

Our Reference No: 2007/010700

ipcc
independent
police complaints
commission

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28 March 2008

Dear Mr Glasgow

I am writing to you regarding your appeal against Derbyshire Constabulary which we received on 5 March 2008.

Before outlining my decision I should explain that the role of the IPCC in the appeal process is to review the investigation into your complaint not to re-investigate your complaint and the surrounding circumstances.

After considering all the information available I have not upheld your appeal and the reasons for my decision are set out in the attached 'Statement of Findings'. This sets out my decision against the three different issues that the IPCC must consider when deciding on an appeal against a police investigation.

If you have any questions or want more information about the decision, please contact me. However, the decision is final.

Yours sincerely

M Rossi

Marianne Rossi
Casework Manager
Independent Police Complaints Commission (IPCC)

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Appeal against investigation: Statement of findings

DETAILS OF APPEAL	
IPCC Reference:	2007/010700
Name of complainant:	Mr Martin Glasgow
Name of solicitor/agent (if any):	N/a
Name of force:	Derbyshire Constabulary
Date of complaint:	1 August 2007
Date of force decision:	18 February 2008
Date appeal received:	5 March 2008
Casework Manager:	Marianne Rossi

BACKGROUND TO THE APPEAL
1. The complaint: Following an altercation with another male on 5 June 2006 at Chesterfield Hospital Mr Glasgow was arrested on suspicion of assault. The matter went to trial and Mr Glasgow was charged with affray. Mr Glasgow complained; 1. Officers failed to properly investigate the incident of 5 June 2006 and allowed the CPS to proceed to Crown Court Trial despite knowing he was innocent. 2. That the uncle of the co-defendant was not seen and was a vital witness. 3. Officers failed to secure evidence at the scene i.e blood and glass samples for forensic examination. 4. The custody record entry at 1935hours on 5 June 2006 indicates no apparent injuries on arrival at the police station. However, his custody photograph clearly showed that he had visible injuries. 5. The co-defendant fabricated evidence. 6. The co-defendant's initial statement was too neat with no corrected initialled mistakes and appeared re-written. 7. The witness, Susan Lees, had spoken in her statement of his mother in

the past tense. Her statement was taken on 5 June 2006, prior to his mother's death.

2. The appeal (grounds given for the appeal):

Mr Glasgow states that he disagrees with the findings of the investigation and the proposed action. He questions how the investigation can be limited and proportionate and if this means it is limited and proportionate as to what can be substantiated.

Within his appeal Mr Glasgow raises several issues in respect of the criminal trial, the evidence of witnesses and re-iterates his account of the incident. I have reviewed and considered all matters raised within the appeal, however, will only address the points Mr Glasgow raises in respect of the police investigation into his complaint.

1. There has never been any satisfactory explanation in respect of my concerns over the CCTV evidence. Whilst making my own enquiries I by chance met a previous associate who had just been temporarily employed in the IT department of the hospital who said that he had been told of this bloke who is after some CCTV footage and that no-one in the IT department is to give it to him. This indicates that the CCTV evidence is still available and at the hospital.
2. I requested legal representation through Inspector Smedley at 01.08 on 06/06/06 but the request is recorded as legal representation being asked for at 22:17 on 05/06/06. Someone has been interfering with detention logs.
3. PC Greatorrex took the initial statement from the co-defendant and wrote down his alleged injuries. The officer is then party to being witness to his alleged injuries and photographs as stated in the co-defendants record of interview which were not shown at trial because there were none. No photographs, no treatment equals no injuries. Unless they can be substantiated through the production of CCTV evidence. As stated by the co-defendants own father when asked in court of his sons injuries, there was not much wrong with him. I was at court and heard this.

How did this officer PC Greatorrex then manage to compile such an array of injuries if the co-defendants own father stated that there was not much wrong with his son when he drove him home? Could this be commensurate of the officer's professional approach to statement taking and also to the co-defendant's own profession. Therefore I believe there are evidential grounds to substantiate improper practice by the officer involved.

APPEAL FINDINGS

1. Are the findings of the investigation appropriate?

In the investigation decision letter dated 18 February 2008 it is stated that *"I would point out to you that the thrust of your complaints appear to be that of dissatisfaction with the legal system and its process rather than complaints of misconduct of individual officers."* Within his appeal Mr Glasgow raises issue with this statement; however, I agree that this is an appropriate finding. The majority of Mr Glasgow's complaints are in respect of witness evidence and matters relating the criminal trial.

The correct course for Mr Glasgow to have challenged evidence would have been at court during the criminal trial. The investigation into his complaint can only investigate allegations of police misconduct, and the role of the IPCC in investigation appeals is to review the complaint investigation, not to re-investigate the complaint and surrounding circumstances.

In respect of **complaint 1**: The investigation found no evidence to support the allegation that the officers failed to investigate the matter or allowed the CPS to proceed to trial knowing Mr Glasgow was innocent. I consider the findings of the investigation are appropriate, the criminal prosecution file was reviewed, and after raising concerns to the CPS, Mr Glasgow was informed by the Head of Trials Unit that there never was any CCTV footage from the hospital. The investigation found no evidence of police misconduct and the complaint was found to be unsubstantiated.

In respect of **complaint 2**: The investigation found no evidence that this person was a vital witness or that he could have offered evidence that would have assisted the case. I consider the findings of the investigation are appropriate, CPS decided there was sufficient evidence to proceed to trial based on the evidence gathered from other witnesses. The investigation found no evidence of police misconduct and the complaint was found to be unsubstantiated.

In respect of **complaint 3**: It was considered that the nature of the criminal investigation would not have warranted the taking of such samples and therefore the officers involved would not have failed in their duty. It was further considered that officers are given discretion in these types of circumstances as to what should or should not be seized based on the availability of other evidence and seriousness of the incident. The complaint was found to be unsubstantiated. I agree with the findings of the investigation, the decision was at the discretion of the officers and there is no evidence to suggest that they failed in their duties by not obtaining blood and glass samples for forensic evidence.

In respect of **complaint 4**: The custody record was reviewed and it was found that Sergeant Bungay stated there were no injuries, although he then recorded the injuries in the subsequent risk assessment he completed. The

officer was spoken to and accepted that he should have ticked the 'Yes' box in respect of injuries. It was considered that the officer had made a genuine mistake or considered the matter had been correctly recorded. Any misconduct by the officer was considered to be unsubstantiated. I agree with the findings of the investigation, there is no evidence to suggest that the error was deliberate or anything other than an oversight.

In respect of **complaint 5**: It was advised that this is not an allegation of misconduct of an individual officer. I agree with this finding and consider it to be appropriate. If Mr Glasgow considered a witnesses evidence to be fabricated the correct course for Mr Glasgow to have challenged evidence would have been before the court during the criminal trial.

In respect of **complaint 6**: The statement was examined and was considered to have been completed in a manner commensurate of the officers professional approach with each of the 6 pages correctly signed. The investigation found no evidence to substantiate any improper practice by the officer and the complaint was found to be unsubstantiated. I agree with the findings of the investigation, no evidence to support the allegation was found or any evidence of misconduct.

In respect of **complaint 7**: The statement was examined and the evidence of the witness does not refer to Mr Glasgow's mother in the past tense. It was assumed that the reference to past tense was in respect of oral evidence given in court. The complaint was found to be unsubstantiated. I agree with the findings of the investigation as the evidence contained within the statement does not support the allegation and there is no evidence of any misconduct.

In respect of the three points raised by Mr Glasgow within his appeal; these specific issues did not form part of his complaint made to the IPCC dated 1 August 2007. I have been advised that the specific complaints numbered 1-7 in the investigation decision letter were based on the complaint made to the IPCC and a letter Mr Glasgow sent to Mr Brian Gunn of the CPS. The three points raised by Mr Glasgow did not form part of the complaint made to the IPCC or the letter to Mr Brian Gunn and have therefore not been investigated.

Within his appeal Mr Glasgow questions how the investigation can be limited and proportionate and if this means it is limited and proportionate as to what can be substantiated. I consider the decision to conduct a limited and proportionate investigation to be appropriate considering the time lapsed since the incident giving rise to the complaint and the nature of the allegations.

2. Are the force's proposed actions following the investigation adequate?

It is recommended that Sergeant Bungay receives advice in respect of the findings of complaint 4.

I consider advice to be appropriate in the circumstances as it is intended to prevent a similar error re-occurring and there is no evidence to suggest that it was deliberate or anything other than an oversight.

3. Has adequate information been provided to the complainant following the investigation of their complaint?

Yes, the decision letter dated 18 February 2008 clearly details the investigation and its findings. I consider adequate information to have been provided.

4. Are there any points raised by the complainant outside what the IPCC can consider?

Yes.

Points 1, 2, and 3 of Mr Glasgow's appeal, detailed previously, cannot be addressed during the appeal as they did not form part of his original complaint and were therefore not investigated.

All issues raised in respect of the criminal trial including witness evidence cannot be addressed within the appeal as they are not within the remit of the IPCC.

Mr Glasgow states that the Judge, Mr Recorder Anthony Barker QC lied during the criminal trial, victimised him, and perverted the course of justice. The IPCC has no remit over misconduct allegations made against Judges.

On the basis of these findings the appeal is not upheld.

ACTIONS REQUIRED OF THE FORCE/AUTHORITY

- No further action required.