



INQUEST

Crime and Policing Bill – Part 13

House of Commons Committee Stage Briefing

April 2025

Introduction

1. JUSTICE is a cross-party law reform and human rights organisation working to strengthen the UK justice system. It is the UK section of the International Commission of Jurists. Our vision is of fair, accessible and efficient legal processes in which the individual's rights are protected, and which reflect the country's international reputation for upholding and promoting the rule of law.
2. INQUEST is the only charity providing expertise on state related deaths and their investigation. For four decades, INQUEST has provided expertise to bereaved people, lawyers, advice and support agencies, the media, and parliamentarians. Our specialist casework includes deaths in prison and police custody, immigration detention, mental health settings and deaths involving multi-agency failings or where wider issues of state and corporate accountability are in question such as the Hillsborough disaster or Grenfell Tower fire.

Part 13 – The Police

3. Clause 107 of the Bill would raise the threshold for referring police officers to the Crown Prosecution Service (“CPS”). **It creates an unnecessary additional barrier to criminal prosecutions, in a context where the prosecution of police officers is already uncommon and faith in accountability mechanisms is low.**
4. Currently, the Independent Office for Police Conduct (“IOPC”) or appropriate authority (either the chief officer of police or local policing body for the force concerned) must notify the CPS if an investigation into an officer indicates that a criminal offence may have been committed, and it considers it appropriate for the matter to be referred.¹
5. Clause 107 would amend this so that a matter must only be referred if the investigation report indicates that there is sufficient evidence to provide a “*realistic prospect of conviction for a criminal offence*”. Clause 107 also specifies that the circumstances in which it will not be appropriate to notify the CPS include where the IOPC or appropriate authority determine that “*it is not in the public interest*” to do so. The changes in Clause 107 would apply both to

¹ Police Reform Act 2002, Schedule 3.

investigations conducted by the IOPC² and to police forces making decisions on cases which are not independently investigated by the IOPC.³

6. JUSTICE and INQUEST are concerned that Clause 107 will significantly limit the ability of the IOPC and appropriate authorities to refer cases for criminal prosecution. This has the potential to further undermine police accountability and exacerbate mistrust amongst communities most affected by police violence.
7. Clause 107 creates an additional barrier to police prosecution, by making the test for referral to the CPS mirror the threshold that must be met for the CPS to charge an individual with an offence. Clause 107 would, therefore, mean that for a prosecution to be pursued in a case involving a police officer two assessments would have to be made of whether there is a realistic prospect of conviction and whether this would be in the public interest – one by the IOPC or appropriate authority, and one by the CPS once the case had been referred.
8. Requiring the IOPC or appropriate authority to make these determinations in addition to and before the CPS, is both unnecessary and liable to filter out cases that would otherwise have met the threshold as applied by the CPS. Particularly as the CPS are better placed to determine whether there is sufficient evidence for a realistic prospect of conviction, given that they are concerned with the prosecution of crime, rather than investigating misconduct; determining whether there is sufficient evidence for a realistic prospect of conviction is not the focus of the IOPC / appropriate authority investigations.
9. Moreover, we are concerned about the application of the “public interest” element of the test, in particular where the investigation is conducted by police forces (rather than independently by the IOPC). Police forces are not well placed to determine whether referring a case involving one of their own officers would be in the public interest. Clause 107 would create the perception of police forces marking their own homework.
10. JUSTICE and INQUEST consider that the ability to effectively hold police officers to account is fundamentally important, particularly for communities disproportionately subject to police use of force. Prosecutions against the police are already incredibly rare. For example, in the last 10 years there have been three prosecutions for murder or manslaughter following a death in custody or following police contact, involving five police officers.⁴ This is compared with 128 police deaths involving use of force between 2012-2022. In this time frame, 20 percent of those killed were from Black backgrounds.⁵
11. Perceived lack of police accountability has a significant impact on public confidence, especially amongst racialised communities. Research by the Economic and Social Research Council in

² Clause 107 (1).

³ Clause 107 (2).

⁴ Srgt Martyn Blake acquitted of murder of Chris Kaba (2024); Benjamin Monk sentenced to eight years for manslaughter of Dalian Atkinson (2021); Srgt Jan Kingshot, Simon Tansley and Michael Marsden acquitted of manslaughter of Thomas Orchard.

⁵ JUSTICE and INQUEST, [‘Achieving racial justice at inquests: a practitioner's guide’](#) (February 2024), p75

2023 found that just 41% of people in England reported trusting the police, for non-White British respondents this was even lower at 32.1%. Individuals who have had force used against them tend to have more negative views of the police and have been shown to lack confidence in the complaints system.

12. The Government's Equality Impact Assessment for this part of the Bill recognises the potentially damaging impact this provision will have on the Black community's confidence in policing and ability to hold the police to account. The Assessment accepts that this constitutes indirect discrimination. This alongside the absence of evidence indicating a widespread problem of the CPS receiving inappropriate referrals, shows that Clause 107 is not a proportionate measure.
13. While Clause 108 - which would place the IOPC's Victims Right to Review policy which allows victims to request the IOPC to review their initial decision not to refer a case to the CPS on a statutory footing - is welcome. However, we are concerned that the real-term impact of this reform will be counteracted by the barriers to justice introduced through clause 107. Further, while we recognise the need to reduce delays in the police investigation process, which is an aim of the provisions in Part 13, this objective needs to be carefully balanced alongside the right to proper scrutiny and accountability of policing. These provisions risk shifting that balance.
14. At a minimum, there should be a duty to evaluate and report on the impact of clause 107, not least given the Government's own admission of the potentially negative impact it may have on racialised communities. This should include further assessment of the types of cases which are deemed "not in the public interest" as per the provision. Additional scrutiny will be particularly necessary for police forces using this provision to ensure they are not misusing it.

Anonymity

15. INQUEST and JUSTICE are concerned over the Government's plans to introduce a presumption of anonymity for firearms officers who are charged with offences relating to their duties up to the point of conviction.
16. First, the introduction of such a presumption would significantly undermine public confidence in policing. It would mean police officers are provided with an additional protection, over and above those afforded to members of the public who are accused of committing crimes. There is an obvious risk of such a measure creating a perception, and justifiably so, that there is "one rule for them, and another for us."
17. Second, introducing a presumption of anonymity for police officers runs counter to principles of open justice – something that is especially important in cases involving agents of the state. Such a measure would limit the ability of the media and the public to scrutinise these cases, contributing to perceptions that accountability mechanisms for alleged wrongdoing by the police lack transparency. Moreover, securing anonymity often requires more than just the

defendants name to be kept anonymous. For instance, in the case of police officers, it might require the police force they are part of or their role within it to be kept from the public. There is a clear public interest in these details being subject to scrutiny, so that concerning trends may be identified.

18. Moreover, there is no justification for the introduction of such a measure. There is no evidence that police officers are more likely to be subject to harm or retribution because of being named as a defendant in a criminal case, as compared with defendants in other high profile or controversial cases. Moreover, criminal courts already have discretion to grant defendants anonymity where necessary. This case-by-case approach allows the courts to respond to specific risks posed to individuals defendants and represents a more proportionate way of safeguarding defendants – including police officers – without unduly undermining public confidence, or open justice.

19. Finally, we have concerns that a presumption of anonymity such as that proposed by the Government could be expanded to other jurisdictions. INQUEST have seen the damaging impact that anonymity for public officials has had on inquests looking to scrutinise state failings and provide accountability for bereaved families. In the case of *R (on the Application of Dyer) v HM Assistant Coroner for West Yorkshire (Western) Area CO/3140/2019*, INQUEST gave a witness statement to the High Court highlighting the important role open and transparent investigations play in allowing public confidence in the process.⁶ We are also concerned that a presumption of anonymity could lead to increased use of other measures designed to secure anonymity, such as enabling officers to give evidence behind a screen. Preventing families from seeing key witnesses giving evidence during proceedings denies them the opportunity of seeing those involved in a death explaining their actions, and being held to account, further undermining trust in investigations.

⁶ INQUEST, High court quash coroner's ruling and allows family of Andrew Hall to see inquest evidence of police officers, <https://www.inquest.org.uk/high-court-quash-coroners-anonymityruling-and-allows-family-of-andrew-hall-to-see-inquest-evidence-of-police-officers>, November 2019