

# LIBERTY

PROTECTING CIVIL LIBERTIES  
PROMOTING HUMAN RIGHTS

## **Liberty's briefing on IPCC oversight of service police in the Policing and Crime Bill for Committee Stage in the House of Lords**

**October 2016**

## About Liberty

Liberty (The National Council for Civil Liberties) is one of the UK's leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

## Liberty Policy

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at  
<http://www.liberty-human-rights.org.uk/policy/>

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## **Background**

The Policing and Crime Bill will continue Committee Stage in the House of Lords on 26 October 2016. The Bill would make changes to police complaints and discipline, including the Independent Police Complaints Commission.

## **Amendment**

**Liberty strongly encourages Peers to support Amendment 163A in the names of Baroness Jolly and Lord Paddick to extend the remit of the IPCC to include powers of oversight over military police forces.**

## **Lack of independent oversight of service police**

Police officers occupy a unique position in society, with significant powers and duties to uphold the criminal law. Under the Armed Forces Act 2006 the Royal Air Force Police, Royal Military Police and Royal Navy Police are granted powers similar to those of civilian police forces, including to arrest, to investigate crime, to stop and search, and to use reasonable force.

This means that they will inevitably, at times, be placed in a position of dispute or conflict, leading to complaints. A number of these complaints may amount to allegations of criminal conduct by those who are charged with upholding the law.

In the civilian sphere, the Independent Police Complaints Commission (IPCC) is charged with adding independence to the oversight and handling of complaints. The vital importance of the IPCC has been reiterated during the course of the Policing and Crime Bill. When introducing the PC Bill in the House of Commons the then Home Secretary Theresa May commented that *“Where the actions of a minority fall short of the high standards that the public are entitled to expect, there need to be arrangements in place so that the conduct in question can be properly looked into and the matter resolved in a timely and proportionate manner.”*<sup>1</sup> She went on to emphasize the importance of an independent and empowered IPCC in this system of complaint resolution.

However no such body exists to deal with complaints about service police forces.

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<sup>1</sup> Policing and Crime Bill Second Reading in the House of Commons, 7 March 2016, Hansard column 42.

Following an investigation, an individual with a complaint has no independent voice to turn to. Even in the very best of organisations, mistakes can happen and go unnoticed. Both intentionally and unintentionally, bias or prejudice can creep in and blinkers can prevent the truth from being seen as it really is. Even if no mistakes were made, without external scrutiny many will not believe that to be the case. This means that errors or corruption cannot be addressed and that honest officers cannot be validated.

## **Calls for reform**

In its 2015 inspection of the RMP, Her Majesty's Inspectorate of Constabulary stated: *"we found that there was insufficient public scrutiny of RMP investigations. The RMP does not report to the public, and investigations into RMP wrongdoing are carried out by an internal Professional Standards Department or the Provost Marshal of another service police force."*

It added that the RMP themselves recognise the dangers posed by their lack of oversight: *"The Provost Marshal acknowledged to HMIC that a strategic risk to the RMP is inadequate independent oversight of its own independence."*<sup>2</sup> HMIC recommended that oversight of service police should be brought within the competence of the IPCC.

The then Service Complaints Commissioner has also criticised the fact that the three service police forces fall outside the oversight of the IPCC.<sup>3</sup>

In 2014, the Defence Select Committee stated *"we call on the MoD to set out a timescale for when it is intended that the Service Police should come under the auspices of the IPCC system."*<sup>4</sup>

The National Crime Agency, the British Transport Police, the Ministry of Defence Police, the UK Border Agency, Police and Crime Commissioners, the Mayor's Office for Policing and Crime and Her Majesty's Revenue and Customs all fall within the jurisdiction of the IPCC. It is especially difficult to understand why the Ministry of Defence Police come within the complaints system but service police do not.

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<sup>2</sup> HMIC, An inspection of the leadership of the Royal Military Police in relation to its investigation, Page 8.

<sup>3</sup> See, for example, Service Complaint Commissioner, Annual Report 2013, paragraph 22.

<sup>4</sup> Defence Select Committee, Report on the Armed Forces (Service Complaints and Financial Assistance) Bill, page 23.

## Anne Marie Ellement

The operations of service police forces have been the cause of considerable public concern in recent years. Last week, the Royal Military Police formally apologised to the family of Anne Marie Ellement for failing to properly investigate the allegation of rape she made two years before taking her own life. In the apology the RMP admitted *that “mistakes were made”* and *“Anne Marie deserved better”*.<sup>5</sup>

Anne Marie was a member of the Royal Military Police who alleged that she had been raped by RMP colleagues. The RMP itself investigated her allegation before dismissing it. Anne Marie later took her own life. Under public pressure, an internal RMP review found that the investigation had conformed to service standards. Similarly a Royal Navy Police review of the initial investigation concluded that all relevant standards had been met. None of these investigations had enjoyed or had the benefit of any outside civilian input or oversight.

Following the threat of legal action under the Human Rights Act by Liberty on behalf of Anne Marie’s sisters, the Royal Air Force Police in conjunction with civilian police from Bedfordshire Constabulary conducted a fresh investigation into Anne Marie’s allegations. This led to a decision to prosecute two individuals for assault. The two men were later acquitted, but the Judge Advocate General stated *“This case should have been heard five years ago and I apologise to you that it has taken so long to resolve this particular issue. The extreme delay in bringing this case to court ultimately prejudiced the defendants, Anne Marie, and justice generally. It was absolutely right for the Director of Service Prosecutions...to reinstitute these proceedings, notwithstanding the ultimate outcome.”*

There can be no doubt that the failures of the RMP were responsible for this case of justice denied and the initial investigation and successive internal processes for review were not sufficient to deliver accountability. While Anne Marie’s family welcomed the apology, they made a heartfelt plea for an improvement in attitudes and procedures:

*“The RMP let Anne-Marie down 100 per cent – please give her one last bit of respect and don’t fail others. Don’t let victims or families go through what our family went through. Not just the pain and grief – but having to fight just to get to the truth.”*<sup>6</sup>

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<sup>5</sup>RMP apology, 19 October 2016, available at <https://www.liberty-human-rights.org.uk/sites/default/files/Statement%20by%20the%20Royal%20Military%20Police.pdf>

<sup>6</sup>Defence Select Committee, Report on the Armed Forces (Service Complaints and Financial Assistance) Bill, page 23.

## **Cheryl James**

Cheryl James was a young trainee soldier whose body was found dead with a bullet wound at Deepcut Barracks in 1995. Surrey Police immediately allowed the RMP to take over the investigation into her death. No ballistics or forensics tests were conducted. The original inquest, held three weeks after her death, lasted just an hour. Key witnesses were not called, medical records uninspected and important evidence ignored. Cheryl's parents fought for twenty years for a second inquest into her death so they could seek the truth about what happened to their daughter. Again, the initial failings of the RMP played a significant part in the delay in them understanding the circumstances surrounding Cheryl's death. At the second inquest into Cheryl's death, again secured due to the Human Rights Act, the Ministry of Defence finally offered an apology to Cheryl's family.

## **Conclusion**

It is in the interests of victims, families, the police forces and the public that complaints against the service police are seen to be subject to genuine scrutiny through investigation by an independent body, such as the IPCC. Lack of accountability of the police undermines the Rule of Law and ultimately makes it harder for the police to undertake their function of policing by consent.

It is wholly inadequate for the Ministry of Defence to continue its practice of apologising only after legal cases and years of struggle by grieving families. It must take steps to improve practices and when mistakes are made to ensure that there is an independent mechanism for delivering truth.

Liberty recommends that Parliament takes this opportunity to bring the three service police forces within the civilian system of police oversight.

**Sara Ogilvie**