

Report of a Complaint Handling Review in relation to Tayside Police

under section 35(1) of the Police Public Order
and Criminal Justice (Scotland) Act 2006

Summary and Key Findings

The applicant's complaints arose following the removal of her son by social workers under emergency powers. The social workers had been assisted by police officers in this connection.

Of the two complaints considered, the Commissioner found that both were dealt with in a reasonable manner. No recommendations were made.

The Commissioner's role

Section 35 of the Police Public Order and Criminal Justice (Scotland) Act ("the Act") gives the Commissioner the power to examine the manner in which a policing body has dealt with a "relevant" complaint, as defined in the Act.

The Commissioner is independent of the police service and performs his functions in a fair and impartial manner. Before considering a complaint, the Commissioner's office obtains all papers held by the policing body against which the complaint has been made. These papers are considered alongside information provided by the applicant. The Commissioner then assesses whether the policing body's handling of the complaint was reasonable in all the circumstances. The Commissioner will look at the entire handling process, from the initial investigation by the policing body to the final response issued to the applicant. Among the factors which the Commissioner takes into account are the following:

- whether the policing body's response to the complaint is supported by all material information available;
- whether in dealing with the complaint the policing body has adhered to all relevant policies, procedures and legal provisions;
- where the complaint has resulted in the policing body identifying measures necessary to improve its service, whether these measures are adequate and have been implemented;
- whether the policing body's response to the complaint is adequately reasoned; and
- whether the policing body has communicated with the applicant in a reasonable manner.

Background

In March 2009 the applicant's 11 year old son died within the family home. The enquiry relating to the death was dealt with by Detective Constable A.

On 20 May 2009 the local social work department invoked emergency powers authorising the removal of the applicant's younger son, Child X, from her home. Social workers, accompanied by Detective Sergeant B and Detective Sergeant C, arranged to attend the applicant's home to remove Child X. Constables D and E were asked to position themselves near to the applicant's home in order to assist in the operation if necessary.

As Constables D and E were travelling to the agreed location near to the applicant's home they saw Child X at a nearby shop. Following consultation with Detective Sergeant C, Constables D and E spoke to Child X and subsequently took him to a local police office for the purpose of meeting with social workers. The purpose of this was to avoid a confrontation with the applicant and her family.

Detective Sergeants B and C then accompanied the social workers to the applicant's home. According to both officers, the social workers fully explained to the applicant the circumstances surrounding the removal of Child X.

On or around 27 October 2009 the applicant was within a sheriff court when she alleges Detective Constable A and other plain clothes officers spoke inappropriately about her and her family.

The Complaints

Based on the contents of the application form, the correspondence received from the applicant and the information obtained from Tayside Police, the Commissioner has identified the following complaints:

(1) that there was a delay between the removal of Child X by police officers and the applicant being informed of this; and

(2) that on 27 October 2009 within a sheriff court a Detective Constable and other police officers inappropriately discussed the applicant's case in her presence.

The Commissioner's Review

This section sets out the Commissioner's views on the manner in which the complaints were handled by Tayside Police. Each complaint is set out in turn and is followed by details of Tayside Police's handling of it and the Commissioner's views on this.

Complaint 1: The removal of Child X

The applicant stated the following in her statement:

"On 20/05/09 CID, social workers and police all stood round the corner from my house. Police officers went into [shop premises] and spoke to [Child X] They said they wanted to question him.

About 15/20 minutes later CID and social workers came in and one said they were here regarding the post mortem results. They said [reference to the death of the applicant's elder son] and we're taking your other son [Child X]. The police, CID and social workers already knew [Child X] was gone fifteen minutes before they were in my house."

Internal Handling

Inspector F was appointed to make enquiries into the applicant's complaints. On 9 November 2009 she noted a statement from the applicant. In her report of the same date Inspector F stated:

"Complainer is angry because the police officers had already got hold of her son in the shop fifteen minutes before [coming to the applicant's home to tell her]".

In an email to Superintendent G dated 9 November 2009, Inspector F stated:

"[The applicant] was very agitated and confrontational throughout the interview. It was very difficult to ascertain exactly what she was complaining about and she kept repeating that there was no point making a complaint in any case as nothing was ever done."

On receipt of Inspector F's report, Superintendent G instructed Detective Inspector H to conduct a full enquiry.

Detective Inspector H met the applicant at her home on 30 November 2009 with a view to discussing her complaints further. In his report dated 27 December 2009 Detective Inspector H stated:

“As the incident involving [the removal of Child X] ... was mentioned [the applicant] immediately raised her voice, became agitated and used a number of expletives to describe the actions of the Police and Social Work Department. Attempts to calm her appeared futile as she then suggested that the officers removing her son ... could have been any member of the public who had obtained uniforms and were pretending to be Constables.

... Once again the reporting officer attempted to calm her and discuss the matter further however her demeanour became even more irrational as she verbally attacked the reporting officer with a string of expletives and accused him of smirking at her.

Attempting to defuse the situation it was explained that we will get nowhere if we can't sit and talk rationally about matters however by this time she had past [sic] the point of no return and she was shouting a barrage of expletives and threatened to throw objects at the reporting officer if he did not leave the house immediately. The complainer looked enraged to the extent that her mother stood up and began shouting at complainer.

Not prepared to tolerate any further abuse the reporting officer gathered his belongings and informed them that if they wish to continue with the complaint they should contact him using the details previously provided.”

On receipt of Detective Inspector H's report Chief Inspector J instructed him to obtain operational statements from the officers referred to in the complaints, and also to write to the applicant offering a further opportunity to be interviewed in this connection.

Detective Inspector H thereafter wrote to the applicant inviting her to discuss further her concerns. The applicant did not respond. Operational statements were provided by the officers concerned.

In her response to the complaint dated 19 March 2010 sent to the applicant's solicitor, Chief Inspector J stated:

“I can confirm that [Child X] was approached by 2 officers, who were en route with other officers and social workers to his home address. He was taken by police vehicle to [police office] as the purpose of the visit by police and social workers was for the social workers to invoke their powers to remove [Child X] from his home address. I am not aware of any delay in the other officers and social workers attending at [the applicant's] home address to explain matters to her.”

Consideration

As the applicant did not fully cooperate with Detective Inspector H, the precise nature of her complaint is unclear. Based on the contents of her statement, it appears that she is concerned about the delay between Child X being removed by police officers and her being informed of this.

Although the police assisted in the operation to remove Child X, the decision to remove him was made by social workers rather than the police. Although the precise time at which Detective Sergeants B and C and the social workers attended the applicant's home is unclear, a delay of approximately 15-20 minutes, as described by the applicant, would not in the Commissioner's view be excessive. The Commissioner has not seen any evidence to suggest that the police acted in any way inappropriately in respect of the removal of Child X.

In the Commissioner's view, this complaint was dealt with in a reasonable manner by Tayside Police.

Complaint 2: Inappropriate discussion about the case

The applicant stated the following in her statement:

“About two weeks ago on a Tuesday at the ... Sheriff Court, [Detective Constable A] from the CID and other plain clothes police officers were making snide comments and sniggering at me. I didn't listen to what they were saying but [Detective Constable A] was pointing in my direction and the others were also making comments. It was obvious that they were speaking about me and my family.

I just ignored them but I am fed up of uniform and CID officers harassing me whenever they see us and pointing and making snide comments.”

Internal Handling

In her report Inspector F identified the date of the incident which gave rise to this complaint as “possibly 27th October 2009”. As noted above, Detective Inspector H met with the applicant intending to discuss her complaints in more detail, but the applicant did not cooperate and therefore no further detail about her complaint was obtained.

Detective Inspector H obtained an operational statement from Detective Constable A, details of which he noted in his report.

Chief Inspector J issued the following response:

“[Detective Constable A] advises that he was not at [the particular] Sheriff Court at that time, although he may have driven past. He states that he had not seen [the applicant] since 2 June 2009 and can certainly not recall at any point seeing [the applicant] within, at or near [the particular] Sheriff Court since that time.”

Consideration

Given that the applicant did not specify when this alleged incident occurred, the Commissioner considers that Tayside Police was entitled to proceed on the basis of the information available to them.

The enquiries in respect of this complaint were restricted to 26 and 27 October 2009. In the Commissioner's view, to have extended the enquiry beyond those dates would not, in the circumstances, have been reasonable. The applicant had ample opportunity to provide more detail about her complaints but chose not to do so.

For the reasons given, the Commissioner considers that this complaint was dealt with in a reasonable manner.

Conclusions, Recommendations and Learning

Complaint 1: The removal of Child X

In the Commissioner's view, the manner in which this complaint was dealt with by Tayside Police was reasonable. Accordingly no further action is required.

Complaint 2: Inappropriate discussion about the case

In the Commissioner's view, the manner in which this complaint was dealt with by Tayside Police was reasonable. Accordingly no further action is required.

John McNeill
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