

Report of a Complaint Handling Review in relation to Strathclyde Police

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

Summary and Key Findings

The applicant's complaint arises from the removal of a computer following a search of his home by police officers.

The Commissioner found that the complaint was 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

On 1 September 2009 officers from Strathclyde Police executed a search warrant at the applicant's home. At the conclusion of the search, police officers removed various items from the applicant's home for further analysis. The items removed included a computer, video cassettes and DVDs.

The applicant's property was subsequently returned to him on 25 February 2010.

The Complaint

Based on the contents of the application form and the information obtained from Strathclyde Police, the Commissioner has identified a single complaint, namely that Strathclyde Police took an unreasonable time to return to the applicant's property to him.

The Commissioner's Review

This section sets out the Commissioner's views on the manner in which the complaint was handled by Strathclyde Police.

In his statement dated 28 June 2010 the applicant complained about the amount of time which Strathclyde Police had taken to return his property.

Internal Handling

Chief Inspector A was appointed to investigate the applicant's complaint. As part of his investigation, Chief Inspector A sought operational statements from all police officers involved in the search of the applicant's home.

Detective Inspector B, one of the officers involved in the search, provided an account of the action taken by officers. He stated the following in respect of the complaint:

"I was later made aware of several letters from [the applicant's] MP and was aware of a substantial delay in his computer being examined."

Detective Constables C and E, who were also involved in the search, did not specifically address the applicant's complaint in their statements.

Detective Constable D stated the following:

"Some time after the search, exact date unknown, I was on duty within the Criminal Investigation Department of [police station] when I was informed that [the applicant] had attended at the office and wished to speak with someone within the Department.

I then attended at the uniform bar and spoke to the [the applicant] at the front counter. At that time there were no other persons present within the public area.

Due to the passage of time I cannot remember the exact words used during the conversation. [The applicant] asked if his computer had been examined yet and I informed him it had not. He then asked how long it would take and I told him that I was unable to answer that as I had no control of computer examinations ..."

In his report, Chief Inspector A addressed the applicant's complaint in the following terms:

"The timescale for examination ... at the time the [the applicant's] property was submitted was approximately 18 months. [The applicant's] property was created at 'high priority' with three levels of priority to be 'immediate', 'high' and 'low priority'. The grading of the [applicant's] property was appropriate to the type of enquiry ongoing with Police.

The reporting officer has raised the issue with the Computer Crime Unit management. They are fully aware of the issue and to the extent that they have raised this with the Force Risk Manager who placed this on the Force Corporate Risk Register.

... There are clear issues for the Force in relation to the delay in processing computer based enquiries. The current lead time for this currently stands at 24 months. This issue is well-known and documented with the Computer Crime Unit and has been raised with the Force Risk Manager and has been added to the Corporate Risk Register.

The reporting officer has not found any issues worthy of a procedural review locally as a result of this enquiry / complaint. There may however be grounds for reviewing the process used to examine computers under similar circumstances ... the Head of the Computer Crime Unit, has been made aware of this complaint. A copy of this report has been forwarded to him."

On 13 July 2010 Chief Inspector A provided the following written response to the applicant:

"I have checked correspondence between [this police station] and the Computer Crime Unit based in Glasgow and can confirm that your computer was retained at [police station] on 1

September 2008. It was categorised as High Priority case at this time. The three levels for this are intermediate examination, high priority and low priority.

These priorities are set by factors connected to:

- Issues of National Security;
- Nature and seriousness of the alleged crime (Murder, Rape and Abduction);
- Criminal Justice procedural deadlines;
- Identified child protection issues.

During the time your property was seized for examination Strathclyde Police had a significant demand placed on its Computer Crime Unit resources and as such the time taken to examine your computer was in line with the other High Priority cases being examined at this time. I have checked the correspondence between [the police station] and the Computer Crime Unit office in Glasgow and can assure you that every enquiry from [your MP] on your behalf resulted in an enquiry being made to the Computer Crime Unit offices.

This will not assist you in the issues created as a result of this delay, however I can offer you the assurance that your property was examined entirely in line with other equipment seized by Strathclyde Police at this time and in line with stated protocols, I can further offer you the assurance that your enquiry was not subject to any local delay factor.

... Please let me take this opportunity to apologise for any issues the removal and examination and subsequent delay in returning your equipment has caused you.”

Consideration

Chief Inspector A conducted a thorough investigation into the applicant's complaint and identified that it took 18 months for the applicant's property to be returned to him. Chief Inspector A also commented in his report that there were delays in processing computer-based enquiries at the Computer Crime Unit within Strathclyde Police.

Given Chief Inspector A's full explanation of the reasons for the delay in returning the applicant's property, and his apology in this regard, the Commissioner is satisfied that this complaint was handled in a reasonable manner.

Conclusions, Recommendations and Learning

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

John McNeill
Police Complaints Commissioner for Scotland

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