

<p>Institution: University of Manchester</p>
<p>Unit of Assessment: 20 (Law)</p>
<p>Title of case study: Fair and Effective Determination of Police Complaints</p>
<p>1. Summary of the impact</p> <p>Fair and effective complaints procedures are essential to maintaining public trust and confidence in the police, protecting against cultures of impunity and establishing accountability. Research undertaken at the University of Manchester (UoM) has formulated a regulatory approach to police complaints determination that is fair, effective and human rights compliant. The research has two strands. Firstly, considering complaints law and practice across Europe, via engagement with the Council of Europe (COE) Commissioner for Human Rights (CHR). Secondly, an assessment of internal misconduct investigations, focusing specifically on Greater Manchester Police (GMP).</p> <p>Work undertaken with the CHR, notably the generation of an Opinion ‘Concerning Independent and Effective Determination of Complaints against the Police’ has been picked up and utilised internationally by a range of governmental and non-governmental bodies, and is being used within a raft of training engagements. The report ‘Disproportionality in Police Professional Standards’ has formed the basis for both ongoing internal discussion, and wider considerations concerning the issue of disproportionality within the professions.</p>
<p>2. Underpinning research</p> <p>The impact is based on research that has taken place at UoM (2007-date), with the first major publication in 2009. The key researchers are Dr Graham Smith (Senior Lecturer, 2005-date); Dr Harry Hagger Johnson (Research Associate, 2011-2012); and Professor Chris Roberts (Institute of Population Health, 1988-)</p> <p>Applying insights from a practice background, Dr Smith established the idea that police complaints procedures serve as regulatory as well as accountability mechanisms. Drawing upon European Convention on Human Rights (ECHR) case law, five principles of independent and effective investigation of police complaints were subsequently developed: These were: independence: (institutional, hierarchical and practical); adequacy (regarding the gathering of evidence, and ability to punish); promptness (to maintain trust and confidence); public scrutiny (via open and transparent procedures); victim involvement (to safeguard their legitimate interests). Taken as a whole, the research suggested that:</p> <ul style="list-style-type: none"> • Developments in police complaints determination in England and Wales (since the late 1990s) are relevant to regulatory, performance and service delivery, as well as enforcement and accountability objectives. Accordingly, an increased emphasis has been placed on lesson learning and the prevention of misconduct, instead of the punishment of officers. [C][D] • This preventative approach is also being developed in the case law of the ECHR, in regard to the procedural obligations of contracting states to protect the right to life, and against torture, inhuman and degrading treatment. The five principles of independent and effective investigation of complaints were shown to provide the basis for a framework for the fair and effective determination of all complaints, under the auspices of an independent police complaints body. [B][E] • A two-tier disciplinary system, based not on different types of wrongdoing but on the ethnicity of alleged wrongdoers, was perceived to apply to the determination of internally raised police misconduct allegations in a project commissioned by Greater Manchester, West Midlands and British Transport Police services. It was recommended that police services pursue a regulatory approach to misconduct, with professional standards departments seeking to proactively prevent wrongdoing. [A] <p>The most recent research has led to a renewed emphasis on the issue of disproportionality (disparate treatment in employment and regulatory practices), noting <i>inter alia</i> that Asian officers and staff within GMP were 2.8 and 3.6 times more likely than white officers and staff, respectively, to be investigated for corruption, and ethnic minority officers at GMP felt they were more likely to be formally investigated for wrongdoing, whereas white officers were dealt with informally [A].</p>

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This work led to a UoM conference 'Disproportionality and Misconduct in the Professions: Understanding and Responding to Difference' (March, 2013); with plans to further this work, recognising that stakeholder responses in specific professions differ in their understandings of the causes of disparate treatment, and the remedies required when dealing with accusations. This is a pressing issue at a time when the scope of many professional bodies is shifting.

3. References to the research (all references available upon request - AUR)

The research has been published in leading criminology and regulation journals, official COE documents and police research reports.

- [A] (2012) Smith, G., Hagger Johnson, H. & Roberts, C. 'Disproportionality in Police Professional Standards: An Investigation of Internally Raised Misconduct Proceedings in Greater Manchester Police...' (June) Greater Manchester Police (AUR)
- [B] (2010) Smith, G. "Every Complaint Matters: Human Rights Commissioner's Opinion Concerning Independent and Effective Determination of Complaints against the Police" *International Journal of Law, Crime and Justice* 38(2) 59-74 doi:10.1016/j.ijlcrj.2010.03.001
- [C] (2009) Smith, G. "Why Don't More People Complain Against the Police?" *European Journal of Criminology* 6(3) 249-266 doi:10.1177/1477370809102167
- [D] (2009) Smith, G. "Citizen Oversight of Independent Police Services: Bifurcated Accountability, Regulation Creep and Lesson Learning" *Regulation & Governance* 3(4) 422-442 doi:10.1111/j.1748-5991.2009.01061.x
- [E] (2009) Smith, G. 'Opinion of the Council of Europe Commissioner for Human Rights Concerning Independent and Effective Determination of Complaints against the Police' (12th March) CommDH(2009)4 (Council of Europe: Strasbourg) (AUR)

4. Details of the impact

Background: In English speaking jurisdictions the introduction of complaints investigation organisations, separate to the police, has dominated policy development and research for several decades. However, the same cannot be said for most European states, with the COE CHR expressing concern, in 2007, that cultures of police impunity had the potential to emerge within some member states. In line with these concerns, the work of Dr Graham Smith was circulated and discussed via a range of targeted engagements:

- **Workshop:** Following recommendations by the European Court of Human Rights (ECtHR), 'Council of Europe Committee of Ministers and the Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment', the CHR invited Smith to serve as *rappporteur* to an expert workshop on police complaints mechanisms, attended by senior practitioners from across Europe (including the heads of several police complaints bodies). In the workshop summary report the five principles of effective police complaints investigation were first presented [1].
- **Opinion:** In the wake of this workshop, the CHR appointed Smith to serve as his external consultant on police complaints, and commissioned him to write an Opinion (now translated into 10 languages), which also examined existing police complaints mechanisms across Europe and ECHR case law [E]. The CHR thematic co-ordinator has praised this work, suggesting that Smith's "...contribution to the Commissioner's opinion on police complaints mechanisms and its dissemination was essential... [and was] based on independent research and the results of the Commissioner's workshop on the subject." [1]
- **Research:** Subsequently, Smith published articles on the CHR's police complaints initiative in two practitioner journals [2], and subsequent to the Opinion's publication, Greater Manchester Police (GMP) opened negotiations to investigate disproportionality on grounds of ethnicity in misconduct proceedings.

Pathways to Impact: These activities led to a range of additional outlets:

- In June/July 2010, Smith provided a plenary, and served as the moderator of the 'police' pathway (one of three pathways, encompassing two days of workshops) at the 'EU – Brazil Human Rights Civil Society Seminar' jointly organised by the Brazil Secretariat for Human Rights and the European Commission Human Rights Unit (Brasilia).
- In November 2011, Smith participated as a member of the review panel in the Organisation for

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Security and Co-operation in Europe's (OCSE) 'Human Rights and the Investigation of Terrorist Crimes: A Practical Manual for Law Enforcement Officers' panel.

- In March 2012, Smith gave a keynote speech at the EU/UNDP 'Strengthening Palestinian Police Accountability' workshop in Ramallah, alongside two additional sessions, and has been invited back to follow-up the 'Three-Year Strategic Plan for Strengthening the Accountability of the Palestinian Civil Police' sketched out at the workshop. For the conference, paper [B] was translated into Arabic.
- In April 2013, Smith presented research to a COE round table (Tbilisi, Georgia), alongside delegates from Armenia, Azerbaijan, Moldova and Ukraine. This led to an invitation to research police complaints mechanisms in these five countries and to prepare a report, subsequently discussed in Baku (Azerbaijan), to assist with the development of these new mechanisms [3].

Primary Impact: During this period, the research led to a raft of invitations to train police officers:

- Between 2010 and 2012 Smith conducted training for the *Office of the Police Ombudsman for Northern Ireland* (OPONI); and in November 2012 gave two presentations to personnel. Taken together, this work was highly praised, emerging from a long-standing engagement with Smith's Opinion for the ECR. As the Ombudsman attests:
[This] has been a key reference for many of the activities of OPONI... [Dr Smith] has also been a helpful expert in training sessions for the Office and of course this could not have been accomplished without his expertise and research forming a background for his evident connection with our investigators.... As we struggle to apply ECHR principles retrospectively to alleged police crimes from 1968 through 1998, in a highly charged political environment, Graham has provided sage advice and discussion with myself and our Director of Historical Investigations. None of this could be accomplished without solid research efforts and a broad understanding of the different police oversight mechanisms and their principles available around the world. [4]
- In June 2012 & March 2013, Smith gave two workshops within the third phase of training Bahraini police officers (senior and frontline, respectively).
- In February 2013, Smith participated in a four day 'Independent Commission of Investigations' training event in Kingston (Jamaica), leading for two of the days with workshops on independent and effective investigation of police complaints, and citizen oversight.
- In February 2013, Smith participated in the 'Exercise Gaudi' element of the Police Strategic Command Course (College of Policing, Bramshill); the equality and diversity component of the Chief Superintendent training programme.
- In March 2013, Smith gave a presentation on GMP DIPPS research to a regional professional standards meeting of Cleveland, Northumbria, Durham, N. Yorkshire, W. Yorkshire and Humberside police services.
- In June 2013, Smith led three working groups on DIPPS at the ACPO national conference on professional standards, later summarised in the largest circulation police weekly [5]

Similarly, work with GMP (and others) examining disproportionality in professional Standards has been highly praised. In March 2013, GMP's Chief Constable accepted the report's findings:

We have been very clear that disproportionality in discipline issues has existed in GMP and... the research carried out by Graham Smith is helping us to understand some of the underlying causes which are complex and wrapped up in a host of cultural issues... We believe it is better that this issue is openly debated and welcome further research and discussion with other employers. [6]

Likewise, the President of the National Black Police Association noted that: "The research report is now the subject of working groups to address disproportionality in Constabularies across the UK", going on to note how Dr Smith's research has "reignited important debates":

The issue of disproportionality in Police Professional Standards has been identified by the National Black Police Association (NBPA) over many years but in the absence of academic research in this area, NBPA and community activist struggled to influence Government and Police Policy. Dr Smith's report provided a powerful reference point ... the National Black

Police Association has been able to strengthen its argument for more urgency on the part of The Home Office and Police Leaders in terms of implementing policies to drastically improve minority representation in Policing and Police Leadership. An example of this is the recognition now, by Senior Police Leaders in Greater Manchester Police and Metropolitan Police of a 'Diversity Crisis in Policing' and moves towards addressing this. [7]

Secondary Impact: The CHR Opinion document has been cited in legal and policy contexts:

- Firstly, following his visits to COE member states, **the CHR** has cited the Opinion when recommending more effective investigation of police forces, and the creation of independent complaints bodies [8]; the CHR thematic co-ordinator noting that “*The Opinion is used by the Commissioner in his country monitoring and has become a central reference document in many member states which are contemplating or carrying out reforms in this field*” [2].
- Secondly, the Opinion has been used by **Amnesty International**, a member of their policy team affirming that: “*We have used it here several times when making recommendations on various countries (most recently Greece and Germany) and it is really so useful as a lobbying (and learning) document. It's... USABLE, which from an NGO standpoint is very important (and it nicely incorporates the specifics of the relevant ECtHR jurisprudence)*” [9].
- Thirdly, the research has been picked up in a range of international arenas. The **UN Special Rapporteur** on extrajudicial, summary or arbitrary executions used the research in support of an independent police complaints body, and proposed guidelines for governments on the creation and operation of effective external complaints mechanisms. The support in the Opinion for the existence of an independent police complaints body was favourably cited in a report to the **Norwegian Ministry of Justice and Emergency Planning**, with the chair of the enquiry noting that Dr Smith’s CHR work had been “*an important inspiration for the commission*” with the report subsequently recommending the creation of a more independent complaints system in Norway. Finally, Dr Smith gave a live video-link presentation to the **Victoria Office of Police Integrity Forum**, (Melbourne, Australia) regarding the independent and effective investigation of deaths associated with police contact; a subsequent ‘Issues Paper’ cited the Opinion and ‘Every Complaint Matters’ (reference [B], above) [10]
- More recently, Smith has engaged directly with **solicitors** who required an expert report on behalf of a police officer they are representing in civil proceedings.

5. Sources to corroborate the impact (all claims referenced in the text)

- [1] Testimonial from Thematic Co-ordinator, Office of the CHR (11th January 2012); (2008) Smith, G. ‘Expert Workshop Report: Independent and Effective Police Complaints Mechanisms’, (26-27 May) CommDH(2008)16, Council of Europe, Strasbourg &
- [2] (2008) ‘The European Commissioner for Human Rights Police Complaints Initiative’ *Justice of the Peace* (June) 172(25) 399-400; (2009) ‘Police complaints: European Commissioner’s Opinion’ *Legal Action* (April) pp. 38-39
- [3] (2013) Smith, G. ‘State of implementation of the Law of the Republic of Azerbaijan on ensuring the rights and freedoms of individuals held in detention facilities and enhancing the complaint review procedures’: Report by COE Consultant (27th June) & Invitation (17th June)
- [4] Testimonial from (retired) Police Ombudsman for Northern Ireland (23rd January 2012)
- [5] (2013) ‘Perceptions of Difference’ interview with G. Smith, *Police Professional* (18th July)
- [6] (2013) ‘Manchester Chief Constable Makes Diversity Pledge’, Press Release (23rd March)
- [7] Testimonial from President, National Black Police Association (24th June 2013)
- [8] (2011) Hammarberg, T. ‘Report following his visit to Slovakia from 26 to 27 September 2011’, CommDH(2011)42 (20th December)
- [9] Emails from member of International Policy Team, Amnesty International (21st April & 20th May 2010)
- [10] (2010) UN Special Rapporteur ‘Study on police oversight mechanisms’ A/HRC/14/24/Add.8; (2009) Independent Committee of Inquiry Report, *Et ansvarlig politi* (An Accountable Police); Email from Norwegian Ministry of Justice and Emergency, Enquiry Chair (28th July 2009); (2010) Victoria Office of Police Integrity ‘Review of the Investigation of deaths associated with police contact: Issues Paper’