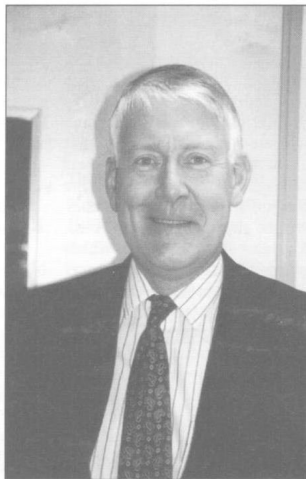


The various debates surrounding police discipline, police accountability, the adequacies or otherwise of the police complaints procedure and police corruption result in an intermingling of a range of difficult and serious issues facing policing as we approach the 21st century. What do you feel we should be debating in the light of the current Home Affairs Select Committee?

Ain't misbehavin'

Paul Whitehouse talks to David Kidd-Hewitt about police discipline.



David Kidd-Hewitt

Let's just think back to some historic points which have engendered some of this debate. First of all, there was a concern about Freemasonry. The Association of Chief Police Officers (ACPO) has got a very clear position on that which is that it is not a terribly good thing and if you are a member you ought to declare it and be on a register.

Then there came the culmination of some considerable discussion between the Home Secretary, ACPO, the Superintendents' Association and The Police Federation about a new set of arrangements

for discipline which were not finalised because they got caught up on the specific point of the standard of proof in discipline hearings. The standard of proof in discipline hearings in England and Wales is 'beyond reasonable doubt'. The standard of proof in Scotland and in every other walk of life, including English Prison Officers, who are constables inside prisons, is 'the balance of probabilities' - that's the standard employment arrangement.

The proposals that Michael Howard put forward before he left office involved the possibility of a sliding scale. In other words, it would be the 'balance of probabilities' for small things and 'beyond reasonable doubt' for important things. But that is almost impossible to operate because you might hear about a small thing and be convinced at a low level of proof and then hear about the individual's record and realise that you actually wanted to take an important action and not be able to because you hadn't been convinced at the higher level. This is an impossible position and it wasn't something that we were happy with.

Then we had more publicity following Ted Crewe, the Chief Constable of the West Midlands Police, saying very forcefully how upset he was at not being able to deal with 'corrupt' officers. He used the term corrupt because he was particularly concerned about an operation in which, as I understand it, he had done a lot of investigation into a group of officers who were believed to be misbehaving in a corrupt fashion and they had warrants executed on them and on their houses, which is a fairly Draconian step to take, and yet the CPS decided not to prosecute. His concern was that if the CPS didn't prosecute on evidential grounds he would be unlikely to be able to deal with the matter in discipline terms under the current arrangements.

I have great sympathy with that because a principal point which I am sure ACPO generally would accept, is that if a police officer misbehaves in a way which he or she is only able to do by virtue of their office, and that misbehaviour is sufficiently heinous in whatever way, then the first important thing to happen is that they should be removed from office. Having been removed from office, the organisation cannot be tarred with their behaviour, but

secondly they don't have the opportunity to do it any more. Whether or not they are prosecuted is not terribly important at this stage although it may be, for public purposes. However, the current arrangements require that the criminal prosecutions process should be complete before discipline proceedings can follow, and that's no different from the way that our other staff are treated.

For example, you catch two members of staff, one a police officer and one not, engaged in dishonest behaviour and caught bang to rights. Let's say two of them at the scene of a crime are seen on a hidden camera, maybe an overt camera, stealing property. The member of the support staff, who might be a scenes of crime officer, would be dealt with in disciplinary terms; whether or not he or she was prosecuted is irrelevant. For the police officer, there would have to be a thorough investigation and the question of criminal liability would have to be settled one way or the other. Either that they were guilty, in which case they could be dealt with for being in breach of the criminal codes, or if they weren't prosecuted and found guilty, it would be very difficult to do anything. And that would be rather unfortunate if you had already dismissed the other person. Either way round it's a very long period during which time they are on full pay.

The independence or otherwise of the police complaints system continues to be debated by the Police Federation and a wide variety of civil libertarians. What is the ACPO's position?

The Police Federation have always said they want an independent investigative arrangement. ACPO's position is quite clear. We are happy to accept any investigative arrangement if it can be shown that it is better value and more effective than the current one. Now, whether a different arrangement would be more effective or not is questionable, but it is doubtful whether a different arrangement could be better value.

On the assumption that you would have to have a structure around the country ready to come in and investigate, and that that structure of people would have to be appropriately supported in terms of office space,

communications, access to the police national computer and all the other things you need in order to carry out that investigation, you are likely to have to duplicate the arrangements which currently exist in police forces around the country.

Two things would continue even if you set up an independent investigative service. The first one is that those matters which are discovered internally - the bulk of successful disciplinary processes - would still continue. If I believed that a member of my force was misbehaving, I'd investigate. I wouldn't wait for the complaint to go public. I don't need to have external investigators to do that. If it stands up, action is taken, so the arrangements to do that would continue. Secondly, if a report of a crime is made to me as Chief Constable, I have a duty to investigate it, irrespective of the fact that it may have been committed by a police officer. I am saying we are happy to accept a change but I think it is necessary for people to realise that it may not actually achieve anything and it may cost more.

The next point is this. When you have as we do, a perception that the police investigating themselves is not terribly effective, that's due in many instances to the fact that the investigation can only establish that X said this and Y said that. X is the complainant and is dissatisfied that Y, the police officer, is not being brought to book and feels that blame then lies with the investigator who has failed to establish what actually happened in X's eyes. Now, you replace the internal investigator with an external investigator and you are entirely in the same position; X's and Y's stories are still poles apart, and there is still no other evidence and the external investigator can draw no better conclusion than the internal investigator. After a while the public will say they're no good because they are house trained and just as bad as the internal people. If you're convinced that you have been wrongly treated then it doesn't matter what the investigation says, you're not going to change your belief about it, you're going to be convinced that you have been wrongly treated. What is more important, it seems to me, is that there should be appropriate checks on the nature of investigations, which is what the Police Complaints Authority is about. So I'm not convinced that

there is a need for change but if someone came up with a proposal which could demonstrate clearly how we'd be better off, then how can I stand in the way? I would want things to be better.

*I*s there not a more important symbolic issue here - that both rank and file officers and the public need to see that it is not the police investigating themselves?

We have got to be very careful here because at the moment every single investigation is second-guessed both by the Police Complaints Authority and by the CPS, where there is any allegation of crime. So what you are actually saying, if you believe that the investigation is not good enough currently, is that both the CPS and the PCA, independent bodies, are incompetent or already suborned. So what is the point of having the external?

*A*ccusations can be made of the 'closing of ranks' especially as the higher echelons are subject to such investigations.

But why should an external investigator make any difference? If there is a closing of ranks, and I understand the concern that there is closing of ranks occasionally, it's going to be even more marked to the external investigator.

I go back to my point that all investigations are currently second-guessed and the important ones are always supervised by the Police Complaints Authority, so there is an element of external investigation. They don't even have to worry about the budget; they can say you'll do this and we have to pay for it. So in that sense they really do direct what they want.

If you are concerned with corruption, the most important thing is to keep track of who has access to the information and then the intelligence that you have available to you. The most important thing is not the ability to investigate, it is the arrangements you have for audit trail and the management arrangements you have to stop people doing it in the first place. For example look at what people can get away with in the financial field before they are caught.

Let us please keep all this in perspective. We are talking about a tiny number of officers in the UK

out of a total of 130,000 to 140,000 plus the support staff and 99.9% percent, are doing an absolutely splendid job.

*W*hen we talk of corruption, what do you view that as meaning?

I don't talk about it. I don't want the thrust of this discussion to be about corruption - it is about misbehaviour.

*N*evertheless in a variety of occupations, opportunities for corruption exist and I wondered what you would include under such a heading. Do you have a definition of corruption?

No. You have to be very careful because corruption at the high level is about suborning a process, allowing guilty people to escape or actually providing them with information they shouldn't have or preventing people being convicted.

*I*s this not an inevitability in any large organisation? Is there any way to stop it?

You can't stop it but you can reduce it. You can have systems that reduce the opportunities dramatically. You can have whistle-blowing systems that allow those who suspect their colleagues of misbehaving to come forward in the knowledge that they will be supported and protected. You can have an ethos which makes it much more difficult to get into the habit in the first place. You can have better training and selection arrangements. Yes there will always be corruption, yes there will always be brutality but the great virtue of the British Police Service is that you do read about corrupt police officers and brutal police officers being dealt with either by discipline or in the criminal courts. You hear about them on our radio and on our televisions because in this country police officers are not above the law and there are other countries where they are.

*A*re you confident that whistleblowers can have the support that you speak of?

No, I am not confident that all whistleblowers are supported. What I do know is that a well-managed force would have arrangements for ensuring that whistleblowers are properly supported.

I feel that that must be one of the most difficult things to do in an organisation like the police.

No, I don't think so. I think it is probably easier in the police. I can think of other organisations where it's more difficult. We are becoming a more open organisation. Different forces will be at different points on a continuum, and some may be going in the opposite direction, but as a general rule we are becoming more open because we recognise that it is actually virtuous that every organisation is a learning organisation. It is less likely to make mistakes; is likely to improve; is likely to become more productive. A closed organisation will not improve.

*D*o you regard misbehaviour and discipline problems as primarily a male issue in the police force?

No. It is fair to say that brutality by women is extremely rare but I've no reason to think that the possibility of other improper behaviour is significantly different. Such a tiny proportion of officers actually misbehave seriously in the first place that I don't feel it is statistically significant.

*I*sn't there a macho element that can engender specific forms of male misbehaviour?

No, I don't think it's that at all, I think it's the temptation. So I think the possibility of being suborned is just as likely for a woman as a man and some women are, but they are much fewer for the reason that there are less of them.

*D*o you have a concluding comment concerning issues of police discipline and misbehaviour. For example, are you happy with the structure and pattern that you observe in this area?

I think the only thing I would say about police discipline in England and Wales is that the way in which we operate generally is more effective than we've ever been and the ethical standards which we now have in every respect are higher than they have ever been and we shall strive to improve both those positions. ■

Paul Whitehouse is Chief Constable of Sussex Police. He is speaking in a personal capacity.