

Annex 1: IPCC review of matters relating to the policing of events at Orgreave coking plant in 1984

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Contents

Introduction	5
Other matters brought to the attention of the IPCC	6
Steps taken and material considered	6
Summary timeline for key review activities:	8
Events at Orgreave	11
Proceedings and complaints taken at the time	14
Criminal prosecutions of pickets	14
Civil proceedings	15
Complaints, disciplinary and criminal proceedings against officers	16
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The remit of the IPCC and the requirements of the Police Reform Act (PRA) 2002 ..	18
Referrals.....	18
The complaints regime	18
Matters previously considered by the Police Complaints Authority (PCA).....	19
Matters to be considered.....	19
First referral by SYP	19
Second referral by SYP	21
Application for dispensation by GMP	22
Other matters brought to the attention of the IPCC.....	22
E-mails from Mr C	22
Allegations by Mr D.....	22
Allegations by Mr B	23
Allegations by Former Officer 1	23
Consideration of referrals and additional matters brought to the IPCC's attention ...	23
First referral.....	23
(a) Pervert the Course of Justice by manipulating the evidence to substitute more serious charges, and conspiracy to commit this offence	25
(b) And (c) Pervert the course of justice by instructing officers to complete statements that were not true and conspiracy to pervert the course of justice by making statements with evidence which was not true and conspiracy to commit these offences.....	26
(d) Perjury by giving evidence at court which is known or believed to be false and conspiracy to commit this offence.....	31
(e) Assault.....	33

(f) Perjury by claiming to be the arresting officer when this was not true	35
(g) Misconduct in a public office (MIPO)	36
Second Referral – Mr A.....	37
Other matters brought to the IPCC’s attention	38
Mr C.....	38
Mr D.....	39
“D Conspiracy file”	40
Arrest at Orgreave on 30 May 1984 for obstructing the highway.....	41
<i>The scope of the matters referred, likely investigative steps and evidence available, whether any new evidence has been identified that was not available at the time of the events and whether matters have been investigated previously</i>	<i>41</i>
Allegations by Mr B.....	41
Former Officer 1	43
Other complainants	43
Disciplinary Offences.....	43
Summary table of assessments.....	44

Introduction

1. This report summarises work undertaken by the Independent Police Complaints Commission (IPCC) to review two voluntary referrals made to the IPCC by South Yorkshire Police (SYP) in relation to the policing of events at Orgreave coking plant during the miners' strike in 1984, and subsequent court proceedings, an application by Greater Manchester Police (GMP) for dispensation not to record a complaint relating to the policing of Orgreave, and various other related matters brought to the attention of the IPCC as set out below.
2. The first referral, received by the IPCC from SYP on 14 November 2012 set out allegations that officers may have committed criminal offences as follows:
 - a) *Perverting the course of justice by manipulating the evidence to substitute more serious charges, and conspiracy to commit this offence.*
 - b) *Perverting the course of justice by instructing officers to complete statements that were not true and conspiracy to commit this offence.*
 - c) *Perverting the course of justice by making a statement given in evidence which was not true, and conspiracy to commit this offence.*
 - d) *Perjury in court and conspiracy to commit this offence.*
 - e) *Assault.*
 - f) *Perjury by claiming to be the arresting officer when this was not true.*
 - g) *Misconduct in a public office.*
3. The second referral, received by the IPCC from SYP on 27 November 2012 related to a complaint by Mr A that he was arrested at the rear of Orgreave coking plant, South Yorkshire on 18 June 1984 at 7.40am by two GMP officers. Mr A stated that when he received copies of the police statements, the circumstances of his arrest were incorrect and the arresting officer had been changed to a SYP officer. He complained that this was part of a conspiracy between SYP and GMP.
4. Mr A's complaint was also submitted to GMP, and on 7 December 2012 GMP made an application to the IPCC under the Police Reform Act 2002 (PRA) to dispense with their duty to deal with the complaint, on the grounds that it had been made more than 12 months after the latest incident giving rise to the complaint and that there had been no good reason for the delay or injustice may be caused by the delay.

Other matters brought to the attention of the IPCC

5. Several other matters were brought to the attention of the IPCC by individuals as set out below. These matters have been raised with the IPCC directly rather than through the referral process.
6. It was decided that all the matters brought to the attention of the IPCC should be considered together.
7. This report considers the following:
 - a) Whether the matters are complaints as defined under the PRA and IPCC Statutory Guidance applicable at the time. This requires consideration of the nature of the complainant and the complaint.
 - b) Regardless of whether a matter is a PRA complaint or not, whether any of the matters are conduct¹ matters.
 - c) The scope of the matters referred, likely investigative steps and evidence available, and whether any new evidence has been identified that was not available at the time of the events.
 - d) The extent to which matters now raised have been investigated before.
8. A separate decision document will set out the IPCC Deputy Chair's decisions regarding the two referrals received, and the application by GMP to dispense with the requirements of the PRA in relation to Mr A's complaint received regarding policing of events at Orgreave.

Steps taken and material considered

9. In order to conduct this review, the IPCC has obtained source material and information dating back to the events in question, 30 years ago. Given the passage of time, some material is apparently no longer available, having been lost, or destroyed. However, many thousands of pages of documents, film and photographic material have been considered, obtained from a number of sources including the Sheffield Archives.
10. It appears that at the time, plans for policing public order events were recorded in "Operational Orders". In the course of this review the Orgreave Truth and Justice Campaign (OTJC) provided a copy of the "List of Documents, Privileged, and Schedule I Part II" served on Birnbergs solicitors by SYP during the civil proceedings. Item 3.1 is described as "*South Yorkshire Police Operational Order for Orgreave NUM dispute at Orgreave dated 23.05.84*". That document had been withheld in the civil proceedings on the ground that it was privileged. The IPCC were asked to look for this document in the belief it may be highly relevant to how policing was planned on 18 June 1984. This document has been obtained during the review. Although it is plainly the

¹ Conduct includes acts, omissions, statements and decisions (whether actual, alleged or inferred) Section 29 PRA.

document referred to in the list of documents, and deals with arrangements for policing the convoys of lorries coming to and from the Orgreave plant, it is in general terms and is not specific to 18 June. It would seem obvious that there must have been more detailed planning for the event, given the number of officers whose presence was arranged through the National Reporting Centre (NRC)². However if more detailed planning was recorded in a document, it has not been found during the review and does not appear to have been included in any list of documents for the civil proceedings that followed the events at Orgreave (which it should have been if it did exist). Some detailed aspects of the planning and arrangements were set out after the event in the statement of Officer 1 of West Yorkshire Police (WYP) dated 26 June 1985. He described himself in his statement as Director of Studies for Regional Command Training for Community Disorder. He was seconded to Orgreave on 29 May 1984. Initially he took operational command but says that he passed on his skills to senior SYP officers and from mid-June he remained only in an advisory role. He refers to having had a tape recorder with him the majority of the time, into which he dictated notes of the events and which he retained for use in his capacity as instructor. The review has not located these recordings and it is unclear if they were available at trial which commenced at Sheffield Crown Court on 17 May 1985 (the trial).

11. All the material obtained has been considered as far as it appeared necessary to inform the decisions that the IPCC has to make. Where there has been apparently reliable material on a topic from one source, the review has not looked in detail at other material on the same topic. This means, for instance, that the summary of the events at Orgreave on 18 June 1984 set out below is based on the transcripts of the evidence and cross-examination of the officers in command from the trial. The IPCC has not sought to replicate the analysis undertaken by defence lawyers of the police video material which was relied on in cross-examination; since this would have been challenged by the prosecution had they thought it was unfair.
12. Consideration of referrals made so long after the incidents in question poses particular challenges in terms of identifying whether the IPCC has jurisdiction, which versions of the police complaints regime should apply, and what disciplinary standards and criminal legislation applied at the time of the incidents. This has taken some time to consider and the results of our analysis are set out in this report.

² The NRC was according to the police a “clearing house for mutual aid requests”. However the role of the NRC remains a matter of controversy and many believed it was “an arm of Government” responsible for the planning of a military style response to the strike, see Chapter 14 “Policing the Coal Industry Dispute.”

Summary timeline for key review activities:

2012

- 22 October. Direct complaint made to IPCC by Mr E.
- 14 November. First referral received from SYP. Letter received from Mr C, witness to events.
- 27 November. Second referral received from SYP regarding a complaint made by Mr A on 20 November.
- 7 December. Application for dispensation in relation to a complaint received from GMP from Mr A regarding a complaint made on 20 November.
- 17 December. Letter sent to Mr A about dispensation application.

2013

January

- Internal legal advice provided on IPCC jurisdiction over matters dating back to 1984.
- Internal meeting to discuss legal advice and next steps to include conducting an assessment.
- Response received from Mr A in relation to dispensation application.

February

- Further legal advice obtained and considered regarding assessment exercise. Potential locations for source material identified.
- Search of PCA indexes for archive material for 1984 and 1985 undertaken – no files relating to Orgreave identified.

May

- Internal meeting to discuss advice and next steps – authority to instruct counsel to review documentation.
- Process for visiting Sheffield Archives developed.

June

- Attended Sheffield Archives and decided to seize material. SYP advised only 20 boxes related to Orgreave with the remainder relating to the wider miners' strike.

July

- Material (20 boxes) seized and produced to office by SYP.

August

- Counsel instructed to review material received.

September

- Counsel completed preliminary examination of archive material. Photographic and video film material received was put onto disc and reviewed; mostly news footage or TV programme material.

October

- Written requests issued to 50 police forces to check their own archives for material (since Orgreave was policed by officers from many constabularies). Responses were subsequently received over the course of several months from 48 forces.
- Meeting with NUM and Gareth Peirce (Birnberg Peirce Solicitors) – agreement to supply copies of prosecution statements in their possession, and trial transcripts.
- Letter received from Mr B, witness to events.

November

- Transcripts and statements provided by Gareth Peirce.
- Letter received from Mr D regarding two matters.

December

- Enquiries made with three legal representatives in relation to issues raised by Mr D. To date only one of the legal representatives has responded.
- NUM provided the IPCC with copies of arrested pickets' statements relating to Orgreave arrests. Mention was made of video material, taken on behalf of the NUM at Orgreave on 18 June 1984, and a request was made to be allowed to have a copy when available.

2014

January

- The National Archives released material from 1984, particularly relating to Cabinet papers, under the 30 years rule. This material has all been considered.

- The note books of officers provided to the Hillsborough Investigation for officers that were known to have been involved in policing events at Orgreave were examined.

April

- Material supplied by lawyers for the OTJC prompted further enquiries with SYP about material held relating to civil proceedings.

May

- Mike McColgan on behalf of OTJC supplied documents from their archive consisting largely of copies of pleadings in the civil proceedings.
- Further material found by SYP and supplied to IPCC.

June

- SYP located material relating to civil proceedings requested in April but did not supply this to IPCC whilst it considered its legal obligations.

July

- Made contact with former Officer 2 following broadcast remarks by him regarding parts of witness statements being dictated (subsequently the IPCC were advised he was seeking legal advice).

August

- Further material supplied by OTJC indentifying arresting officers for some individuals.
- Sheffield Police Watch supplied information.
- Correspondence with SYP regarding civil proceedings material.

September and October

- Internal IPCC meetings to review progress of assessment exercise and plan production of this review report.

November

- Further letter to SYP requesting civil proceedings material by 21 November.

December

- Civil proceedings material supplied by SYP.
- Preparation of draft review report and provisional decision document.

- Contacted by former Officer 1 of West Yorkshire Police.
- Contacted by solicitors instructed by former Officer 2.

2015

January

- Civil proceedings material reviewed.
- Finalisation of review report and decision document.

February and March

- Legal advice sought.

Events at Orgreave

13. The National Union of Mineworkers (NUM) strike against job cuts lasted from 9 March 1984 to 5 March 1985.³
14. Events at Orgreave, a coking plant near Sheffield from which British Steel's furnaces in Scunthorpe were supplied, were seen by many as being pivotal during the dispute. Initially the NUM had agreed coke could continue to be supplied during the strike to prevent the furnace linings cooling down and being damaged. However the NUM came to believe that this "dispensation" was being abused and picketing to prevent further shipments started on 23 May 1984.⁴
15. There was disorder at Orgreave on 29 and 30 May 1984. According to SYP, due to this disorder and injuries to officers, there were discussions with the County Prosecuting Solicitor and his Deputy "*and it was agreed that that the nature of events at Orgreave, if they were repeated, would justify charges of unlawful assembly*"⁵, following which, "*the Chief Constable decided that, if the disorder were to escalate to similar levels on subsequent days, it would be in order to prefer charges of unlawful assembly or riot as appropriate ...*"⁶
16. Subsequently there were incidents on:
 - 31 May 1984: 10 people were charged with unlawful assembly.
 - 1 June 1984: 19 people were charged with unlawful assembly.
 - 6 June 1984: 23 people were charged with unlawful assembly, later changed to riot, it is said on the advice of counsel.

³ Report into Methodology of Evidence Gathering During N.U.M DISPUTE 1984 para 2.

⁴ Report into Methodology of Evidence Gathering During N.U.M DISPUTE 1984 para 5.

⁵ Report into Methodology of Evidence Gathering During N.U.M DISPUTE 1984 para 10.

⁶ Report into Methodology of Evidence Gathering During N.U.M DISPUTE 1984 para 11.

18 June 1984: the so called “Battle of Orgreave” occurred: 95 people were arrested and 55 charged with riot.

17. Officer 3 had been put in operational control of policing at Orgreave. As described above Officer 1, of WYP was seconded initially to be in charge of tactics, but from mid-June his role was only to advise on them. On 18 June, Officer 3 was well aware that a large scale picket was expected. He arranged via the NRC for police resources from all over the country to be available to him, totalling approximately 6000⁷ officers, including public order trained “serials” equipped with long and short shields. There were a total of 42 mounted police officers. During the early hours of 18 June, SYP received reports from officers all over the United Kingdom, passing on intelligence about pickets travelling to Orgreave.⁸ It is said that there were, at its height, 8000 pickets at the plant.⁹
18. At around 7.30 am, Officer 1 says he assisted in dealing with 500 pickets who were blocking the road at the plant itself. He describes the pickets as passive, and that therefore he could not use mounted police or officers with shields and staffs, as it would be contrary to guidance. He did, however, with Officer 3’s permission, deploy a cordon of dogs (which he described as not a normal public order tactic) to supplement mounted officers in a “*football type cordon situation*” to move the pickets into a field.
19. At 8.10am, several thousand pickets were present when the first lorry convoy went into the plant. According to the officers in charge (Officer 3, Officer 4 and Officer 5), the police lines were attacked for a prolonged period. At trial, defence counsel used the video taken by SYP to suggest that these officers had, at the least, exaggerated the length of time of this “*attack*” which the video showed, was 58 seconds. The defence described this as a “*ritual push*”.
20. At about 8.20am mounted officers were used for the first time. In evidence, Officer 3 accepted no warning was given of the first use of mounted police, which was contrary to the *Public Order Tactical Options Manual* (see below). Officer 3 stated this was to disperse pickets who were throwing a “*barrage of missiles*”. At the trial, the defence again used the police video to challenge that there was a “*barrage of missiles*”, although accepting a small number were thrown. The prosecution then produced technical evidence about the extent to which video was capable of recording the missiles, but also had to concede that much of the missile throwing followed, rather than preceded, the use of mounted officers. This was also evidenced from news camera footage which (as is well known) was initially broadcast in the reverse order by the BBC. What appears to be a computer generated log of radio messages on the 18 June 1984 records that, at 8.28am, Officer 6 reported that he was “*taking a hell of a pasting now. I need all PSUs¹⁰ you can get*”.¹¹

⁷ Brief to Counsel for SYP in civil proceedings 26/7/90.

⁸ Printout containing records of radio messages in Hammond Suddards papers.

⁹ Brief to Counsel for SYP in civil proceedings 26/7/90.

¹⁰ Police Support Units.

21. Officer 3 said that he gave a warning at 8.35am that, if the throwing of missiles did not stop, specialised short shield units would be used together with the mounted officers to clear the area. Officer 3 stated his warning was met with a *“further hail of missiles”* and, therefore, he ordered the mounted and short shield officers to *“advance through the lines and using such force as was necessary to disperse the demonstrators and arrest those committing criminal offences.”*
22. Short shield police units had never before been used in the UK. During the trial the *Public Order Tactical Options Manual* was disclosed for the first time. It included reference to short shield units being used to *“incapacitate”* demonstrators. *“Incapacitating”* someone would be lawful only if it was deemed necessary in self-defence or to prevent a crime. In evidence Officer 4, Officer 5 and Officer 3 maintained that the instructions to the short shield officers were only to arrest those committing offences and not to use truncheons save in self-defence. On the police video, Officer 4 could be heard saying to the units as they were being deployed, *“...bodies not heads...”* The defence suggested this was evidence of an intention to *“incapacitate”* demonstrators, as per the Manual, regardless of whether that was necessary in self-defence. Officer 4 maintained that his instruction *“bodies not heads”* was simply a reminder that if it was necessary to use truncheons in self-defence, officers should strike the bodies of demonstrators and not their heads. News footage showed pickets being hit on the head, most notably Mr Q.
23. At 9.25am, the lorries left carrying coke and Officer 3’s evidence was that the police lines were fiercely attacked again, with many officers and pickets being injured and a large number of arrests made. As with the push when the lorries went into the plant, defence barristers accused Officer 3, by reference to the police video, of having exaggerated the degree of missile throwing and the severity and duration of the push.
24. Officer 3 went on to say in his evidence that he then decided, in the knowledge that another coke run was due, *“that I would have to completely clear that area of Orgreave to stop injuries to my officers and to capture the source of supply of missiles”*.
25. At 10.30 am, when many of the pickets had drifted off to the shops, and in the knowledge that the convoy would not be returning until about 1pm, Officer 3 commenced a *“three stage movement to the bridge”*. Officer 1, in his statement, appears to give a different justification claiming that, in a *“precedent that had not been experienced before”*, pickets came back over the bridge from Handsworth to attack police lines and get to the plant. It was this, he claimed, that led to the three-phase movement to the bridge.
26. At each of the three stages, mounted police and short shield units forced the pickets to retreat up the field towards the railway bridge so that the police line (which was protected by long shields) could move up behind them. During this movement, Officer 3 said that he saw wire strung across the road at head

¹¹ Printout of radio messages in Hammond Suddards papers.

height and that a tractor wheel was rolled down the lane into the ranks of police officers.

27. At 11.30am, the police made a further move from the bridge to the brow of the hill in Orgreave village with a unit of twelve horses and short shields. At 11.45am, the remaining 30 mounted horses also went up the hill to the village, together with the short shield unit. They then advanced over the hill to the crossroads. Many pickets ran into and/or were pursued into gardens, a scrap yard and other premises. Officer 3 again stated that the move was necessary because of missile throwing by pickets. Photographic material of the road from the bridge to the village showed that the majority of missiles were thrown in response to or after this movement, rather than before it. The police then returned to the bridge and a “standoff” followed, during which Officer 3 said a trailer and an oil drum were rolled over the bridge towards them (the police) and, therefore, he deployed a winged transit vehicle in front of the long shields.
28. By about 1.30pm, the main body of pickets had gone and Officer 3 stated he walked beyond the bridge and saw barricades of burnt out vehicles, stones, fence poles and lamp posts.
29. He said that 50 pickets and police officers had been hurt and that there had been 90 arrests. The evidence from hospital records was that more pickets than police officers required treatment. Some of the injuries to pickets were serious, including head injuries, but none appear to have required lengthy hospitalisation.
30. In summary, Officer 3’s account was that he had to deploy the mounted police and short shield units, rather than merely maintain a defensive line because of missiles being thrown. In contrast, the defence case was that the police had attacked largely peaceful pickets in order to “*symbolically*” defeat them.
31. Following the events on 18 June 1984, there was no further mass picketing of Orgreave.

Proceedings and complaints taken at the time

Criminal prosecutions of pickets

32. The IPCC understands that bail was eventually granted to all of the pickets charged although some, at least, appear to have been kept on remand in custody for 21 days.
33. Trials began in 1985. Those that took place were:
 - 21 January 1985: 10 defendants charged with unlawful assembly, 8 acquitted, and there was a “hung jury” on the remaining two.
 - 18 April 1985: 19 defendants; after four days all agreed to be bound over to keep the peace.
 - 17 May 1985: a trial of 15 of those arrested on 18 June started but collapsed after 48 days, when the prosecution offered no evidence.

Following the acquittals in the May trial no evidence was offered in the remaining cases.

Civil proceedings

34. Thirty-nine of those charged at Orgreave were plaintiffs in civil proceedings for unlawful arrest and malicious prosecution, which were settled by South Yorkshire Police Authority at a total cost of £425,000 in damages and £100,000 costs.
35. In April 2014, the OTJC provided the IPCC with documents, which included a letter with the details of the solicitors' firm that had acted for SYP in the civil proceedings. Although the IPCC had previously been advised by SYP that all relevant material in their control had been provided, a specific request was made that the solicitors' archives be checked for Orgreave material. After an exchange of correspondence, six boxes were located and following further correspondence, these boxes were delivered by the solicitors to SYP. On 1 December 2014, these boxes were removed from temporary store and examined by SYP's in-house solicitors and an IPCC representative, prior to SYP copying and or/scheduling the contents. On 16 December 2014, the six boxes were delivered to the IPCC.
36. Much of the documentation duplicated that already received by the IPCC but there were documents not previously considered. Some of those documents disclose that SYP acknowledged privately to their solicitors that many officers did "*over re-act (sic)*"¹² and that there was evidence of perjury relating to at least two arrests. Although it seems there had been mention of a settlement of the claims prior to the dates of these documents, it is clear that this knowledge very much prompted the final settlement.
37. An attendance note by the solicitor, Mr H, dated 29 June 1988, records Officer 7 of SYP as saying that he was reluctant to provide a written report concerning evidence of potential perjury because "*there would appear to be some opposition at Snig Hill*"¹³ *to our providing evidence which could cause the case to be lost*". There was an order in the proceedings for sworn evidence to be given that there was no relevant material in SYP's possession which had not been disclosed, and a draft affidavit to that effect is included in the files. However, it appears that it may never have been sworn. More specific references to the documents are made below.

¹² Hammond Suddards letter to MMI 16 October 1990.

¹³ The address of the SYP Headquarters.

Complaints, disciplinary and criminal proceedings against officers

38. The Wright Report¹⁴ on the policing of the NUM strike (Chapter 8 at p78 et seq.) records that, for the whole of the miners' strike there were 235 complaints reported to SYP (some of which were referred on to other police forces). The breakdown of complaints by type was: 115 assault, 58 incivility, 21 oppressive behaviour, 17 irregular procedure, 10 damage, eight obscene language, two neglect of duty, two theft, one indecent exposure, one false evidence and three "other".
39. Amongst the large volume of material that had been in the Sheffield Archives were a number of complaint files alleging assault by officers at Orgreave. One investigating officer, Officer 8, produced a "general report" on 19 complaints. At page 3 he said, *"It is a matter of fact that many miners received injuries as a result of missiles being thrown from amongst their own ranks and I feel that in these cases this might well be the situation."* This suggests that he pre-judged the complaints and so did not apply proper standards of objectivity and independence.
40. At least some, possibly all, of the complaint files were submitted to the Police Complaints Authority (PCA) who agreed, *"that no disciplinary charges should be preferred against the officer(s) concerned"*¹⁵. They were also examined by the Director of Public Prosecutions (DPP) who decided that there should be no criminal charges.
41. As set out above, of the 235 complaints reported to SYP throughout the miners' strike, 115 were of assault. These included a number of allegations arising from the policing of Orgreave on the 29 and 30 May 1984, for which complaint files exist in the material from the SYP. It is apparent that complaints were recorded and investigated in relation to (a) Officers 9 and 10 concerning perjury, (b) the mounted police officer seen in a photograph appearing to strike Ms X and (c) Officer 11 who was seen in broadcast footage to strike Mr Q.
42. The majority of complaints were found to be "unsubstantiated" or "withdrawn". For the reasons given above, there are serious doubts about the degree of objectivity in the investigations carried out. However, it seems that, even where complaints were withdrawn, the papers were sent to the DPP who was asked to consider if there should be criminal charges, and to the PCA who agreed with decisions not to bring disciplinary proceedings.

¹⁴ "Policing the Coal Industry Dispute" by Officer 15 of South Yorkshire Police, 1985.

¹⁵ Letter dated 1 May 1986 from PCA to South Yorkshire Police, referring to the complaints of *Mr I, Mr K, Mr L, Mr J*.

[Redacted]

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The remit of the IPCC and the requirements of the Police Reform Act (PRA) 2002

48. The IPCC has statutory responsibility for public confidence in the system for handling complaints, conduct matters and investigations into deaths and serious injuries following contact with the police, as defined in the PRA.

Referrals

49. Referrals may be made to the IPCC in three ways:

- Mandatory referrals for the most serious matters, as defined in the Regulations made under the Police Reform Act and IPCC Statutory Guidance, amended and updated from time to time.
- Voluntary referrals where complaints or conduct matters do not have to be referred under the mandatory referral criteria, but the gravity of the subject matter or exceptional circumstances justifies referral.
- The IPCC has the power to require forces to record and refer any complaint or conduct matter (“calling in”)

50. This report considers two voluntary referrals submitted by SYP, and additional matters brought to the IPCC’s attention that could be called in.

The complaints regime

51. The complaints system has evolved over time as amendments have been made to the PRA and the IPCC’s Statutory Guidance. The regime applicable to referrals and applications depends on the date when the complaint or conduct matter was brought to the attention of the force, save where an “exceptional

circumstances” direction is made (see below) when the 2012 Police (Complaints and Misconduct) Regulations 2012 will apply regardless of when it actually came to the attention of the force. However, when considering whether any officer or member of police staff may have committed a criminal offence or behaved in a way that would justify the bringing of disciplinary proceedings, it is necessary to consider the criminal legislation and disciplinary code applicable at the time of the events.

52. Both referrals made by SYP and the application for dispensation by GMP relate to matters that came to the attention of the Appropriate Authorities before 22 November 2012 and therefore predate changes to the police complaints system introduced by the Police Reform and Social Responsibility Act 2012.
53. Accordingly, when considering the first referral and application for dispensation, the IPCC must apply the PRA 2002 as it was pre-amendment, and refer to the IPCC’s Statutory Guidance to the police service and police authorities on the handling of complaints as published in 2010 rather than the current version.

Matters previously considered by the Police Complaints Authority (PCA)

54. Prior to the implementation of changes contained in the Police (Complaints and Conduct) Act 2012, the PRA prohibited the reconsideration of complaints that had already been recorded and closed under the Police Act 1996 or which were held not to qualify for recording under that Act. This would potentially exclude matters already subject to complaints following the events at Orgreave caught by the provisions.
55. Amendments made by the Police (Complaints and Conduct) Act 2012 to allow the IPCC to reinvestigate matters relating to the Hillsborough disaster gave the IPCC the power in exceptional circumstances to direct that forces record a complaint or conduct matter that relates to conduct which took place, or circumstances which occurred, before the IPCC came into existence on 1 April 2004 and would otherwise be prevented by the relevant transitional provisions from being recorded as a complaint or conduct matter. The IPCC exercised this power in relation to the Hillsborough disaster to direct that the matters identified be recorded and referred.

Matters to be considered

First referral by SYP

56. On 22 October 2012, the BBC broadcast an “Inside Out” documentary and The Guardian newspaper published an article concerning arrests at the Orgreave coking plant during the miners’ strike in 1984. On the same date, a complaint was received by the IPCC from Mr E alleging: “*criminal conspiracy amongst SYP officers to ensure criminal charges against striking miners following the Orgreave picketing in 1984*”.
57. This complaint was brought to the attention of SYP, who were of the view that Mr E did not meet the definition of a complainant under the PRA 2002 (please see below for an explanation of the definition).

58. Notwithstanding this, given public concerns, Temporary Assistant Chief Constable Simon Torr conducted a review of the material held by SYP relating to the policing of events at Orgreave.

59. Following this review, on 14 November 2012, SYP made a voluntary referral to the IPCC regarding allegations of potential criminal offences as follows:

a) *Perverting the Course of Justice by manipulating the evidence to substitute more serious charges.*

Individuals identified in the referral were former Officer 15 (deceased); County Prosecuting Solicitor (described “as yet unknown”) and Prosecution Counsel (also described as “as yet unknown” in the referral, however in the course of the review the IPCC has identified that prosecuting counsel were Mr F QC, as he then was (deceased) and Mr G, (as he then was).

b) *Perverting the Course of Justice by instructing officers to complete statements that were not true.*

Individuals identified in the referral were Officer 15 (deceased), former Officer 16 (deceased); former Officer 17 (retired); former Officer 18 (retired); former Officer 19 (retired); former Officer 20 (retired); former Officer 21 (retired); former Officer 22 (retired); former Officer 23 (retired); former Officer 24 (still serving in a civilian capacity at SYP at the time of referral).

c) *Perverting the Course of Justice by making a statement given in evidence which was not true.*

No officers were identified but the referral suggests this would apply to “every officer who made a statement which contains evidence that was not true” and refers to a figure of 100 statements having been quoted in the press.

d) *Perjury in Court.*

No officers were identified but the referral suggests all officers who gave evidence in proceedings would need to be considered. There are also many officers who made witness statements under section 9 of the Criminal Justice Act 1967 about arrests but who were not called to give evidence because charges were dropped. These officers may have conspired to commit perjury but, in any event, would be guilty of an offence contrary to s89 Criminal Justice Act 1967 if they had wilfully stated in their statements anything which they did not believe to be true.

e) *Assault.*

No officers were identified but the referral suggests consideration of previous complaints to determine whether complainants wish to renew their complaints.

f) *Perjury by claiming to be the arresting officer when this was not true.*

No officers were identified but the referral suggests further work required to establish identity. As for d) above, officers who made false statements alleging they were the arresting officers when they were not would be guilty of conspiracy to pervert the course of justice or an offence contrary to s89 Criminal Justice Act 1967, even if they did not in fact give perjured evidence because, as in Mr A's case, the charges were dropped. Mr A has alleged that the officers who made witness statements claiming to be his arresting officers had not, in fact, been the officers who arrested him.

g) *Misconduct in a Public Office.*

Individuals identified: referral suggests all those potentially covered by (a) - (f) above.

60. In subsequent correspondence, SYP confirmed that the referral was a conduct referral rather than a complaint referral and that in their view although it had been referred voluntarily, the nature of the allegations was such that it met the criteria for a mandatory referral to the IPCC.
61. As the referral makes clear, significant work would need to be undertaken to identify the officers who were potential suspects, since these allegations potentially involve hundreds of officers from almost every police force in Britain.
62. A report prepared by Officer 19 for Officer 16 dated 21 August 1985 does not give numbers of arresting officers for the events on 31 May 1984 and 1 June 1984, but does refer to "*in excess of 58*" officers involved in arrests on 6 June 1984, and "*a total of 200 police officers were assisted to make their statements*" in relation to arrests on 18 June 1984.
63. The IPCC wrote to 50 UK police forces asking whether they held information on deployment of officers to assist SYP with the policing of Orgreave in 1984, and any complaints made against those officers. Forty-eight forces responded. The majority either no longer retained records that could assist in answering the question, or stated that to their belief officers were not deployed to assist SYP in 1984. Thirteen forces indicated that officers or former officers may have been deployed, but had limited or no information regarding who had been deployed and any resulting complaints.
64. Within the referral, reference is also made to concerns raised by Michael Mansfield QC regarding an incident where a miner was allegedly arrested by one officer only to be booked in as another officer's prisoner.

Second referral by SYP

65. On 20 November 2012, Mr A made a complaint that he was arrested at the rear of Orgreave coking plant, South Yorkshire on 18 June 1984 at 7.40am by two GMP officers. He stated that, when he received copies of the police statements, the circumstances of his arrest were incorrect and the arresting officer had been changed to a SYP officer. He complained that this was part of a conspiracy between SYP and GMP.
66. On 27 November 2012, SYP made a second voluntary referral to the IPCC in relation to the complaint made by Mr A as set out above.

67. No officers are identified in the referral but a statement of an officer stating they arrested Mr A is included in the documents obtained, see below.

Application for dispensation by GMP

68. Mr A also made a complaint in similar terms to GMP on 20 November 2012.
69. On receipt of this, on 7 December 2012, GMP made an application to the IPCC under the PRA to dispense with their duty to deal with it, on the grounds that it had been made more than 12 months after the latest incident giving rise to the complaint and that there had been no good reason for the delay or injustice may have been caused by the delay.

Other matters brought to the attention of the IPCC

E-mails from Mr C

70. On 17 November 2012, Mr C wrote to the IPCC stating that he had been at Orgreave when the events occurred and witnessed these first-hand. He suggested that an investigation or inquiry should seek evidence from miners, ambulance crews, nurses from Rotherham hospital, police officers and supporting military personnel, and should obtain data from the BBC and "Independent Bodies" in support of an investigation of SYP and other police forces.

71. On 19 November 2012, Mr C sent a further email to the IPCC stating:

"I feel that this very serious incident was brushed under the carpet for 28 years. I together with hundreds of Miners witnessed gross violence and falsehoods perpetrated by the state.

I feel that the National Union of Mineworkers complained at all levels about this violence, the complaints went unheeded.

The Mining Communities and I should be able to assist with this inquiry from the point of view of Decency.

I was tarnished by scurrilous lies and deceit and I feel that I would like to be involved, For the best part of twelve months my community was stopped from leaving our village, and yet the Police Service staged a furious onslaught [sic] at Orgreave."

Allegations by Mr D

72. On 19 November 2013, Mr D, wrote to the IPCC and asked that two matters be "taken into consideration":
73. He claimed to have been told by his counsel that there was a "D Conspiracy file at SYP headquarters";
74. Concerning his own arrest at Orgreave on 30 May 1984 for obstructing the highway, Mr D claimed he had been told by his counsel that a police officer

admitted to him that the arrest had been pre-planned.

Allegations by Mr B

75. In November 2013, another of the pickets arrested at Orgreave, Mr B, contacted the IPCC and stated that: *“although much to the credit of British judicial system I was later acquitted, it has always been a matter of some concern that the officers on the day were allowed to fabricate evidence without being brought to task at a later date... ”*.

Allegations by Former Officer 1

76. On 13 December 2014, former Officer 1, who has been referred to above and below, emailed the IPCC. He stated that his statement had cleared the miners of the additional offences. He was asked in email correspondence if he was able to provide any further information but has not added significantly to his original statement dated 26 June 1985 and his email.
77. The IPCC was also contacted by a number of other individuals offering to provide assistance to any investigation.

Consideration of referrals and additional matters brought to the IPCC’s attention

First referral

Do the matters referred relate to a complaint?

78. The matter referred relates in part to a complaint submitted by Mr E as follows:

79. *“It is my belief that there was a criminal conspiracy amongst South Yorkshire police officers to ensure criminal charges against striking miners following the Orgreave picketing in 1984.*

80. [REDACTED]

there appears to have been a [REDACTED] attempt, in doctoring police statements, to present a wrongful version of events that would allow for charges of conspiracy to have been brought against arrested miners.”

81. The definition of a complaint in the IPCC’s 2010 Statutory Guidance is *“an expression of dissatisfaction with what has happened or how someone has been treated.”*

82. Clearly the matters identified meet the definition.

Is the complaint made by a complainant as defined by the PRA?

83. Section 12 of the PRA states that a complaint may be made by any of the following:

- A member of the public who claims that the conduct took place in relation to him or her
- A member of the public who claims to have been adversely affected by the conduct, even though it did not take place in relation to him or her
- A member of the public who has witnessed the conduct
- A person acting on behalf of someone who falls within any of the three categories above.

84. Mr E has not provided any information to indicate whether he falls into any of these categories and it is the view of SYP that he does not qualify as a complainant.

Are any of the matters referred recordable conduct matters?

85. The definition of a “recordable conduct matter” as set out in the 2010 Statutory Guidance is as follows:

86. *A “conduct matter” for the purposes of the PRA arises in any circumstances where there has not been a complaint but where those circumstances indicate that an officer or member of police staff may have committed a criminal offence or behaved in a way that would justify the bringing of disciplinary proceedings.*

87. *If a conduct matter comes to light other than through civil proceedings it must be recorded where:*

- *It resulted in the death or serious injury of any person*
- *It had an adverse effect on a member of the public*
- *It involved a serious assault, a serious sexual offence or serious corruption (as defined)*
- *It involved a criminal offence or behaviour liable to result in disciplinary sanction that was aggravated by discriminatory behaviour*
- *It constitutes “a relevant offence” as defined¹⁶*
- *It took place during the same incident as other conduct caught by one of these criteria; or*
- *It otherwise, because of its gravity or other exceptional circumstances, merits recording*

¹⁶ A “relevant offence” is defined as any offence for which a sentence is fixed by law and any offence for which a person of 18 years and over (not previously convicted) may be sentenced to imprisonment for seven years or more (excluding any restrictions imposed by section 33 of the Magistrates Court Act 1980).

88. SYP have stated, in correspondence subsequent to the referral, that the matters identified in the referral are recordable conduct matters. Given the nature of the allegations, which include potential criminal offences, it is clear that the definition of recordable conduct matters is potentially met for some of the matters referred. This is considered further below.

The scope of the matters referred, likely investigative steps and evidence available, whether any new evidence has been identified that was not available at the time of the events and whether matters have been investigated previously

(a) Pervert the Course of Justice by manipulating the evidence to substitute more serious charges, and conspiracy to commit this offence

89. Mr E alleges that there was a criminal conspiracy to commit this offence.
90. The criminal law relating to a conspiracy has not changed since the events at Orgreave. Section 1 Criminal Law Act 1977 provides that the offence is committed when two or more people agree to pursue a course of conduct which, if carried out in accordance with their intentions, would necessarily amount to or involve the commission of the offence. Perverting the Course of Justice is a common law offence which existed at the time of the events and remains an offence. There is no time limit for bringing a prosecution.
91. The allegations relate to the decisions to charge individuals with riot and unlawful assembly. There is reference in the material obtained to a discussion between the Chief Constable and the County Prosecuting Solicitor about charges¹⁷. However, there is no record in the papers so far obtained of that discussion. Of itself, discussion about the level of charging would not be unlawful as prosecuting authorities have always retained discretion about who to charge and with what. In the absence of any note or record of these meetings, there is no evidence which directly supports the allegation. There is, however, material in an advice dated 31 July 1984 from junior prosecution counsel, which indicates that non-evidential considerations may have played a part in some charging decisions. The advice concerned whether Mr Z., should be charged with unlawful assembly. Counsel advised that there was ample evidence and a good chance of conviction but went on to say *“I readily appreciate that there are considerations other than legal and evidential ones which are outside my terms of reference...”*
92. During the trial, Officer 25 gave evidence that he arrested one of the defendants, Mr E, for threatening behaviour but that, when he took him to the custody centre, the sergeant wrote down that the offence was unlawful assembly.¹⁸ Similar evidence was given in relation to other arrests. It is improper to record the reason given for arrest as being different to that actually given. However, it is lawful for a more serious offence to be charged, providing there is evidence that supports it.

¹⁷ Report into Evidence Gathering During the N.U.M. Dispute para 10.

¹⁸ Notes on the transcript of evidence prepared by Hammond Suddards, solicitors for SYP.

93. Whoever was responsible for it, the extent of violence at Orgreave, particularly on the 18 June 1984, was undoubtedly greater than it had been on previous occasions. As far as the IPCC is aware, there was no submission of “*no case to answer*” in relation to the unlawful assembly and riot charges either in committal proceedings (or if that count was added to the indictment after committal) prior to arraignment. This suggests that the defence lawyers took the view on the written evidence that the more serious charges were made out. The prosecutors, who likewise would have had only the written statements upon which to make their charging decisions, could only be guilty of the offence if they had known those statements were untrue.
94. In summary, although there is material to show that non-evidential considerations may have played a part in charging decisions, there is no direct evidence that the IPCC is aware of, through the review or otherwise, of an agreement with the County Prosecutor, Prosecution Counsel or others to *manipulate the evidence* to substitute more serious charges. As such, it is considered that, whilst the allegation is serious, on the evidence thus far considered, it is no more than a bare assertion.
95. An investigation would involve, not just investigating those who made the charging decisions, but also seeking to establish that the facts of what actually happened could not have supported the charges. This would involve analysing the video and photographic evidence, interviewing potentially hundreds of witnesses and interviewing hundreds of police officers under caution, who would themselves be suspects in relation to other allegations.
96. The IPCC does not know when the Wright Report, evidencing that there were discussions between the Chief Constable and the County Prosecutor, was first in the public domain. However, it will have been obvious at the time that, at the very least, the County Prosecutor and prosecution counsel supported the charges once made, and that these may have been discussed prior to charging decisions.
97. There is no material to suggest that there had previously been a criminal or misconduct investigation into these alleged offences.
- (b) *And (c) Pervert the course of justice by instructing officers to complete statements that were not true and conspiracy to pervert the course of justice by making statements with evidence which was not true and conspiracy to commit these offences.***
98. Mr E alleges that there was a criminal conspiracy to commit this offence.
99. The applicable criminal law relating to a conspiracy and to perverting the course of justice is set out above. There is no time limit for a prosecution.
100. There is evidence that some police statements used the following identical phrase: “*Periodically there was missile throwing from the back of the pickets.*” One paragraph, of four full sentences, was identical word for word in some statements. It described an alleged charge by pickets, including the phrase:

*"There was however a continual barrage of missiles."*¹⁹

101. On 17 June 2014, the BBC broadcast an interview with retired Hertfordshire Police officer, Officer 2, saying that he was told what to put in his statement *"by a senior South Yorkshire detective"* after he arrested a miner during the Orgreave confrontation. He also said, *"I've never before or since, while I've been a police officer, been involved where effectively chunks of a statement were dictated. They weren't my words"*.
102. The 12 October 2012 BBC "Inside Out" documentary included an interview with a retired police inspector, Officer 26, who was on duty at Orgreave. Former Officer 26 stated that he and other officers had parts of their statements dictated to them. Former Officer 26 told the programme: *"I recall this policeman in plain clothes mentioning that he had a good idea of what had happened. And that there was a preamble to set the scene"*; and *"He was reading from some paper, a paragraph or so. And he asked the people who were there to use that as their starting paragraph."*
103. Neither former Officer 2 nor former Officer 26 appears to have gone so far as to say that the circumstances of the actual arrest described in their statements were untrue. None of the material referred to above is substantially new material. That the opening paragraphs of police officers' statements were dictated by CID officers was accepted by the prosecution at the trial. Indeed, the *"Report into Methodology of Evidence Gathering During the NUM Dispute"*, produced after the collapse of the trial, dealt with this practice. The report says that the circumstances were exceptional because following arrests there would be many officers, from different forces, who were complete strangers to the area and who later that day might leave the area, never to return to South Yorkshire and that for this reason a policy evolved whereby:
- "27.....following very brief discussion to enable the detective to assess the situation, that detective caused each officer to submit his statement forms already within the folder each officer possessed. The detective officer dictated the opening of each officer's statement. This has never been in dispute and has at all times been openly admitted. For that reason the statements of each group of arresting officers were identical in their opening.*
- 28 After this introduction each officer was required to relate the incident which had caused him to arrest his prisoner. Each officer was required to give this evidence quite freely."*
104. The report went on to say: *".....It would be nonsensical to suggest that the statement was taken any further than the introduction by detectives. That officer had not seen what had occurred and could not possibly have contributed to the evidence of the arresting officer."* This is an assertion that relies on an assumption that there was a genuine reason for arrest and that the reasons for arrest were not being fabricated.

¹⁹ Analysis by Mark George QC reported at <http://thejusticegap.> [REDACTED]

105. Officer 18 who was the officer in charge of this process made a statement, dated 1 September 1985. He said at page 4 that he told the officers to whom he was dictating the introductory paragraphs that, "*if anyone disagreed with what I had said they should tell me immediately*".
106. Although it was accepted by the prosecution at trial that the opening paragraphs of statements had been dictated, some individual officers when giving evidence under oath denied this and maintained that the statements were all their own words.²⁰
107. The undisputed evidence is that many of those arrested in the "Battle of Orgreave" were arrested by "short shield" officers who had followed the mounted officers out from behind the police cordon, to "disperse" pickets, some of whom the police maintained were throwing missiles. In cross-examination, it was suggested that the short shield units who made the arrests, waiting as they were behind the police cordon, could not have seen who was throwing missiles prior to the lines opening up. All of those standing trial were alleged to have been witnessed committing specific acts of violence, in many cases throwing stones. The IPCC is not aware of any video or photographic material that supported these police witness accounts of individual arrests. SYP's own analysis of the video and film material confirmed that none of the plaintiffs in the civil proceedings could be identified as stone throwers.²¹
108. The accusation made by the defence was articulated by Gareth Peirce, solicitor for many of the defendants, in the Guardian on August 12 1985. She said that dictating the statements was: "*the ex post facto attempt to impose a lawful structure onto the arrest...*" which was at the heart of the "*unprecedented attempts to co-ordinate evidence - a necessity where the police version of events never happened*". In other words, Ms Peirce claimed the specific allegations of violence were made up to justify the arrest of pickets who had simply failed to get away fast enough when the police lines opened. In cross-examination the senior officers denied that the short shield units were instructed to arrest anyone simply for failing to disperse. However this was contradicted by the last police witness to give evidence prior to the collapse of the trial, Officer 27, the arresting officer for the defendant Mr U (evidence 16 July 1985).
109. It was established in cross-examination that this officer²² believed pickets could be arrested simply for failing to disperse, that he had taken down the dictated part of his evidence when it was untrue (although he said that he believed it to have been true at the time) and that there were serious inaccuracies in the part of the account he claimed was his own. Although this officer denied the allegation of conspiring to pervert the course of justice when it was put to him directly, his answers in cross-examination, together with the other material, are sufficient for there to be an indication that the offence may have been

²⁰ Page 5 letter Hammond Suddards to MMI dated 16 October 1990.

²¹ Attendance Note 29 June 1988 Mr H.

²² Transcript of Officer 27's evidence. Officer 35 who arrested Mr T gave similar evidence.

committed.

110. The officers who arrested Mr T were also said to have had their accounts contradicted by photographs and that Mr V had been arrested in a totally different place to that alleged.²³ Officer 7 of SYP, when he reviewed the news footage in relation to the arrests of the civil plaintiffs, concluded that the arrests of Mr P and Mr Q had “*been in positions not compatible with the Arresting Officers’ statements.*”²⁴
111. During evidence, it emerged that one witness, Officer 9, may have forged the signature of a colleague, Officer 10, as his “witness” on his statement about the arrest of Mr W. Both of them had gone into the witness box and given evidence on oath that it was Officer 10’s signature. When it became apparent that the signature might be forensically examined, the original statement went missing from the court, in circumstances which remain unexplained. However, a forensic handwriting expert examined a photocopy and gave evidence that: “*I can only conclude that Officer 10 did not sign the statement and the signatures ‘Officer 10’ were appended by some other person. Further that there were features in the handwriting of Officer 9 which occur in the signatures ‘Officer 10’....*” .
112. In a memo from Officer 16 to the Acting DCC, he added that Officer 10 had given evidence that he had not been shown his witness statement prior to going into the witness box which was “*blatantly untrue*”. In the memo, Officer 16 suggested that the forgery was, “*...committed in the heat of battle at Orgreave as a matter of expedience*”. However, given the evidence about his signature and of perjury, there must be at least suspicion that he may not have witnessed or have been involved in the arrest at all. At the instigation of the trial judge, the offences of perjury were investigated by Officer 36 of Staffordshire Police, who concluded that there was evidence of perjury, at least in respect of Officer 10. The DPP accepted this was so but concluded that it was not in the public interest to prosecute.²⁵ A copy of the report was forwarded to the Chief Constable of Merseyside Police for consideration of disciplinary proceedings but it is unknown whether any disciplinary action was taken.
113. Officers who arrested Mr Y, a Scottish man, attributed the Yorkshire word “*owt*” to him in his statement and measurements of a pavement put into doubt whether the defendant Mr M could have tripped over the kerb and hit a wall as claimed. The evidence against Mr N was never called as the trial collapsed but his counsel addressed the Judge on the final day of the trial to the effect that he had photographs which showed the officers’ accounts to be untrue.
114. Regarding Officer 2, referred to above, his evidence had been that he arrested a picket, Mr O, claiming that he had pushed him and enabled a detained person to escape his hold. Mr O was a plaintiff in the civil proceedings and claimed that

²³ SYP’s Counsel’s advice on quantum and liability.

²⁴ Attendance Note of Mr H dated 29 June 1988.

²⁵ Letter DPP dated 17 October 1985.

he was unable to identify the officers who had arrested him (leaving it open as to whether it may have been former Officer 2), but that in any event Officer 2's evidence had been "*maliciously fabricated*". The civil claim for malicious prosecution, as with all the others, was settled out of court with no admission of liability. Former Officer 2's broadcast interview does not comment directly on the truth of his allegation made against Mr O. Since the IPCC is unaware of any officer having admitted that the reasons given for pickets' arrests were fabricated, as distinct from the opening paragraphs of statements being dictated, the IPCC contacted former Officer 2 in July 2014 to ask him if he was willing to be interviewed under caution about whether the reasons he gave for Mr O's arrest were true. He wished to take legal advice and solicitors instructed by him contacted the IPCC in December 2014. Following an exchange of correspondence with the solicitors, the IPCC asked that if former Officer 2 was willing to provide further information, that he should do so by 9 March 2015. No further information was received by that date.

115. The "*Report into Methodology of Evidence Gathering During the NUM Dispute 1984*" dated 12 September 1985 by Officer 13 to Officer 12 said that: "*There was extreme confusion regarding the other signature on the statement as to whether it was the corroborating officer or merely a witness to the statement makers signature. It is no wonder that this and other minor matters such as errors in detention records led to considerable confusion at trial*". There is no mention in the report of the evidence concerning forgery of Officer 10's signature, which was closely related to this topic and which could hardly have been described as a minor matter. Furthermore, the report does not expressly address the issue of whether there was a conspiracy to pervert the course of justice and so no reliance can be placed on it to dispel suspicions about there having been one. There is also evidence, already referred to, which suggests that some senior officers at Police Headquarters were aware of perjury by officers, after the event, but did not wish it to be disclosed, which raises doubts about the ethical standards of senior officers at SYP at that time.
116. SYP officers visited officers from other forces that were due to give evidence at the trial to show them their statements.²⁶ This was also admitted during the trial. Although it is common for witnesses to be allowed to read their statements before giving evidence, it was unusual procedure for officers to actually visit them in person ahead of a trial. This created suspicion that the officers were being coached about their evidence²⁷ by the officers concerned, Officer 28 and Officer 14.
117. There is a reference in the material to a review, after the collapse of the trial, of the evidence in relation to the defendants still awaiting trial (against whom all charges were subsequently dropped), carried out by Officer 29 but which had been destroyed.²⁸

²⁶ Statement of Officer 28 from the Officer 10/Officer 9 investigation file.

²⁷ Letter Hammond Suddards to Insurers 16 October 1990.

²⁸ Attendance note of Mr H dated 23 June 1988.

118. In the attendance note dated 29 June 1988, referred to above, the solicitor instructed recorded that Officer 7 was reluctant to provide a written report of this “*because there would appear to be some opposition at Snig Hill to our providing evidence which could cause the case to be lost.*” Mr H, later in the note, recorded himself as having said “*I did not want to give anything away at this stage. Even if some one or more of these Plaintiffs had not been treated properly by the Police Officers and indeed even if there was some perjury in statements it remained our argument that they were present at a riot...*” This document, in essence, acknowledges, at least in respect of some of the plaintiffs, that there may have been perjury by officers. So far as is known, the material concerning the statements of the arresting officers for Mr P and Mr Q was never the subject of a criminal or disciplinary investigation and has never previously been disclosed. The reference to Snig Hill is to SYP Headquarters and so the note also raises further doubts about the ethical standards and complicity of officers high up in the organisation. Some of the correspondence on the solicitors’ files is with Officer 12 who has already been referred to above. Withholding this information and failing to have the evidence of perjury and improper treatment investigated may, of itself, indicate that offences in relation to perverting the course of justice and/or misconduct in a public office have been committed.
119. For the reasons given above, there is evidence that the opening paragraphs of statements were dictated and that offences of perjury may have been committed by individual officers. There is, however, no direct evidence of a conspiracy that officers would have false accounts dictated to them. No complaint appears to have been made at the time by the defendants or their lawyers and so it does not appear that there has been a previous investigation. The “*Report into Methodology of Evidence Gathering During the NUM Dispute 1984*” is, at best, self-justificatory and there is evidence that senior officers “had no appetite” for disclosing material which did not put them in a good light. Most of the material relating to this allegation was available in 1985. The attendance notes of Mr H are new material which adds some support to it.
120. Investigating these offences with a view to obtaining evidence that would meet Crown Prosecution Service charging standards would involve, at the very least, tracing and interviewing the police officers who made the statements (approximately 200), those arrested and the CID officers involved in dictating the statements. Efforts would also have to be made to match photographic and video material to the arrests.
- (d) *Perjury by giving evidence at court which is known or believed to be false and conspiracy to commit this offence.***
121. Mr E alleges that there was a criminal conspiracy to commit this offence.
122. The applicable law relating to criminal conspiracy is set out above. The law relating to perjury has not changed since the events at Orgreave. The offence is committed if a witness in judicial proceedings gives evidence which he knows to be false or does not believe to be true. It was also, and remains, an offence contrary to section 89 of the Criminal Justice Act (CJA) to make a false statement in a witness statement under section 9 of the CJA. The statements

made by officers relating to their arrests were made under section 9 CJA and agreeing to give an untrue account in those statements would amount to a conspiracy to commit that offence as well as, or instead of, perjury.

123. If officers were directed to make statements that were not true, then their evidence from the witness box, if they gave the evidence that was expected of them, would be perjured and this is dealt with under the headings above. The IPCC has therefore interpreted this allegation to relate to the accounts of events given of the three SYP officers in command at the “top side” during the Battle of Orgreave. These were Officer 3, Officer 4 and Officer 5. The manner in which these officers recorded their evidence raised concerns during the trial. Officer 3 gave evidence that his witness statement was based on notes that he had recorded, with times, on a piece of paper. The existence of that note was not revealed until cross-examination. His statement was typed and witnessed by Officer 18 who led the team of detectives who were also responsible for dictating the opening paragraphs of arresting officers’ statements.
124. Officer 4 and Officer 5 did not make statements of their own at the time and instead they signed Officer 3’s statement notwithstanding that it contained some evidence that was not within their own personal knowledge. Officer 3’s statement was then retyped in Officer 4 and Officer 5s’ names by Officer 18. Officer 4 said that he had told Officer 18, in general terms, what needed to be added and taken out but had left Officer 18 to write it. Under cross-examination, he admitted that some matters in the statement typed for him by Officer 18 were inaccurate or had not been witnessed by him.
125. Police video recordings were disclosed to the defence which apparently contradicted the identical accounts of the three officers; significantly about Mr D inspecting the police lines and the extent to which missiles were being thrown prior to the “*three phase movement*” up the field to the bridge. The video and photographic evidence also contradicted the initial evidence (at least) of Officer 4 and Officer 5 about the movement from the bridge into Orgreave village by mounted officers and short shield units.
126. Officer 3 had approximately 6000 police officers from the majority of UK forces, equipped with long shields and short shields at his disposal, together with 42 police horses. His evidence was that he was determined to ensure that the lorries were able to enter and leave the plant to uphold the rule of law.
127. The pickets had attended in numbers equal to or greater than the 6000 or so police officers. Their wish was to prevent the lorries from entering the plant and leaving laden with coke. There is no real doubt that it was illegal to obstruct the highway and to prevent the lorries from entering or leaving. Use of any force on the person of an officer, ritual shove or not, amounted to an assault. It is clear from the evidence in the witness statements of the defendants themselves, and in the video and photographic evidence, that some of the pickets did throw missiles at the static police lines. Officer 3 was entitled to use reasonable force if it was necessary prevent the unlawful obstruction of the highway and assaults on officers.
128. In evidence Officer 3, Officer 4 and Officer 5 essentially stuck to their accounts that the force used was necessary in self-defence and to prevent offences but

may to an extent be contradicted by Officer 1's statement. The case suggested by the defence, based on the manual and Officer 4's "*heads not bodies*" instructions, was that the use of short shield units and mounted officers was (in Gareth Peirce's words) not justified and intended to maim and injure innocent persons to disperse them, "*in complete violation of the law*".

129. Officer 11 was interviewed under caution by Officer 16 in June 1984 as part of an investigation into these officers' actions in striking Mr Q with his truncheon, which was captured by news cameras (see below). In the course of his interview, at page 7, he said "*It's not a case of me going off half cock. The Senior Officers, Supers and Chief Supers were there and getting stuck in too- they were encouraging the lads and I think their attitude to the situation affected what we all did.*"
130. SYP's solicitors acknowledged that "*certain somewhat evasive answers were given by to questions of senior officers relating to police officers clapping and banging truncheons on shields..... and as to whether there had been any excessive force used...*"²⁹
131. The issue is therefore whether these officers, with Officer 18, made up an untrue account exaggerating the degree of violence (in particular missile throwing) to justify use of force and to justify charges of riot rather than a lesser public order offence.
132. The manner in which these officers' statements were made, the extent to which their accounts appear to have been contradicted by reference to video footage, and the account of Officer 11 provide support for this allegation.
133. As far as the IPCC is aware, this complaint has not been made or investigated previously. The review has not revealed any information that was unavailable in 1985. An investigation of the complaint would involve complex factual issues, and would need to interview potentially hundreds of witnesses and police officers who were themselves suspects in other of the allegations. Video and photographic material would have to be analysed and expert evidence obtained, including about the extent to which video technology would have recorded missiles being thrown (the prosecution having served evidence during the trial that it may not).

(e) Assault

134. Since the Offences Against the Person Act 1861 (OAPA), criminal assaults have for most purposes been categorised as "common assaults", "assaults occasioning actual bodily harm", and "grievous bodily harm". There is no time limit for bringing a prosecution for offences alleging actual or grievous bodily harm. At the time of events in Orgreave common assault could usually only be prosecuted by or on behalf of the complainant (victim) in which case it could only be tried by magistrates and was subject to a six month time limit. It was possible, however, to charge "indictable common assault", which was not subject to a time limit. S39 of the Criminal Justice Act 1988 made all offences of

²⁹ Letter Hammond Suddards to Insurers 16 October 1990.

common assault triable in the magistrates' court with a time limit of six months³⁰. Therefore any offence of common assault is, in reality, time barred.

135. Many of the potential offences of assault would fit the definition of actual bodily harm, which is any hurt or injury calculated to interfere with the health or comfort of the victim. The injury does not have to be permanent but must be more than merely transient or trifling.³¹ However, the Crown Prosecution Service would apply their own charging standards to any referral and are likely to regard any assault where there was "**no injury or injuries which are not serious**" as a common assault and therefore subject to the time limit.
136. Unquestionably, a large number of pickets had force used on them. In particular:
- a) Mr Q was featured in broadcast video material being struck by Officer 11 (understood to be from Northumbria Police). Officer 11 was the subject of a criminal investigation by SYP following the broadcasts. He was first interviewed on 20 June 1984 and it is said the DPP advised on the same day³² that no charges should be brought against him. It is difficult to understand how that decision could have been reached so quickly. There is evidence that a private prosecution was initiated against Officer 11 but abandoned.³³ Mr Q was charged with riot and acquitted. Mr Q said in his statement of claim that, as a result of the assault on him, he suffered bouts of faintness, bleeding wounds to his face and hands, bruising to his head and back and mental stress requiring psychiatric help.
 - b) Mr M said in his statement of claim that he had lost consciousness, had pain in his head and a cut to the back of his head for which he received five stitches. He was later admitted to hospital for observation and investigation of his symptoms of persistent headache and diplopia. Media articles have said that he had a fractured skull, blood running down his legs and into his shoes, and only received medical treatment after Gareth Peirce's intervention on the day.
 - c) Mr AA is said in media articles to have had a broken leg, which he said had been caused by police stamping on it.
 - d) Mr U, Mr T, Mr P, Mr N, Mr BB, Mr CC, Mr DD, Mr EE, Mr FF, Mr V were all plaintiffs in successful civil proceedings who alleged assaults and gave

³⁰ DPP v Taylor, Same v Little [1992] Q.B. 645.

³¹ Archbold Criminal Pleadings 2015 p2079.

³² Notes made by Hammond Suddards on "Mr Q Investigation" p2.

³³ Attendance Note dated 8/11/89 as advised by Officer 17.

particulars of their injuries, supported by medical evidence which may amount to actual bodily harm.

137. There is a significant quantity of film and photographic material showing force being used on the pickets. Ms X was shown in a well published photograph, when a mounted police officer appears to be trying to strike her with his baton (the evidence is that he missed). Officer 30, who arrested Mr M, admitted in evidence to having pushed a peaceful picket out of the way with his truncheon and that this was wrong.
138. SYP's solicitors in the civil proceedings, in their letter to the insurers, dated 16 October 1990 said that Officer 7 "*had come to the decided view, which we understand has been shared with the Chief Constable, that he would not wish to see this litigation come to a contested hearing. He agrees that in the heat of the moment many officers did over re-act.*"
139. For the reasons given above, there is evidence to support the allegation that offences of assault may have been committed.
140. Files relating to 24 complaints of assault in relation to Orgreave are contained within the material, from the 26, 29 and 30 May 1984. Additionally, there are files in relation to a complaint by Mr R and to the investigation of incidents involving Mr Q and Ms X on the 18 June 1984, although not necessarily having been instigated by them.

(f) Perjury by claiming to be the arresting officer when this was not true

141. The law applicable to the offence of perjury is set out above and has not changed since the events at Orgreave. The substantive offence (as distinct from a conspiracy) can only be committed by an officer who gave untrue evidence. However, as set out above, officers who falsely stated they were the arresting officer in section 9 CJA statements may be guilty of an offence contrary to s89. There is no time limit for a prosecution.
142. Mr A has submitted complaints to SYP and GMP alleging that he was arrested by officers from GMP but that the witness statements purportedly about his arrest were from SYP. The IPCC has located a record of Mr A's arrest and the statements upon which the prosecution relied for Mr A's committal to the Crown Court for trial. The record of his arrest shows that the arresting officer was Officer 37 from GMP. The statement in the committal bundle describing Mr A's arrest is from the same officer. There is a statement concerning him from an SYP officer, Officer 31, but his only role was to charge him at Rotherham police station.
143. There are also other references in the documentation³⁴ to officers having made statements that they had arrested a particular defendant where the defendant said this was not the case. In the case of Mr T, a further statement corroborating his arrest was made by Officer 32 on 7 June 1985 almost a year after the events. In evidence he could not identify Mr T or describe what he had

³⁴ Letter 16 October 1990, Hammond Suddards to Insurers.

been wearing. In the case of Mr S, photographs had been produced by the defence which suggested that Officer 33 of WMP had not been present, as he claimed, at the arrest. He then failed to attend court when it was his turn to give evidence, citing medical reasons which were doubted by the defence.

144. The original Polaroid photographs of arresting officers with those they had arrested are said to have been destroyed.³⁵ The IPCC has not attempted during its review to identify and assess these allegations, which would require trying to match faces in photographs to particular defendants and police officers. Although there is a good deal of photographic material, it has not been possible to match it to the exhibit numbers of photographs referred to in the trial transcript. To have done so would have been a considerable task and would have added to the length of this review.
145. For the reasons given above, there is some evidence that this offence may have been committed; however there is also evidence that appears to contradict Mr A's complaint. There does not appear to have been a previous complaint and so there has been no previous investigation. The IPCC is not aware of any new material resulting from the review or otherwise. An investigation now would require tracing the officers and former defendants, identifying the relevant photographic material and the continuity of it.

(g) *Misconduct in a public office (MIPO)*

146. MIPO is a common law offence which was in existence at the time of the events at Orgreave (although little used at the time). Police officers are public officers and to commit the offence must be acting as such, which undoubtedly they were in the context of Orgreave. To be guilty of an offence, they must have wilfully breached their duty to such a degree that it amounted to an abuse of the public's trust.
147. For the purpose of this review, and the decisions to be made by the IPCC g) has been broken down into g) (i), the allegation that pickets were deliberately encouraged to attend at Orgreave and ushered into the field as a strategy by the police or government so that the NUM could be defeated in a decisive battle, which will be analysed in this section; and g) (ii), MIPO as an alternative charge to the matters above.
148. Regarding g) (ii) some or all of the matters alleged under the headings above might equally amount to offences of MIPO, that if there were sufficient evidence to prosecute it might be charged as an alternative. That would be a decision for the CPS and will not be considered separately here.
149. Regarding g) (i), members of the NUM, at its meeting with the IPCC on 31 October 2013 very strongly put forward the view that the police had encouraged the picket on 18 June 1984 in order to be able to have a decisive battle. There is no direct evidence in the material considered to support this allegation. The circumstantial evidence, which is used to support the allegation by some NUM members, is that the police knew a large picket was planned. Rather than seek

³⁵ Draft affidavit of Chief Inspector Drabble.

to prevent pickets attending through the use of road blocks (as had been done elsewhere, and held to be lawful) they provided road signage and directions to designated areas.

150. Officer 3 is on record as stating that he had been delighted to be given command at Orgreave because it required “*firm policing*” and he wanted any “*battle*” to take place on his terms.
151. This issue was gone over extensively in cross-examination of Officer 3 at the trial. Officer 3 maintained that SYP’s policy throughout the strike had been to allow picketing and not to prevent pickets getting to sites (in contrast to some other police forces). SYP’s solicitors nonetheless acknowledged that “*It is our view that the impression created by former Officer 3 to the Jury was that he intended for this day to be a confrontation with Mr. D....*” and that “*the large number of pickets ...justified baton charges by PSU’s and by mounted police officers*”.³⁶ This latter, would of course, be contrary Officer 1’s evidence that PSUs and mounted officers could not be used against pickets who were not offering violence at the time. Officer 3 had accepted in evidence that 70% of pickets had been peaceful.
152. There is, however, no direct evidence to prove that the picket was encouraged deliberately to provide an opportunity for an unprovoked attack. It would be a complex legal argument to say that permitting it to take place when there was a risk of violence, and making plans to counter that violence “*firmly*” was, of itself, unlawful.
153. As such, it is considered that, whilst the allegation is serious, there is no evidence thus far considered which supports it.
154. This allegation does not appear to have been made or investigated previously. There does not appear to be new material. An investigation now, seeking to uncover direct or circumstantial evidence of a deliberate plan, would be hugely complex, particularly bearing in mind the apparent absence of contemporaneous records of communications.

Second Referral – Mr A

Do the matters referred relate to a complaint?

155. As above, the definition of a complaint in the IPCC’s 2010 Statutory Guidance as “*an expression of dissatisfaction with what has happened or how someone has been treated.*”
156. As set out above, Mr A has said he was arrested by officers from GMP, but that the witness statements purportedly about his arrest were from SYP officers and untrue, and suggests that there was a conspiracy between GMP and SYP to pervert the course of justice. Clearly the matters identified potentially meet the definition however there is also evidence that contradicts Mr A’s assertions.

Is the complaint made by a complainant as defined by the PRA?

³⁶ Letter to insurers 16 October 1990.

157. As above, section 12 of the PRA states that a complaint may be made by any of the following:

- A member of the public who claims that the conduct took place in relation to him or her
- A member of the public who claims to have been adversely affected by the conduct, even though it did not take place in relation to him or her
- A member of the public who has witnessed the conduct
- A person acting on behalf of someone who falls within any of the three categories above.

158. Mr A would appear to satisfy the definition of a complainant in relation to 1-3 of the bullet points above, if it is accepted that the matters raised meet the definition of complaint.

Are the matters complained of conduct matters?

159. The matters complained of include allegations that criminal offences may have been committed. However, as set out above, the evidence examined by the IPCC appears to contradict Mr A's complaint at least in part, and there is insufficient evidence for conduct matter to be recorded.

The scope of the matters referred, likely investigative steps and evidence available, whether any new evidence has been identified that was not available at the time of the events and whether matters have been investigated previously

160. Mr A states that he has not made a previous complaint, and there does not appear to have been a previous investigation of the conduct matters identified. The IPCC is not aware of any new material resulting from the review or otherwise. In the absence of an indication of conduct capable of being recordable or the subject of complaint likely investigative steps have not been considered.

Other matters brought to the IPCC's attention

Mr C

Do the matters referred relate to a complaint?

161. As above, the definition of a complaint in the IPCC's 2010 Statutory Guidance as "*an expression of dissatisfaction with what has happened or how someone has been treated.*"

162. As set out above, Mr. C refers to "*gross violence and falsehoods perpetrated by the state.*" He also states that "*I was tarnished by scurrilous lies and deceit.*"

163. Although specific details have not been supplied, the matters referred to could potentially meet the definition of a complaint and therefore fall to be recorded. However, further details would be required to identify which forces the complaint is against.

Is the complaint made by a complainant as defined by the PRA?

164. As above, section 12 of the PRA states that a complaint may be made by any of the following:

- A member of the public who claims that the conduct took place in relation to him or her
- A member of the public who claims to have been adversely affected by the conduct, even though it did not take place in relation to him or her
- A member of the public who has witnessed the conduct
- A person acting on behalf of someone who falls within any of the three categories above.

165. Mr C states that he witnessed conduct and was affected by it and so potentially satisfies the definition of a complainant.

Are the matters complained of recordable conduct?

166. There is insufficient information provided by Mr C for a conduct matter to be recorded, save in so far as it potentially overlaps with the first referral made by SYP.

The scope of the matters referred, likely investigative steps and evidence available, whether any new evidence has been identified that was not available at the time of the events and whether matters have been investigated previously

167. The allegations are broad and potentially encompass everything already identified in the first voluntary referral by SYP. The analysis of those matters set out above will also apply therefore to this complaint.

Mr D

Do the matters referred relate to a complaint?

168. As above, the definition of a complaint in the IPCC's 2010 Statutory Guidance as "*an expression of dissatisfaction with what has happened or how someone has been treated.*"

169. As set out below Mr D alleges that he was subject to criminal conspiracy by the police. This could potentially meet the definition of a complaint and therefore fall to be recorded. However, further details would be required to fully assess this as set out below.

Is the complaint made by a complainant as defined by the PRA?

170. As above, section 12 of the PRA states that a complaint may be made by any of the following:

- A member of the public who claims that the conduct took place in relation to him or her
- A member of the public who claims to have been adversely affected by the conduct, even though it did not take place in relation to him or her
- A member of the public who has witnessed the conduct
- A person acting on behalf of someone who falls within any of the three categories above.

171. Mr D states that he witnessed conduct and was affected by it and so potentially satisfies the definition of a complainant.

Are the matters complained recordable conduct?

172. On the basis of our analysis below, there does not appear at this stage to be sufficient evidence for a conduct matter to be recorded.

“D Conspiracy file”

173. This concerns Mr D’s account that he had been told by his counsel that there was a “D Conspiracy file” at SYP headquarters. The IPCC has interpreted this to mean that SYP were considering charging him with conspiracy offences in connection with the events at Orgreave.

174. There is no direct evidence of this in any of the material that has been considered as part of the review. Mr D says that he was given this information by his lawyers Gareth Peirce and Michael Mansfield QC. He gave authority for them to provide information to the IPCC and they were asked, by letter dated 31 December 2013, if they were able to remember it being the case. This was raised again in a further letter to Mr Mansfield dated 4 June 2014. No reply has been received at the time of writing this report.

175. Officer 3 had recorded in his statement, which Officer 4 and Officer 5 adopted as their own, that stone throwing had increased after Mr D had “inspected” the police front line at 8.00am on the 18 June 1984. Officer 3 omitted to give this evidence from his statement during his evidence in chief and, when cross-examined, said he had been told to leave it out by the County Prosecuting Solicitor. The police video did not in fact show Mr D inspecting the lines at 8.00am, only at about 9.30am. When this was put in cross-examination to Officer 3, Officer 4 and Officer 5, they suggested that the video may not show the relevant time and/or the right part of the line. It was put to all three of them that the purpose of including this passage was to suggest that Mr D was orchestrating the violence, which they denied and/or maintained was merely their observation that events had happened in that order.

176. Officer 1’s statement says that he was satisfied, referring to Mr D, that “*when there was a large shove or stone throwing activity taking place it was being co-ordinated by that man.*”

177. Included with a notice of additional evidence served on 16 January 1985 were a

large number of new witness statements from police officers, all claiming that they saw Mr D appear and talk to pickets, after which violence increased. See for example Officer 34:

“Shortly after this, I again saw D standing at the wall by the roadside. A number of pickets gathered round and when other pickets on the field noticed he was there, they moved over towards him. Pickets then moved back across the field and the number of pickets grew.

They began to throw stones and bottles at the unprotected police lines. We stood our ground and tried to avoid the missiles.....”

178. The review has not seen or obtained direct evidence to support the allegation. There is circumstantial evidence, which was available in 1984/5, to suggest that consideration was given to charging Mr D. However, it would have been lawful to do so, providing it was believed that the statements were true. As such, this allegation would need to be investigated as part of the conspiracy to pervert the course of justice allegations considered above. On its own, the existence of such a file would not therefore be sufficient to indicate the commission of a criminal or disciplinary offence and so this suggestion by Mr D is not capable of being a separate recordable conduct matter.

Arrest at Orgreave on 30 May 1984 for obstructing the highway

179. Mr D has said that he was told by his counsel that a police officer disclosed that the arrest had been planned prior to his arrival. His solicitor on this charge was John Howell. Mr Howell, with Mr D’s authority, has written to the IPCC. He has no recollection of a police officer admitting Mr D’s arrest had been planned before his arrival, but believes that it must have been given that he was arrested by the Superintendent in charge very shortly after his arrival.
180. If the police believed that Mr D was in the habit of unlawfully obstructing the highway, then planning his arrest would not be unlawful, even if he was being singled out to be “an example”. Therefore the issue in an investigation would be whether the officer reasonably believed that Mr D was obstructing the highway, or might reasonably be expected to do so.
181. Mr D is not able to give evidence himself in support of this allegation and there is presently no other evidence from which there is an indication that criminal or disciplinary offences have been committed.

The scope of the matters referred, likely investigative steps and evidence available, whether any new evidence has been identified that was not available at the time of the events and whether matters have been investigated previously

182. In the absence of an indication of conduct capable of being recordable or the subject of complaint, this has not been considered further.

Allegations by Mr B

Do the matters referred relate to a complaint?

183. As above, the definition of a complaint in the IPCC's 2010 Statutory Guidance as "*an expression of dissatisfaction with what has happened or how someone has been treated.*"

184. Mr B alleges that officers fabricated evidence. This is clearly capable of meeting the definition of a complaint.

Is the complaint made by a complainant as defined by the PRA?

185. As above, section 12 of the PRA states that a complaint may be made by any of the following:

- A member of the public who claims that the conduct took place in relation to him or her
- A member of the public who claims to have been adversely affected by the conduct, even though it did not take place in relation to him or her
- A member of the public who has witnessed the conduct
- A person acting on behalf of someone who falls within any of the three categories above.

186. Mr B states that charges were brought against him (presumably as a result of the "fabricated evidence" although this is not stated). He was therefore adversely affected by the alleged conduct, albeit that he was acquitted and therefore potentially satisfies the definition of a complainant.

Are the matters complained recordable conduct?

187. The IPCC has not seen any material relating to Mr B's arrest other than his own statement. Mr B offered to help the IPCC but has not been asked to provide further evidence since his allegation overlaps the SYP referral regarding the conspiracies to pervert the course of justice and perjury, which are analysed above.

188. There is, therefore, insufficient information at this time regarding Mr B of any conduct matter, save in so far as it potentially overlaps with the first referral made by SYP.

The scope of the matters referred, likely investigative steps and evidence available, whether any new evidence has been identified that was not available at the time of the events and whether matters have been investigated previously

189. There does not appear to have been a previous investigation of the conduct matters identified. The IPCC is not aware of any new material resulting from the review or otherwise. An investigation would require tracing and interviewing the police officers who made the arrest and provided statements.

Former Officer 1

Do the matters referred relate to a complaint?

190. Former Officer 1's email does not make an explicit complaint, although he says that his statement had cleared the pickets of the additional offences. This may however refer to his evidence that it was contrary to guidance to use mounted officers and shield units of officers with truncheons on pickets who were not offering violence, bearing in mind Officer 3's account that the purpose of the three stage movement to the bridge was to clear the area ahead of the second convoy.

Is the complaint made by a complainant as defined by the PRA?

191. Former Officer 1 cannot be a complainant because he was on duty as a police officer at the time he witnessed the events, and is thus prohibited from doing so by the PRA.³⁷

Are the matters complained recordable conduct?

192. Former Officer 1's email is insufficiently detailed but, if it is implied that mounted officers and shield units were used against pickets not offering violence, contrary to guidelines, this could amount to recordable conduct.

The scale of the matters referred, likely investigative steps and evidence available, whether any new evidence has been identified that was not available at the time of the events and whether matters have been investigated previously

193. There does not appear to have been a previous investigation of the recordable conduct matters identified. Former Officer 1's email is not of itself new material but new evidence from him may be. Insofar as it does amount to recordable conduct, it is encompassed within the first voluntary referral by SYP and would be a specific line of inquiry for any such investigation.

Other complainants

194. Given the numbers of individuals involved in the events at Orgreave and the nature of the allegations already identified, it is likely that other individuals would potentially meet the definition of complainant and would potentially be able to submit complaints about conduct matters, potentially widening the scope of any investigation. If consideration is widened out to the policing of the miners' strike as a whole, the volume of potential complaints could increase significantly.

Disciplinary Offences

195. Whilst the analysis above has focussed on potential criminal offences, the allegations also raise potential misconduct issues.

³⁷ Section 29(4) (b) PRA 2002.

196. At the time of the events at Orgreave, May and June of 1984, the Police Act 1964 was the governing legislation in relation to police discipline/behaviour. There were two sets of regulations, made under the Police Act 1964, which were in force during the period of the miners' strike. These were the Police (Discipline) Regulations (Senior Officers) 1977 (which would apply to Officer 3) and the Police (Discipline) Regulations 1977. The disciplinary offences are the same for both and included discreditable conduct, falsehood and prevarication, and abuse of authority. The criminal offences identified as potential conduct matters in the referrals to the IPCC would also, almost certainly, amount to disciplinary offences under one or a more of these headings.
197. The offences/conduct matters subject to the referrals by SYP and the application for dispensation by GMP came to forces' attention before the current version of the relevant regulations came into force, and would therefore need to be considered in accordance with the Police (Complaints and Misconduct) Regulations 2004, save if an "exceptional circumstances" direction is required and made when the 2012 Police (Complaints and Misconduct) Regulations apply. In the latter case, no actual disciplinary proceedings can be brought as a result of the previous complaint if the officer concerned had been the subject of formal disciplinary proceedings.³⁸
198. The vast majority of officers who could be subject to conduct investigation have retired as officers and are no longer serving with the police. Retired officers who are still serving with the police (for example as members of police staff) may still be investigated and subject to disciplinary proceedings. Retired officers not serving with the police can be investigated but, in respect of disciplinary offences, the IPCC's powers would be limited to the investigator making a finding, whether or not the retired officer has a case to answer for misconduct and no disciplinary proceedings could actually take place. Former police officers can still be prosecuted for criminal offences, providing any time limits for charging the offences have not expired.

Summary table of assessments

Allegation	Complaint?	Complainant?	Evidence in support of the alleged conduct matter/complaint?
First referral by SYP	Potentially	Mr E possibly but not clear	See below
(a) Pervert the Course of Justice by manipulating the evidence to substitute more serious charges and conspiracy to commit this			No

³⁸ Regulation 37(3) Police (Complaints and Misconduct) Proceedings 2012.

Allegation	Complaint?	Complainant?	Evidence in support of the alleged conduct matter/complaint?
offence			
(b) and (c) Pervert the course of justice by instructing officers to complete statements that were not true and conspiracy to pervert the course of justice by making statements with evidence which was not true			Yes
(d) Perjury by giving evidence in court that is known or believed to be false, conspiracy to commit this offence			Yes
(e) Assault			Yes
(f) Perjury by claiming to be the arresting officer when this was not true			Yes
(g) Misconduct in a public office (MIPO)			g i) No g) (ii) Where there is evidence which supports the allegations above, they may also support a charge of MIPO as an alternative.
Second referral by SYP			
Allegation that the witness statements purportedly about his arrest were from SYP officers and untrue, and that there was a conspiracy between GMP and SYP to pervert the course of justice.	Potentially	Potentially	Mr A's complaint appears to be contradicted by the evidence considered.
Mr C			
Allegations of <i>"gross violence and</i>	Potentially	Potentially	No (and no conduct

Allegation	Complaint?	Complainant?	Evidence in support of the alleged conduct matter/complaint?
<i>falsehoods perpetrated by the state.” He also states that “I was tarnished by scurrilous lies and deceit.”</i>			matter or complaint has in fact been recorded and referred)
Mr D			
Allegations of criminal conspiracy against him	Potentially	Yes	No and no conduct matter or complaint has in fact been recorded and referred.
Mr B			
Allegation that officers fabricated evidence	Yes	Potentially	No and no conduct matter or complaint has been recorded and referred. No further information requested as this allegation overlaps with 1 b) and c) above.
Former Officer 1			
	Potentially	No, ineligible	Potentially

May 2015