, contusions and haematomas.
- Medial aspect of the left arm reveals a large area of contusion on the proximal aspect.
- On the dorsum of the left elbow there are grazes and scratches.
- Multiple grazes and linear scratches with contusions over, I believe, the lateral aspect of the right flank.
- On the anterior torso, significant contusions and bruises affecting the left infra-clavicular area and over the left anterior contour of the left shoulder.
- The posterior torso injuries are evident with a large area of contusion and early haematoma.
- The posterior aspect of the right elbow injuries are documented in the form of a large area of abrasion and grazes.
- The right medial and dorsal aspects of the right wrist are clearly injured with significant soft tissue trauma in the form of contusions, grazes and lacerations. The injuries are also documented on the volar aspect of the right wrist.
- On the dorsal aspect of the forearms are clear scratch marks and grazes which are linear and circular in shape going over the circumference of the forearms.
- The facial injuries are more clearly documented in various pictures with obvious infra-orbital contusions, grazes and friction burns. There is also involvement of the supra-orbital area and some evidence of a small haemorrhage in the lateral aspect

of the sclera. There is also evidence that the injuries extend into the tip of the nose and the left maxillary sinus area.

- The facial injuries also reveal involvement of the left zygoma and significant bruising and contusion of the left pinna.
- The pictures also reveal bilateral feet injury over the dorsum of the digits in the form of small grazes and contusions.
- Another picture reveals contusion of the right knee.

Unfortunately, the FME records compiled when Mr Ahmad was examined by the police doctors have not been made available to me. However, a report compiled by Dr Siddiqui is made available to me. It confirms in general the nature of Mr Ahmad's assault and humiliating ordeal. I was particularly interested to see reference to Mr Ahmad's near choking position as he was held in a head lock. He was only able to sleep for a few hours due to his physical symptoms and the foam mattresses were adhering to his wounds. His request for ice packs to reduce the swelling were refused.

Dr Siddiqui's examination revealed multiple facial and scalp injuries. There were haemorrhages in the left lower quadrant of the left tympanic membrane and a large haemorrhage on the upper left quadrant. He had multiple neck injuries and reduced range of neck movements due to pain. He had chest injuries and tenderness on palpation. He had posterior back injuries and bilateral loin pain. Dr Siddiqui analysed the urine with a dipstick and found a heavy presence of blood but no abnormalities. There were also other multiple upper extremity and torso injuries. Dr Siddiqui documented multiple lower extremity injuries. Dr Siddiqui concluded that Mr Ahmad's

injuries were consistent with his allegations. Dr Siddiqui has illustrated Mr Ahmad's injuries diagrammatically in his report.

When I recently examined Mr Ahmad for the purpose of the report he advised me that during his imprisonment which lasted approximately six days he was interrogated continuously. He described feeling unwell with nausea and poor concentration. He had headaches and he felt badly affected and scared. He was fed reasonably well although he had no appetite. He was re-examined by the same doctor who again documented his injuries.

He also recalls appearing in court on day 4 where an application for his custody was approved. His request to attend the A&E Department was denied.

Mr Ahmad also recalls passing dark urine which was tested to show blood.

During his imprisonment he felt bruised all over and could not sleep. At times he was overwhelmed with anxiety about his wife and loved ones.

Although Mr Ahmad was violently assaulted, on the day of his arrest he was not assaulted subsequently during his six day imprisonment. On day 6, out of the blue, on a Monday he was released without charge.

#### PRESENT POSITION

From the day of his release to the present day Mr Ahmad has visited his G.P. who offered psychological counseling. He was also offered ear drops due to the ongoing left ear pain and swelling.

He was not seen by any specialist although he was sent to the A&E Department on 16 December 2003 for x-rays of the wrist which were however negative for bony fractures.

Mr Ahmad's subsequent G.P. records and A&E records have not been made available to me. I have also not been provided with Mr Ahmad's x-rays.

[REDACTED]

PAST MEDICAL HISTORY AS STATED BY THE PATIENT AND BY REVIEW OF RECORDS PROVIDED.

Mr Ahmad advised me he was previously fit and healthy. He denies having a previous police record.

EXAMINATION

Upon examination Mr Ahmad walked into my rooms unaided, standing at 5'11 and weighing 70kgs. He appeared to be clearly psychologically vulnerable although there was no evidence of any psychological overlay or attempts to mislead me by exaggeration of symptoms.

Upon examination of the central nervous system I found no obvious head injury sequelae.

Upon examination of the spinal column I established full range of neck movements. However, anteriorly I established multiple foci of tenderness affecting the soft tissue of the neck on both sides. There was the remnant of an organized haematoma over the right supra-clavicular area.

More distally I established tenderness affecting the coccyx and left lumbo-sacral junction. He had tenderness over the left buttock. There were some areas of ongoing scabbing due to linear scratches and grazes. However, there were a full range of back movements with neurological examination of lower extremities.

There were multiple areas of organized haematomas and healed grazes affecting the posterior torso from the thoracic area up to the lower lumbar segments. The left and right flanks were particularly tender with areas of healed bruising.

On the anterior torso there was a significant area of tenderness affecting the mid-clavicular area and infra-clavicular fossa.

On the right side of the torso, below the right breast, there was a circular area of contusion and tenderness.

However, there was no evidence of any deep underlying parenchymal injury.

Examination of the soft tissue of the face and facial skeleton revealed ongoing bruising over the left supra-orbital area on the forehead on the left side. I could see the remnants of a resolving black eye on the left side. There was severe tenderness on the infra-orbital area although no evidence of any bony fractures or nerve involvement. The temporo-mandibular (TM) joint on the left side was inflamed although there was a good teeth apposition. There was a small scar on the left infra-orbital area measuring 1cm with some scabbing.

Upon examination of the tympanic membrane I noted an irregular area of haemorrhage on the left upper quadrant on the left side. The pinna was still bruised and inflamed although hearing was not affected.

There was a faint area of bruising over the right infra-orbital area. There was tenderness over the right supra-orbital area on the right forehead.

I noted tenderness over the scalp on the left side with a resolving area of contusion on the right side.

Examination of the upper and lower extremities revealed tenderness affecting the left forearm and the presence of an organised haematoma. The right elbow on the lateral aspect was tender over the epicondyle. There was an area of 1cm of organized haematoma.

On the dorsal and medial aspect of the right wrist, there was a large area of 5cm x 3cm scabbing over pre-existing dermatitis. There was a lot of inflammation affecting the tendons of the right thumb. There was a deep area of organized haematoma on the left wrist over the thumb tendons. Upon examination of the right carpus, I established tenderness affecting the scaphoid lunate ligament.

Upon examination of the lower extremities I established a 9cm x 4cm area of tenderness and organised contusion and haematoma on the right thigh. There was tenderness over the right medial condyle. There was some scabbing over wounds over the right lateral aspect of the knee joint.

There was severe tenderness over multiple foci over the right lower extremity over the subcutaneous border of the right tibia. The lateral malleolus on the right side was tender. There was some scabbing over wounds over the right foot over the second, third and fourth toes. On the left foot there was some scabbing and the presence of a broken nail over the middle digit.

Structurally, upper and lower extremity joints appeared to be intact with full range of movement. There was no evidence of any reflex sympathetic dystrophy (RSD).

I do not have the expertise to examine comprehensively complex psychological manifestations following physical trauma and therefore recommend that Mr Ahmad should be examined by a psychiatrist for the compilation of a detailed psychological report.

#### CONCLUSION, OPINION, PROGNOSIS AND RECOMMENDATIONS

In my opinion, Mr Ahmad's injuries were compatible and consistent with the mechanism of trauma. There is clearly unequivocal evidence that he was subjected to a harrowing physical and psychological assault by police officer. He was clearly badly beaten up although in a reasonably controlled manner. I believe he had not suffered any bony fractures although I am keen to review subsequent records and x-rays.

He has clearly suffered intense psychological injuries and these injuries should be addressed by a specialist who will be able to compile a detailed psychological report.

As previously described there is unequivocal evidence of head trauma and concussional manifestations. I was particularly impressed with the left ear injuries and haemorrhage in the left membrane which suggests to me a significant head trauma and the possibility of basal skull fractures.

There is also unequivocal evidence of extremity and torso injuries. I was particularly concerned with the evidence of blood in his urine which suggests to me clear renal contusion.

I was amazed by the lack of relevant treatment during Mr Ahmad's custody.



Although one can appreciate the concerns for potential terrorism, clearly Mr Ahmad has been the victim of an intimidating but well-controlled attack which was aimed at inflicting significant soft tissue trauma with pain but not to cause any life-threatening injuries. In Mr Ahmad's case, regrettably there was also the potential for life-threatening injuries with evidence of renal contusion and head trauma.

He also suffered multiple soft tissue injuries affecting the extremities and face. There is however no evidence of any facial skeleton fractures or any joint disruption.

In my opinion, all soft tissue injuries should recover fully during the first six months after his assault. I believe that if he had not sustained a basal skull fracture, all the ear nose throat injuries would have recovered fully during the first six months after the assault.

I do not believe that Mr Ahmad will scar permanently although a psychiatrist will be able to offer a definitive opinion as to whether he suffered any permanent psychological sequelae.

#### SUMMARY OF OPINION

There is unequivocal evidence of significant soft tissue injuries inflicted upon Mr Ahmad. I suspect the aim of those police officers involved in this sad case whilst waving the flag of "fighting terrorism" was to inflict pain, humiliation and intimidation. No doubt Mr Ahmad felt himself being ironically the victim of terrorism. I do not believe that the police officers intended to cause Mr Ahmad serious life threatening injuries although there was potential of bleeding in intra-abdominal organs with unequivocal evidence of contusion of the renal parenchyma. However, I believe that Mr Ahmad will not suffer any permanent sequelae.

**Mr Babar Ahmad**                      **Mr Manolis Gavalas**    **FRCS FFAEM**

**10 January 2004**

I advise that he should be examined by a psychiatrist for the compilation of a detailed psychological report.

I understand that my overriding duty is the court, both in preparing reports and in giving oral evidence. I have complied and will continue to comply with that duty.

I have set out in my report what I understand from those instructing me to be the questions in respect of which opinion as an expert are required.

I have done my best in preparing this report to be accurate and complete. I have mentioned all matters which I regard as relevant to the opinions I have expressed. All of the matters on which I have expressed an opinion lie within my field of expertise.

I have drawn to the attention of the court all matter of which I am aware which might adversely affect my opinion.

Wherever I have no personal knowledge I have indicated the source of factual information.

I have not included anything in this report which has been suggested to me by anyone, including the lawyers instructing me, without forming my own independent view on the matter.

Where in my view there is a range of reasonable opinion, I have indicated the extent of that range in the report.



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