

Investigation Report

**Independent Investigation into
complaints made against
Chief Constable Terry Grange
of Dyfed-Powys Police
by Mr William Powell**

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1. INTRODUCTION

1.1 This report concerns an independent investigation conducted by the Independent Police Complaints Commission (IPCC) into complaints made against Chief Constable Terry Grange of Dyfed-Powys Police by Mr William Cassie Powell.

1.2 Mr Powell submitted a number of complaints against Chief Constable Grange for failing to take appropriate action in regards to the investigation of the circumstances surrounding his son Robert Powell's death.

1.3 The events following his son's death in 1990 are complex and numerous. In order to place these matters into some context it will be necessary for a chronology to be detailed in relation to the various investigations, both criminal and misconduct, that have been undertaken over the years.

2. HOW REFERRED

2.1 Dyfed-Powys Police Authority referred Mr Powell's complaints to the IPCC on 3 July 2007.

2.2 IPCC Commissioner for Wales Tom Davies decided that the complaints raised by Mr Powell would be independently investigated in the form of a review by the IPCC.

2.3 As a result of reviewing the extensive material in the possession of the IPCC relating to this case, the Commissioner agreed that more active investigation was required to fully look at the various complaints.

3. METHODOLOGY

3.1 The Terms of Reference were set out as follows:-

1. To undertake an independent investigation of Chief Constable Grange's actions and decisions in respect of the potential

misconduct of Detective Chief Superintendent A and Superintendent B arising from their involvement in the investigation into the circumstances around the death of Robert Powell.

2. The investigation will take the form of a review to include a full assessment of all relevant recorded evidence and documentation in the possession of the IPCC. It will also include a review of relevant Dyfed-Powys policies and procedures in existence at the time.
3. The investigation will focus on the specific seven complaints made by Mr Powell.
4. Where necessary attempts will be made to obtain statements from relevant witnesses.
5. The purpose of the investigation will be to consider and report whether:

A criminal offence has been committed by any officer or member of police staff whose conduct is investigated.

Disciplinary proceedings should be brought against any officer or member of police staff whose conduct is investigated.

Any investigated complaint is supported by the evidence.

There is any learning for the police service (see paragraph 5)

4. In order to identify learning and good practice for the police service the investigating officer (IO) must examine whether any change in policy, practice, operational method, training, management

arrangement, technical service, equipment or facilities (collectively referred to as “police service organisation”) or any other action or initiative would help to prevent a recurrence of the event, incident or conduct investigated/reviewed. Annex A sets out the actions the IO should take for this purpose.

5. The investigation will be undertaken in a timely manner, having due regard to the broader impact on all parties, but will be thorough and effective. The IO will keep the Commissioner and colleagues informed of any issues or conflicts, particularly with any parallel investigations or proceedings and provide assessments of the impacts of such issues, especially on timescales.
6. The IO should prepare a written report on the findings of the Investigation for the attention of the Commissioner. It will be a matter for the IO, at the direction of the Commissioner, to forward the report for the attention of the Crown Prosecution Service, should any criminal issues be identified and to make any recommendations regarding discipline outcomes to the Police Authority.
7. The Commissioner responsible for this case will be Tom Davies, and IPCC Investigator Sarah Patten will carry out the investigation on the behalf of the Commissioner. The direction and control of the investigation is for the IPCC, through Sarah Patten. An appropriate risk assessment will be undertaken and provided to the IO, by a suitably knowledgeable and qualified local officer, and should particularly highlight any community or media concerns that are relevant to the case.
8. All interested parties will be kept fully informed as they require during the process, including any officers who are identified as part of the investigation, subject to necessary disclosure limitations. The IO will document the agreements on this matter ensure they are met. Regulation 9 notices will be served as appropriate, but only where evidence suggests a criminal or misconduct matter may have

occurred.

9. All publicity will be cleared with the Commissioner, through the Regional Communications Officer (RCO), and the relevant parties to the investigation. The Commissioner is to be kept fully and immediately informed of local media/community interest in the case.

4. COMPLAINANT/ DETAILS OF COMPLAINT

4.1 The following person made a statement of complaint to Dyfed-Powys Police Authority and will be treated as the complainant for the purposes of this report:

Mr William Cassie Powell.

4.2 The following seven complaints were referred to the IPCC by Dyfed-Powys Police Authority on 3 July 2007.

1. Because DCS A and Superintendent B were permitted by Mr Grange to retire, after disciplinary notices had already been served, disciplinary proceedings could not be taken and Mr Grange knew it. I believe this was a calculated decision by Mr Grange to cover up these senior officers' gross failures and criminal behaviour.
2. During the time Mr Clough was on sick leave, Mr A was promoted by Mr Grange to assistant chief constable.
3. Notwithstanding Mr Clough's concerns about Mr A, Mr Grange permitted him to continue with the second police investigation into the death causing further damage to any future prospect of a prosecution.
4. Mr A continued to cause damage to the case even after DCI Poole expressed his concerns to Mr Grange.
5. During this time and with the knowledge that DCS A could retire at any time no effort was made by Mr Grange to secure a report from DCS A regarding his involvement in the case, notwithstanding he was a serving

police officer. Mr Grange was the only person who had the authority to do so.

6. The same applied in regards to requesting a report from Superintendent B.

7. Mr Grange permitted both of them to retire without securing a statement regarding their involvement in Robbie's inadequate and corrupt police investigations.

5. CRIMINAL ALLEGATIONS

5.1 No criminal allegations are being considered in relation to this investigation.

6. MISCONDUCT ALLEGATIONS

6.1 Initial review of Mr Powell's complaints and the documentation already in the possession of the IPCC did not provide sufficient evidence of potential misconduct to require any Regulation 9 Notices being served. This decision was reviewed throughout the evidence-gathering stage. After careful consideration of the facts there did not appear to be any evidence of criminal liability or any breach of the Police Misconduct Regulations. A decision was then made to write to Chief Constable Grange and request he supplied the IPCC a report setting out the full circumstances of his actions and decisions in respect of Mr Powell's complaints. He provided a written response on 6 November 2007.

7. PEOPLE INVOLVED

7.1 I have outlined below the key police officers mentioned in this report. Many of these have held more than one role or have retired since the time period under consideration. For consistency when outlining events I have referred to each by their title at the relevant time. When summarising evidence in their statement, I have referred to their current title.

7.2 Chief Constable Terence Grange (CC) of Dyfed-Powys Police from March 2000 to current time of writing.

Deputy Chief Constable Peter Clough (DCC) in Dyfed-Powys Police. Retired on 17 August 2004. Also referred to as Mr Clough.

Assistant Chief Constable Barry Taylor (ACC) in Dyfed-Powys Police from November 1999 to September 2004, when he was promoted to DCC. Retired on 30 September 2007. Also referred to as Mr Taylor.

Detective Chief Superintendent A (D/C/Supt) - Head of CID in Dyfed-Powys Police. Retired on 30 November 2000. Also referred to as Mr A.

Superintendent B (Supt) – CID in Dyfed-Powys Police. Retired on 17 March 2001. Also referred to as Mr B.

Detective Chief Inspector Poole (DCI) in West Midlands Police until July 2002. Now retired. Also referred to as Mr Poole.

8. BACKGROUND

8.1 In December 1989, Robert Darren Powell, aged 10 years, was admitted to Morryston Hospital, Swansea for four days. He was discharged to the care of his parents (the complainant William Cassie Powell and his wife Diane Powell) and seen as an outpatient in January 1990. In April 1990, Robert became ill again. He was subsequently seen by five general practitioners from a local group practice over a period of 15 days. On 17 April 1990 he was admitted to Morryston Hospital where, at 9.45pm, he died.

8.2 Following a post-mortem examination it was established that Robert Powell had died of Addison's disease, a treatable adrenal deficiency. The complainant and his wife complained to the Area Health Authority that the doctors were negligent in their provision of care. The complainant later alleged that new material had been added to medical files, that documents

were missing and records had been forged. The complainant referred the matter to the Director of Public Prosecutions, who directed that the case be referred to the police.

8.3 The Dyfed-Powys Police Criminal Investigation 1994-1996 and 1999-2000

8.4 In February 1994, the solicitor acting for the Powells made a formal complaint to Dyfed-Powys Police in relation to falsification of medical records and conspiring to pervert the course of justice. The issue of manslaughter by gross negligence was not raised at this stage.

8.5 Detective Superintendent (D/Supt) B was initially appointed as Senior Investigating Officer. The investigation concluded in May 1996 with advice from the Crown Prosecution Service (CPS) that a prosecution should not be brought against any party. Detective Chief Superintendent (D/C/Supt) A had assumed responsibility for the enquiry some weeks before this.

8.6 Between 1996 and 1998 Mr Powell raised a number of concerns with Dyfed-Powys Police.

8.7 In response to pressure from the complainant, D/C/Supt A agreed to a review of the investigation in January 1999 and further enquiries were initiated. In April 2000 the complainant met with Deputy Chief Constable Peter Clough and David Irving, Clerk to Dyfed-Powys Police Authority, and made a number of complaints about the handling of the case. As a consequence of these complaints the Dyfed-Powys Police suspended their inquiries and in September 2000 Detective Chief Inspector (DCI) Poole of West Midlands Police commenced an external review. The review concluded in November 2000.

8.8 The review by DCI Poole led to a criminal investigation (Operation RADIANCE), which resulted in an advice file being submitted to the Crown Prosecution Service (CPS) with suggested charges against some of the GPs involved in the care of Robert Powell. In April 2003, the CPS again advised against a prosecution of any party and so no prosecutions

followed.

8.9 The Disciplinary Investigation

8.10 Dyfed-Powys Police referred the case to the Police Complaints Authority (PCA) on 30 October 2000. On 3 November 2000 the Authority decided to supervise the investigation and Assistant Chief Constable Martin Richards of Avon and Somerset Constabulary was appointed senior investigating officer. The investigation was known as Operation REBOANT. The agreed approach for this investigation was to measure the gap between the original investigations and those conducted under Operation RADIANCE.

8.11 Findings

8.12 The disciplinary investigation conducted by Avon and Somerset Constabulary concluded that Dyfed-Powys Police had been guilty of institutional incompetence but found the complainant's further allegations of institutional misconduct and institutional non-feasance unfounded.

8.13 Key points highlighted were as follows:

- The criminal investigations conducted by Dyfed-Powys were badly managed by senior detectives within Dyfed-Powys Police
- The complainant did not receive an adequate quality of service from Dyfed-Powys Police
- There was an apparent failure by the organisation to grasp the investigation
- It was insensitive to the issues surrounding the death of Robert Powell and failed to recognise the complainant's determination to obtain satisfactory replies to his questions
- There had been an organisational failure to address concerns articulated by William Cassie Powell with respect to the aforesaid investigation and the manner in which individuals within the organisation have dealt with him.

8.14 Operation REBOANT was completed before the IPCC was established.

8.15 Inquest

8.16 An inquest into the death of Robert Powell was opened by HM Coroner Michael Howells on the 26 January 2004 and concluded on the 30 April 2004, with the Jury returning a verdict of 'natural causes aggravated by neglect.'

8.17 IPCC involvement

8.18 On 25 June 2004, Tom Davies, the Commissioner responsible for Police Forces in Wales, the regional director and the casework manager responsible for this case visited Mr Powell. At this meeting Mr Powell explained the circumstances surrounding the death of his son and subsequent events. He expressed his strong desire to have the final report from Operation REBOANT disclosed to him. The force disclosed a redacted version of this report in February 2006.

8.19 Mr Powell also provided the IPCC with a letter on 25 June 2004 outlining further complaints he wished to make against officers from Avon and Somerset Constabulary regarding the way they conducted their review of the Dyfed-Powys investigation. It was thought that some or all of these complaints might be addressed by the disclosure of the investigation report, but given this was not certain, the IPCC should have referred Mr Powell's letter to the Appropriate Authorities. However, due to an administrative error and the uncertainty regarding the status of Mr Powell's various complaints the IPCC did not forward these complaints on until January 2006. The IPCC has acknowledged and apologised in writing to Mr Powell for this error.

8.20 The IPCC has dealt with various appeals and complaints from Mr Powell over the last four years. A review of the IPCC documentation suggests that the current status of Mr Powell's complaints is that the only outstanding matters are the seven complaints referred to the IPCC by

Dyfed-Powys Police Authority (DPPA) and a refused discontinuance that the DPPA have yet to complete. All other complaints have either been finalised through dispensations or referred back to force.

9. COMPLAINT ONE- SUMMARY OF EVIDENCE

9.1 Because DCS A and Superintendent B were permitted by Mr Grange to retire, after disciplinary notices had already been served, disciplinary proceedings could not be taken and Mr Grange knew it. I believe this was a calculated decision by Mr Grange to cover up these Senior Officer's gross failures and criminal behaviour.

9.2 To decide on whether this complaint could be substantiated there are a number of areas that require consideration. Firstly, was it up to Chief Constable Grange to make a decision about allowing the retirement of D/C/Supt A and D/Supt B? Secondly, if the decision was his responsibility, was allowing the two officers to retire a reasonable and acceptable course of action with the information known at the time? Thirdly, is there any evidence that this was a calculated decision to cover up senior officer's gross failures and criminal behaviour?

9.3 The Regulation 9 Notices were served to D/C/Supt A and D/Supt B on 3 October 2000. The notices were in respect of conduct only.

9.4 Detective Chief Superintendent A retired after 34 years service on 30 November 2000.

9.5 Detective Superintendent B retired after 32 years service on 17 March 2001.

9.6 Chief constables always delegate the role of Appropriate Authority to a fellow chief officer [the Appropriate Authority is the person or body responsible for complaints in respect of police officers/staff]. In Dyfed-Powys Police this is currently the deputy chief constable. This is because the chief constable has a role to play in any subsequent application for a chief constable's review following a misconduct interview and therefore, until that juncture, should be effectively divorced from the process. Indeed, the current Dyfed-Powys Police suspension form asks for the name of the

'ACPO officer authorising' rather than specifically the chief constable.

9.7 The process for notifying an intention to retire is that an application is submitted on a pro-forma obtained via Human Resources and is submitted for chief officer authorisation.

9.8 I have obtained copies of the respective 'Notice of Termination of Service' forms for D/C/Supt A and D/Supt B. The form for D/C/Supt A was signed by Deputy Chief Constable Clough. The form for D/Supt B was signed by Chief Constable Grange.

9.9 The one for D/C/Supt A was signed on 12 September 2000 with retirement accepted with effect from midnight on 30 November 2000. It is worth noting that D/C/Supt A submitted his form prior to receiving a Regulation 9 Notice.

9.10 The form for D/Supt B was signed on 14 February 2001 with retirement accepted with effect from midnight on 17 March 2001.

9.11 A statement has been obtained from Mr Peter Clough (formerly deputy chief constable) in relation to this complaint. According to his recollection he was not involved with the decision-making in respect of allowing the retirement of D/C/Supt A or D/Supt B. However, as aforementioned the form for D/C/Supt A indicates that he signed it.

9.12 Mr Clough comments that the Discipline Authority (at the time ACC Taylor) should have recommended to Chief Constable Grange whether D/C/Supt A should be allowed to retire. Mr Clough is not aware of whether CC Grange and ACC Taylor discussed the matter of retirement. He states that usually when a senior officer intends to retire a chief officer meeting will be convened to discuss all considerations, such as who is going to replace them and the knock-on effect on promotions. He cannot remember any chief officer meeting in respect of D/C/Supt A. He does recall having conversations with CC Grange and expressing his opinion that D/C/Supt A and Superintendent B should not be allowed to retire but should be made to face the issues coming out of the review. He states that Chief Constable

Grange did not react to his views and so he did not know his plan of action. He comments that he has a recollection of the chief constable making reference or giving the impression that he felt it was simpler to just let both officers go.

9.13 In relation to decision-making about the retirement of D/Supt B, ACC Taylor wrote to the Police Complaints Authority on 8 March 2001 noting that in respect of D/Supt B the chief constable had accepted his retirement notice.

9.14 It has been considered whether officers can be prevented from retiring when they are facing misconduct allegations and specifically what the position was in 2000/01. Under the Police (Conduct) Regulations 1999, there is a power to suspend an officer in Regulation 5. There is Home Office guidance on the issue of when someone should be suspended. The guidance which applied at this time was the 1999 version, which differs considerably from the 2007 guidance, which is the current guidance on the issue.

9.15 The 2007 guidance, at paragraph 3.22, states:

In serious cases, it might be decided that the officer concerned should be removed from his or her normal duties or be suspended at the start of or during the course of the formal investigation or pending the outcome of criminal or misconduct proceedings. Consideration should first be given to a temporary transfer to other duties rather than suspension, which should not be used as a matter of routine. The decision to suspend should be taken only where one of the "suspensions conditions" is satisfied, namely that the presence of the officer on duty might be detrimental to or hinder an investigation or proceedings (criminal or disciplinary), or that it is in the public interest to do so. That will normally apply only to cases where the complaint or allegation is of a serious nature, likely to result in criminal conviction or disciplinary conviction, which would be likely to lead to dismissal from the service, requirement to resign or reduction in rank. In such serious cases, or in cases where the completion of disciplinary proceedings is necessary for the maintenance of public confidence, the

public interest may require that an officer should be required to face disciplinary proceedings, notwithstanding that the officer may wish to retire from the service. Retirement should not be a means of avoiding disciplinary action in such cases. However, where the decision to suspend an officer in such circumstances is based on the necessity to maintain public confidence, the officer should be advised in writing of the specific factor(s) relevant to this decision.

9.16 To summarise the above, it is arguable that it would be wrong to allow an officer to resign/retire when facing very serious allegations.

9.17 However, in relation to the relevant time period of the case at hand the relevant paragraph, again 3.18 of the 1999 Guidance, states:

In serious cases, it might be decided that the officer concerned should be removed from his or her normal duties or be suspended during the course of the formal investigation or pending the outcome of misconduct proceedings. Such a course of action should be taken only where it was necessary and in the public interest to do so. In all cases, unless it was impossible or positively undesirable to do so, consideration should first be given to a temporary transfer to other duties rather than suspension. Where an officer is suspended this will be with pay, except where the officer is in custody following conviction, or is absent and his or her whereabouts are unknown, when the suspension will normally be without pay. Neither removal from normal duties nor suspension implies any decision about the misconduct case.

9.18 It is relevant that there is absolutely no mention of retirement or resignation whatsoever within the 1999 guidance. Furthermore, it appears that there are no provisions in law to stop an officer resigning.

9.19 DCC Taylor (formerly Assistant Chief Constable Taylor) has provided a statement in which he recalls discussing the issue of suspension with Superintendent Clive Howells, Head of the Professional Standards Department. DCC Taylor states that at the time his view was that the allegations did not warrant suspension. He describes that the allegations

were of neglect in not adequately supervising the investigation of allegations of forgery. He did not consider they had been dishonest or had committed a criminal offence, although they had certainly been neglectful. He states that neither DCC Clough nor CC Grange were involved in the decision-making in respect of possible suspension. He outlines that this was because DCC Clough would have sat on any misconduct hearing and the chief constable was the point of appeal.

9.20 DCC Taylor describes that a short time after the issuing of Regulation 9 Notices, both officers at various points gave in intention to retire forms. He recalls Chief Constable Grange asking him if the officers could be stopped from retiring. DCC Taylor told him that as they were not suspended they could not be stopped from retiring. DCC Taylor states that Chief Constable Grange did not give his opinion as to whether he felt they should be stopped, rather he was clarifying the position.

9.21 Chief Constable Grange's written response of 6 November 2007 differs to the recollections of DCC Clough and ACC Taylor. CC Grange describes that a meeting was held on 2 October 2000 whereby Deputy Chief Constable Clough and Assistant Chief Constable Taylor considered whether the two officers should be suspended and whether it was appropriate for the Force to rescind the retirement notice of D/C/Supt A. He explains that this followed concerns raised by Inspector Thomas from the Professional Standards Department (PSD) on 29 September 2000 regarding his interpretation of apparent failings in the criminal investigations. He describes that a decision was made on 2 October 2000 to serve the officers with Regulation 9 Notices. He notes that a decision was taken that neither officer should be suspended from duty and the retirement should not be rescinded. He further notes that it was agreed that this decision would be re-visited following a preliminary investigation by the Investigating Officer but that the rationale for the decision was not documented. He states that it appears DCC Clough sought guidance from the then Force solicitor at the meeting of the 2 October 2000 regarding suspension, but that no historical papers are held which document the Force Solicitors advice or rationale.

9.22 Following receipt of CC Grange's written account I asked for clarity as to whether he was present at the meeting of 2 October 2000. He confirmed that he did not attend. The minutes reflect that the following persons were present: DCC Clough, ACC Taylor, Supt Howells, Inspector Thomas and the Force Legal Advisor.

9.23 In relation to D/Supt B it needs to be noted that DCI Poole's review report was available from 30 November 2000 and that D/Supt B did not submit his intention to retire form until 14 February 2001. Dyfed-Powys Police referred the case to the Police Complaints Authority (PCA) on 30 October 2000. On 2 November 2000 the PCA decided to supervise the investigation and appointed ACC Martin Richards from Avon and Somerset Constabulary as Senior Investigating Officer (SIO). At this juncture the decision-making in respect of D/Supt B was arguably down to ACC Richards and ACC Taylor.

9.24 It appears that Dyfed-Powys Police appointed Avon and Somerset Constabulary to conduct a disciplinary investigation prior to referral to the PCA. Indeed, Chief Constable Grange states that this decision was made on 2 October 2000. Reference to consideration being given to suspension is contained within a summary note of a meeting on 18 October 2000 attended by ACC Richards (Avon and Somerset Constabulary) and ACC Barry Taylor (Dyfed-Powys Police). It reads: "Further consideration was given to possible suspension of the two officers currently in receipt of Regulation 9 Notices. However, Avon and Somerset officers expressed concern that any suspension may impede the criminal and/or the disciplinary investigation."

9.25 It is not clear who else attended this meeting or which Avon and Somerset officers raised concerns. It indicates that ACC Taylor, as holder of the discipline portfolio, had knowledge of the investigation and had the opportunity to influence the decision in relation to suspension.

10. COMPLAINT ONE- CONCLUSIONS AND RECOMMENDATIONS

10.1 It is clear that even applying what is said in the 2007 guidance to the

misconduct that was being investigated in this case, it is unlikely that anything could have been done to stop the officers retiring as they were not subject to suspension at the time they announced their intentions to retire.

10.2 Review of the final report produced from Operation REBOANT highlights that the investigation conducted by Dyfed-Powys Police was inadequate. However, in respect of D/C/Supt A, in October 2000 decision-makers did not possess all the information concerning the alleged failures that were to be outlined later in the final report.

10.3 It is difficult to identify exactly what information was available to decision-makers in October 2000. Mr Poole states that he did not outline his main concerns to the ACC and DCC in Dyfed-Powys Police until 12 October 2000 and D/C/Supt A submitted his intention to retire on 12 September 2000. There is limited evidence of consideration being given to the suspension of D/Supt B.

10.4 Certainly, consideration of matters such as suspension should have been recorded and rationale explained.

10.5 I conclude that as a result of the officers not being suspended that nothing could have been done to prevent the officers retiring. The evidence suggests that the decision regarding the suspension of D/C/Supt A was that of ACC Barry Taylor rather than CC Grange. It is in line with expectations of misconduct procedure that the chief officer with the discipline portfolio would be in charge of such decisions

10.6 No misconduct can be identified from the decision to allow D/Supt B and D/C/Supt A to retire. There is no evidence that the retirement of the two officers was “a calculated decision by Mr Grange to cover up these senior officer’s gross failures and criminal behaviour.” This complaint is therefore unsubstantiated.

10.8 Recommendation- The importance of recording decisions and rationale concerning the suspension (or not) of police officers/ staff is highlighted to all relevant individuals.

11. COMPLAINT TWO- SUMMARY OF EVIDENCE

11.1 During the time Mr Clough was on sick leave, Mr A was promoted by Mr Grange to Assistant Chief Constable.

11.2 This statement contains no specific allegation of misconduct; rather it implies that Mr Powell considers the promotion of D/C/Supt A to be inappropriate.

11.3 On 3 July 2000 D/C/Supt A commenced a period of Acting Assistant Chief Constable duties until 31 August 2000. The sequence of events leading up to this temporary promotion is that DCC Clough was absent through ill health from 27 May 2000 and ACC Barry Taylor was asked to perform the role of acting deputy chief constable. The chief constable then asked D/C/Supt A to act up as ACC to cover the gap left by Barry Taylor. DCC Clough was absent until 3 August 2000.

11.4 The Police Authority is responsible for the appointment of ACPO officers, which must also be ratified by the Home Office, as outlined in section 12 of the Police Act 1996:

“Appointments and promotions to the rank of assistant chief constable shall be made, in accordance with regulations under section 50, by the police authority after consultation with the chief constable and subject to the approval of the Secretary of State.”

11.5 Mrs Jean Wilding, acting chief executive of Dyfed Powys Police Authority (DPPA) has provided a note outlining the process for the appointment of ACPO staff. She explains that when the chief constable, deputy chief constable or assistant chief constable resigns, the appointment process is undertaken by the Police Authority. Where a need arises for an acting appointment to be made again appropriate arrangements are made by the Authority. Mrs Wilding outlined that recently DPPA have given consideration to the acting arrangements necessary between the date of the current DCC's retirement on 30 September 2007 and the date on which a new DCC, scheduled to be appointed in early

November, is able to take up duty. The PA decided to nominate the ACC as Acting DCC (for approval by Home Secretary) and asked that chief superintendents be given an opportunity to express an interest in the acting ACC role. On receipt of the CVs of those interested candidates the chair and vice-chair considered the CVs and, in accordance with a delegated authority, advised Mrs Wilding of the name they wished to go forward for consideration by the Home Office and HMIC.

11.6 Mrs Wilding also outlines that in circumstances where because of illness a relatively quick decision needs to be made then the decision is made by the Chair or the Emergency Committee and reported to the Authority. Mrs Wilding has provided minutes of meetings of DPPA where these have been the processes that have been followed.

11.7 The minutes of 18 September 2000 include the Clerk's report where reference is made to the appointment of D/C/Supt A as acting ACC. The minute reads:

Members will recall that at the last meeting of the Authority they were informed that ACC Peter Clough was unwell. Following that meeting the Chief Constable considered that it would be necessary to provide cover for the post and the Chairman agreed to his suggestion that DCS A be appointed to act as ACC during Mr Clough's absence. The Home Secretary's approval was obtained and I would be grateful if the Authority would formally approve the Chairman's action.

During Mr Clough's absence the Chief Constable has designated ACC Barry Taylor to act as Deputy Chief Constable.

It was RESOLVED to approve the chairman's actions.

11.8 In the Clerk's report in the minutes of the Emergency Committee meeting on 30 December 2003 it states:

The Financial Adviser presented the Clerk's report outlining arrangements within the Chief Officer group to cover for Deputy Chief Constable P

Clough who was currently on sick leave with the likelihood that he would be absent for some time.

The Assistant Chief Constable explained the situation in detail to Members and in order to comply with legislation and other regulatory issues, the following arrangements were proposed by the Chief Constable:

Commencing 2 January 2004 until further notice, Chief Superintendent A Edwards would be appointed Acting/Assistant Chief Constable and Mr B Taylor would be appointed Acting/Deputy Chief Constable.

RESOLVED- That the arrangements be approved, subject to approval being received from the Home Office.

11.9 These minutes highlight that while the chief constable may put forward recommendations for suitable officers to act up, that it is ultimately the responsibility of the Police Authority to accept any proposals and forward one nominated candidate to the Home Secretary for approval.

11.10 I asked Dyfed-Powys Police to provide a copy of their promotion policy for the period 2000/2001 and was provided with a copy entitled, "The Assessment and Promotion of Police Officers." This policy makes no reference to the promotion of ACPO staff. Point 12 covers "effect of convictions following breaches of the code of conduct" and states: "Any person found guilty of breaching the code of conduct, other than those which result in the issuing of a written warning, will not normally be considered for promotion for a period of three years following conviction."

11.11 It also needs to be noted that the promotion of D/C/Supt A was a temporary promotion and could have been withdrawn at any point.

11.12 Mr Clough has expressed personal comments on matters dealt with during his absence. He states that whilst he was absent through ill health he heard that Chief Constable Grange had appointed D/C/Supt A Acting Assistant Chief Constable. He was very surprised and unhappy with this decision and has no idea why CC Grange chose to appoint D/C/Supt A. He

believes there were other chief superintendents available to be considered, such as the chief superintendent of personnel and the chief superintendent of operations. He highlights that as Acting ACC, in principle D/C/Supt A would have taken over the discipline portfolio. He points out that as he was off work he cannot recall which portfolio D/C/Supt A held during his acting period. DCC Clough comments that with either portfolio D/C/Supt A would have been in a position to influence the review. He adds that notwithstanding the possible issues concerning the investigation of this case, he also already had “significant concerns in general about D/C/Supt A’s management style and conduct as head of department. Indeed, soon after joining Dyfed-Powys Police one of my key messages to Chief Constable White was that there were significant concerns about the running of CID. Indeed, around 1998/99 Her Majesty’s Inspector, Mr Colin Smith, during an inspection of the force, put to D/C/Supt A the serious concerns expressed to him by officers about the ‘club’ status of CID, and used the expression ‘the Taffia.’” DCC Clough states that whilst D/C/Supt A denied this he considers that it is indicative that he was not the only person to voice serious concerns about the state of CID. He states that CC Grange was well aware of his concerns. He considered that CC Grange “played them down and informed me on more than one occasion that that he blamed me for having a poor working relationship with CID, and any problems with the department were the result of that.”

11.13 Chief Constable Grange explains that in deciding who to appoint Acting ACC he considered his options and as no officers within Force at that time had completed the relevant training he looked to the most senior chief superintendent to perform the role.

12. COMPLAINT TWO- CONCLUSIONS AND RECOMMENDATIONS

12.1 D/C/Supt A was not served a Regulation 9 Notice until 3 October 2000, which post dates his acting-up duties. Even if a Regulation 9 Notice was served earlier any disqualification from promotion is confined to actual findings of guilt at a misconduct panel and not in respect of ongoing investigations. It is entirely understandable that Mr Powell feels frustration and distress over the promotion of an officer whom he considers to have made gross failures in conducting an investigation into the circumstances

surrounding his son's death. However, it must be appreciated that it would be wholly unfair to disqualify from promotion someone who has not been proven to have breached the relevant code of conduct. Furthermore, in this case the promotion was temporary and could have been revoked when necessitated.

12.2 There is no evidence of misconduct in the decision-making process of promoting D/C/Supt A to acting assistant chief constable. This complaint is not substantiated.

13. COMPLAINT THREE- SUMMARY OF EVIDENCE

13.1 Notwithstanding Mr Clough's concerns about Mr A, Mr Grange permitted him to continue with the second police investigation into the death causing further damage to any future prospect of a prosecution.

13.2 There are two key elements to this complaint. Firstly, it needs to be established whether DCC Clough did highlight concerns about D/C/Supt A to Chief Constable Grange. Secondly, if concerns were raised consideration needs to be given as to whether Chief Constable Grange took appropriate action in response to the information.

13.3 The final report for Operation REBOANT concludes that: "It was not appropriate for D/C/Supt A to undertake a review having taken responsibility for the initial investigation in April 1996." However, at the time ACC Turner placed responsibility for enquiries with D/C/Supt A. ACC Turner states he told D/C/Supt A that, "if what Mr Powell had to say warranted it you will open, re-open, the investigation rather than review it." The final report concludes that whilst the decision to appoint D/C/Supt A was incorrect there was no evidence that ACC Turner lacked conscientiousness and diligence when arriving at this decision. The implication for Mr Powell's specific complaint is that ACC Turner was responsible for D/C/Supt A being given the task of reviewing and potentially re-investigating the case.

13.4 The final report for Operation REBOANT states that on 23 December

1999 DCC Clough asked Detective Superintendent (D/Supt) Lewis (then acting Head of CID) to brief him regarding the current case position so that he could respond to a letter from Mr Powell. It is believed that he is referring to a letter dated 22 December 1999 from Mr Powell to the Police Complaints Authority in which he complains about Chief Constable White's failure to respond to correspondence. CC White was in post prior to the appointment of CC Grange.

13.5 D/Supt Lewis replied the same day. He outlined that D/C/Supt A and a detective constable visited the complainant in January 1999 and received verbal allegations concerning previous investigations into his son's death. D/C/Supt A explained to the complainant that he would review the investigations with a view to identifying whether all avenues of enquiry had been completed and whether any new enquiries needed to be conducted. D/Supt Lewis stated that the initial investigation was conducted by an Inspector. He outlined that by 22 February 1999 previous files had been reviewed and 16 lines of enquiry had been identified to be undertaken by a Detective Constable supervised by D/C/Supt A. He summarised that the Detective Constable had maintained regular contact with the complainant, he was awaiting forensic results and that an advice file to CPS was anticipated. D/Supt Lewis added that the progress of the investigation had been delayed by the requirement to obtain expert opinion on conclusion of forensic evaluation. He opined that unfortunately this type of work could not be expedited and needed to be thoroughly completed. There is no evidence in this summary that D/Supt Lewis had any concerns about D/C/Supt A or that any were conveyed to DCC Clough.

13.6 Mr Terry Grange became Chief Constable of Dyfed-Powys Police in March 2000.

13.7 The Operation REBOANT final report outlines that on 18 April 2000 DCC Clough met with Mr Powell at the Police Authority offices. Mr Irving of the Police Authority and Kirsty Williams (AM) were also present. The following day DCC Clough wrote a confidential memo to the chief constable and assistant chief constable providing a synopsis of the meeting.

13.8 DCC Clough had been briefed by D/C/Supt A on the background of the case and was expecting a meeting to discuss the future progress of the enquiry. In fact the meeting had been called to outline a series of complaints about the handling of the case by the police. In his email of 19 April 2000 DCC Clough gave a brief synopsis of the issues and stated “Det Ch Supt A believes the initial investigation may have been flawed, but there was never enough evidence to support manslaughter charges.”

13.9 DCC Clough stated that the complaints centred on the alleged failure of Dyfed-Powys Police to take the matter seriously enough from 1994 onwards and as a result vital evidence has been lost. DCC Clough “considered the matter serious enough to warrant a full review of the investigation to date from 1994 so that every point raised by Mr Powell can be properly addressed and answers given.” He describes that there were no specific criminal allegations against Dyfed-Powys officers but disciplinary offences were suggested. The Operation REBOANT report summarises that “in view of the nature of the allegations, the involvement of senior officers and the complainant’s views on the integrity of the Dyfed-Powys Police DCC Clough considered that an outside force should conduct an enquiry and it should be a supervised investigation as a voluntary referral to the PCA.” DCC Clough stated there had been almost no involvement to date with the Professional Standards Department (PSD) and that he would like the opportunity to discuss these matters with his chief officers.

13.10 DCC (formerly ACC) Barry Taylor states that within a few days of DCC Clough meeting with Mr Powell, a meeting took place between CC Grange, DCC Clough and himself. CC Grange states that he was appraised on 19 April 2000. CC Grange agreed that the matter required a full independent review by an external force. DCC Taylor cannot recollect the exact details provided to CC Grange during this meeting but believes it focussed on the lack of investigation into allegations of forgery and fraud.

13.11 Mr Clough states that a short time after his meeting with Mr Powell in the Police Authority offices he met with Chief Constable Grange and provided him with a full briefing on the history of the case. He states that he

considered this necessary as on the face of the information provided this case had the potential to be very serious and because the review was going to involve an external force. He could not recall the specifics of what he told Mr Grange but states that he outlined the following key allegations:

“that Mr Powell’s son had died as a consequence of inaction by various doctors involved in his care; that there was a failure in communication between these doctors; that there was a failure by some doctors to take Mr Powell’s concerns of his son’s ill health seriously; that one of the Doctors had refused to arrange for his son to be taken to hospital; that Mr Powell alleged that some of the doctors involved had also performed the role of police surgeons; that there were suggestions that medical records had been altered; that according to Mr Powell, CID had taken very little action over a period of years to investigate these areas thoroughly and that the case had been left in the hands of one detective constable; that Mr Powell also believed that there had been some collusion between one or more of the doctors involved and senior officers in the CID.”

13.12 Mr Clough cannot recall Chief Constable Grange making any response to this briefing or directing any specific action to be taken, other than to agree in principle to the action proposed i.e. for an external review to take place. Mr Clough (as DCC) then made contact with various chief officers and eventually identified DCI Poole of West Midlands Police. He also decided, with the agreement of ACC Taylor, to appoint Inspector Thomas from the Professional Standard Department as a liaison officer to assist DCI Poole.

13.13 On 19 May 2000 a report was sent from DCC Clough to D/C/Supt A which stated that DCI Poole of West Midlands had been appointed to conduct a review into matters surrounding the investigation into the death of Robert Powell. He also requested that D/C/Supt A arranged for documents in relation to the original enquiry in the possession of the Detective Inspector to be delivered to the Superintendent Clive Howells in PSD.

13.14 On 30 May 2000 DCI Poole met with Superintendent Howells and Inspector David Thomas from PSD to find out more details of the case. They then met with D/C/Supt A. It was agreed at this meeting that either Inspector Thomas or DCI Poole would be invited to accompany D/C/Supt A to a meeting with the Crown Prosecution Service (CPS). They later discovered that a meeting had taken place and neither had been invited. DCI Poole outlines that during the meeting on 30 May 2000 he told D/C/Supt A that the review he was about to undertake may require D/C/Supt A to halt the second phase of his investigation. DCI Poole outlines that D/C/Supt A stated that he intended continuing with the investigation and to interview 5 GP's, although this would not occur in the immediate future. DCI Poole states that this was the only meeting he held with D/C/Supt A.

13.15 On 11 July 2000 Inspector Thomas wrote a report to the Supt Howells stating that he was aware that a further file would be submitted to the CPS regarding documents altered by one of the Doctors, who had yet to be interviewed. He asked that the Doctor should not be interviewed until the current review was concluded in order that a full interview might take place, as opposed to an interview concentrating on one aspect of their dealings with the deceased. Superintendent Howells endorsed the memo to the ACC, "May I suggest that all current enquires is put on hold until the Reviewing Officer has had an opportunity to assess the files."

13.16 In a memo dated 16 July 2000 from ACC Taylor to A/ACC A [D/C/Supt A], the former asked A/ACC A to speak to ACC Chris SIMMS of West Midlands as he felt DCI Poole might have overestimated the task of reviewing the case. This request suggests ACC Taylor did not have serious concerns about D/C/Supt A's actions to date.

13.17 On 24 August 2004 Inspector Thomas submitted a further memo to Superintendent Howells stating he had been informed that A/ACC A (D/C/Supt A) was considering arranging to interview the doctor.

13.18 Mr Clough states that when he returned from sick leave around the third to fourth week of August, DCI Poole contacted him and expressed his

anger that CID were still working on the investigation contrary to his request. DCI Poole also informed him that he believed a file had been sent to CPS, again contrary to his instructions in the meeting in May. Mr Clough outlines that he sent D/C/Supt A a memo on the 29 August 2000 instructing him in no uncertain terms that he was not to conduct any further inquiries, “the review has now commenced and will be completed within three months from today...Mr Poole will be working with the Professional Standards Department, and will be assisted by DI Thomas. It is now imperative that from this date, no further inquiries are conducted in connection with the investigation unless specifically authorised by DCI Poole. This instruction is necessary, as you will appreciate, to maintain the independent nature of the review process. Please ensure that your staff are made aware.”

13.19 Mr Clough describes in his statement that on 31 August 2000 D/C/Supt A came to see him. He states that D/C/Supt A took issue with his memo and did not agree that CID should cease enquiries. He was visibly angry. D/C/Supt A told DCC Clough in this meeting that he had been to see the chief constable and that as a result of the review and how he was being treated he intended to retire by the end of October. Mr Clough outlines that D/C/Supt A tried to persuade him that there were only one or two interviews left and that he should be allowed to continue until it was finished. Mr Clough describes that he re-stated the independence of the review, that no further inquiries should be conducted by Dyfed-Powys Police and that all lines of inquiry should be channelled through DCI Poole. Mr Clough states that D/C/Supt A reluctantly agreed but said that he was wrong. Mr Clough recorded details of this meeting in a notepad as he was concerned that D/C/Supt A might disobey his orders.

13.20 On 1 September 2000, D/C/Supt A sent a memo to DCC Clough stating that to bring the investigation to a conclusion there was a requirement to interview two of the doctors and he sought approval from DCC Clough to do so. On 6 September 2000 DCC Clough replied to D/C/Supt A stating in view of the external inquiry he felt that it would be best in the interests of independence to suspend any further work by Dyfed-Powys Police.

13.21 On 7 September 2000, DCI Poole formally commenced a review of the police investigation. A Regulation 9 Notice was issued to D/C/Supt A on 3 October 2000.

13.22 Mr Clough states that he assumed ACC Taylor would have taken responsibility for progressing the review in his absence. He said that the case certainly started to move into ACC Taylor's area of responsibility [discipline arena] when he returned from sick leave.

14. COMPLAINT THREE- CONCLUSIONS AND RECOMMENDATIONS

14.1 From the available evidence it is clear that DCC Clough provided CC Grange with an overview of Mr Powell's concerns soon after meeting with Mr Powell on 18 April 2000. The exact details of this briefing are not clear. DCC Taylor [formerly ACC] states that it focussed on the lack of investigation into allegations of forgery and fraud. Furthermore, his request for D/C/Supt A to brief ACC SIMMS of West Midlands also suggests he had no major concerns over D/C/Supt A' actions. Mr Clough states that he also briefed CC Grange on Mr Powell's allegation that the doctors failed to take his son's health seriously. Significantly, neither chief officer makes reference to any specific concerns about D/C/Supt A at this point.

14.2 It appears that when DCC Clough went off on sick leave no-one took responsibility for ensuring the review started. D/C/Supt A continued to work on the investigation until DCC Clough returned to work and took appropriate action to stop him undertaking further enquiries.

14.3 There is no evidence that Chief Constable Grange was informed of serious concerns about D/C/Supt A between 18 April 2000 [DCC Clough's meeting with Mr Powell] and 29 August 2000 [DCC Clough taking action to halt D/C/Supt A's work on the investigation]. When DCC Clough went off sick, appropriate measures should have been taken to put another senior officer in control to ensure the review was started. In my view ACC Taylor, who had the discipline portfolio, would have been the most appropriate person to take on this responsibility. He could have asked the Head of

Professional Standards to oversee the review.

14.4 The review process was not properly initiated until the return of DCC Clough. This is disappointing. However, in respect of this complaint I conclude that CC Grange was not responsible for this situation and was not the appropriate person to take control of the review. There is no evidence of misconduct on his part.

14.5 This complaint is not substantiated.

15. COMPLAINT FOUR- SUMMARY OF EVIDENCE

15.1 Mr A continued to cause damage to the case even after DCI Poole expressed his concerns to Mr Grange.

15.2 This complaint necessitates examining what concerns, if any, DCI Poole expressed to Chief Constable Grange, and whether the latter took any action in this regard.

15.3 In an email to Commissioner Tom Davies on 29 June 2006, Mr Powell states: "It is my understanding that Mr Clough had kept Mr Grange fully up to date with developments in the appointment of DCI Poole and the obvious failures of Detective Chief Superintendent A and others". He does not specify reasons for this belief.

15.4 In a further email on 20 February 2007 to Jane Carter, Head of Casework at the IPCC Wales and South West office, Mr Powell stated that, "Mr Poole kept Mr Grange fully up to date with his review and informed him of his concerns about both B [D/Supt B] and A [D/C/Supt A]."

15.5 Mr Poole (formerly Detective Chief Inspector of West Midlands Police) has been visited as part of this enquiry and asked to outline any concerns he had in respect of D/C/Supt A and whether he communicated these to anyone. It needs to be highlighted that these are Mr Poole's opinions and recollections and that the original Dyfed-Powys Police investigation has not been subject to thorough review by the IPCC.

15.6 Mr Poole outlines that in May 2000 his line manager informed him that Dyfed-Powys Police had requested for West Midlands Police to conduct an external review of an investigation. About 22 May 2000 he was invited to attend Dyfed-Powys Police headquarters to scope the review. On 28 May he was made aware that DCC Clough had gone off sick. On 30 May 2000 DCI Poole attended Dyfed-Powys Police headquarters. He states that he was horrified by the unruly bundle of papers he was given to review. He comments that the papers highlighted the issue of forged notes and the possibility of involuntary manslaughter.

15.7 Mr Poole describes being provided a verbal chronology of the police involvement by D/C/Supt A. He describes that D/C/Supt A provided a fluid account, confidently quoting dates and times without notes, and gave the impression that he knew what he was doing. He said his general impression was that Dyfed-Powys Police would have difficulty justifying what they had been doing on the investigation since it commenced. Mr Poole describes that following this visit he submitted a report to his line manager. The purpose of this report was to estimate the cost implications in time and effort of conducting the review. He outlined in the report that the documentary evidence was badly stored and fragmented. He did not provide this report to anyone else and is not aware that it was passed on by his line manager.

15.8 Mr Poole expected to be contacted by Dyfed-Powys Police soon after this visit to commence the review; however, he did not hear from them. He describes that at some point between 30 May 2000 and 7 September 2000 he contacted Superintendent Howells to find out if they still intended to use him. Superintendent Howells confirmed that they did but indicated that they were waiting for DCC Clough to return to work to decide a strategy. Mr Poole describes that around early September 2000 he was eventually contacted by DCC Clough. He believes that when DCC Clough came back off sick leave he was concerned that D/C/Supt A was still working on the case and that no action had been taken to initiate the review and so contacted DCI Poole immediately. On 7 September 2000 Operation RADIANCE commenced utilising the services of DCI Poole assisted by Inspector Thomas. This review concluded on 30 November 2000.

15.9 DCI Poole states that when he started his review he was so appalled by the state of the investigation and concerned about the competency of D/C/Supt A that he looked into what recent training he had had in major crime investigation. He comments further that there was no evidence that the investigation had sought advice from an expert witness. There was no policy book for either phase of the investigation. There was no strategy for dealing with the press or any other organisations involved (such as the hospital and GPs surgery). No consideration was given to the use of HOLMES. No exhibit register was kept so there was no continuity for the evidence. There was no written acknowledgement of which senior officer had overall control. There was no forensic strategy. There was no record of staff working on the investigation.

15.10 Mr Poole outlines that on Wednesday 12 October 2000 he met with ACC Taylor, DCC Clough and (he believes) Supt Howells from PSD. DCI Poole states that he believes Inspector Thomas was feeding back to Supt Howells how bad things were and that Supt Howells then instigated the meeting. Mr Poole states that during this meeting he highlighted all his key concerns as aforementioned in the previous paragraph. DCI Poole was asked to produce a typed report by the end of the day. He does not have a copy of this report. Mr Poole does not recall any discussion of issuing Regulation 9 Notices at this meeting. He believes that ACC Taylor and DCC Clough were going to discuss the case with the Chief Constable and that is why they asked him to commit his thoughts to paper. He states that, "It was made abundantly clear those senior managers in the Robert Powell case had, at the very least, been derelict in their duty and there was a possibility of some form of malfeasance or criminal act having occurred."

15.11 Mr Poole states he did not discuss his concerns about the Dyfed Powys Police investigation with Chief Constable Grange at any point. He describes that he only met CC Grange on two occasions. Around the 7-8 September 2000 DCI Poole passed him in the corridor and was introduced to him. There was no discussion of the case. At the end of the criminal investigation in March 2002 CC Grange gave him an exit interview at which he thanked him for his work.

15.12 Mr Poole opines that while he did not personally communicate his

concerns to CC Grange, it is inconceivable that Regulation 9 Notices would have been issued to such high ranking officers or an external review commissioned without the chief constable being briefed by ACC Taylor or DCC Clough.

16. COMPLAINT FOUR- CONCLUSIONS AND RECOMMENDATIONS

16.1 Mr Poole states he did not outline his concerns directly to CC Grange, although he believes these would have been communicated by the chief officers. DCI Poole briefed ACC Taylor and DCC Clough on 12 October. By this time D/C/Supt A's intention to retire had been approved. Furthermore, according to the evidence, by 31 August DCC Clough had taken action to stop D/C/Supt A having any further involvement in the investigation. Therefore, by the time DCI Poole started his review in September D/C/Supt A's work on the case had been halted.

16.2 This is not to underestimate the damage done to the case prior to September 2000.

16.3 Nevertheless, I do not believe that Chief Constable Grange should have been or was responsible for ensuring effectiveness of the review process following DCC Clough's actions to appoint DCI Poole. Therefore this complaint is unsubstantiated.

17. COMPLAINT FIVE- SUMMARY OF EVIDENCE

17.1 During this time and with the knowledge that DCS A could retire at any time no effort was made by Mr Grange to secure a report from DCS A regarding his involvement in the case, notwithstanding he was a serving police officer. Mr Grange was the only person who had the authority to do so.

17.2 There is no evidence that Chief Constable Grange requested a report from D/C/Supt A concerning the Robbie Powell investigation at any stage.

17.3 It needs to be noted that in a letter to the IPCC dated 25 June 2004 Mr Powell set out a number of complaints, some of which closely mirror those subject of this report, specifically:

“Mr Grange failed to suspend and/or make arrangements for formal interviews to take place with DCS A and Superintendent B when DCI Poole initially made him aware of their blatant failures to properly investigate Robbie’s death.”

And

“Mr Grange subsequently failed, for the second time, to suspend and/or interview Mr A and Mr B either before or after they were both issued with the disciplinary notices with the knowledge that they could both retire to evade participating in ASC’s disciplinary investigation.”

17.4 This was the letter that the IPCC failed to pass on to the Appropriate Authorities due to an administrative error.

17.5 On 29 March 2006, Dyfed-Powys Police Authority wrote to Mr Powell explaining their decision not to record his complaints. Mr Powell then appealed this decision.

17.6 The IPCC did not uphold the appeal on these two matters and explained to Mr Powell that suspension and making arrangements for formal interviews were not a matter for Mr Grange in his capacity as chief constable and further that these were matters of direction and control and not recordable conduct matters.

17.7 While the earlier complaints refer to arranging interviews for the officers, similarly as chief constable, Mr Grange would not be responsible for requesting reports from officers under investigation. As pre-mentioned in this report chief constables delegate the role of Appropriate Authority to a fellow chief officer. It is therefore questionable as to whether this latest complaint should have been recorded.

17.8 Chief Constable Grange states that once the Regulation 9 Notice had been served on 3 October 2000, the officer was not obliged to answer any questions raised by the chief constable; further, that he could only have

requested a duty report which would have obliged the officer to disclose (i) their identity and (ii) note the period of responsibility. He also highlights that Avon and Somerset Constabulary were advised that Detective Chief Superintendent A was due to retire on 30 November 2000.

18. COMPLAINT FIVE- CONCLUSIONS AND RECOMMENDATIONS

18.1 On any investigation it is up to the senior investigating officer (SIO) and his staff to decide on whether to request duty reports, to make policy decisions on whether officers are to be treated as suspects or witnesses and to arrange interviews. Usually a duty report is requested prior to a decision on the status of the officer. Once an officer has been issued a Regulation 9 Notice, they can submit a written response at any stage; however, they are under no obligation to do so.

18.2 I would expect a Chief Officer of Dyfed-Powys Police to have promptly notified the SIO in Avon and Somerset Constabulary of the respective officers' intentions to retire. Further decisions about how to deal with this matter would then have been the remit of the Avon and Somerset SIO and investigation team.

18.3 From the available documentation I can find no evidence that the SIO requested a report from the officers prior to their retirement. Officers were issued with their Regulation 9 Notices on 3 October 2000. Following this point it would have been inappropriate to request a duty report concerning the matters under investigation. The only option was to interview the officers or for the officers to choose to provide written accounts. It is unclear whether there was sufficient information to interview the two officers prior to their respective retirement dates.

18.4 In the Avon and Somerset Operation REBOANT report it states that repeated invitations for both officers to take part in an interview proved fruitless. The SIO wrote to Mr B and Mr A on 17 September 2001 stating, "I am aware that you are now retired but you should be aware that these matters are still being examined and you may feel that the interests of fairness may be best served by giving your recollections of events to the

investigating team.”

18.5 A letter from Mr B to HTV Wales on 1 May 2003 states that the last time he had contact with the Avon and Somerset investigation team was on the telephone during August 2002 when he pointed out that he was not in the position to be interviewed but would be in the near future.

18.6 The investigation led by DCC Martin Richards was supervised by the PCA who determined that it was complete. Mr Grange had no responsibility for managing or supervising the actions and decisions of the investigation team. It is outside the remit of this investigation to comment on whether the Avon and Somerset team should have gone further to documents all efforts to obtain accounts from the two officers.

18.7 Regardless of opinions on their efforts this was clearly not a matter for CC Grange but a policy decision for the SIO from Avon and Somerset Constabulary and a matter for the Police Complaints Authority member supervising the investigation.

18.8 This complaint is unsubstantiated due to the fact that Chief Constable Grange was not responsible for decision-making in respect of requesting reports from the officers subject of notice.

19. COMPLAINT SIX- SUMMARY OF EVIDENCE

19.1 The same applies in regards to requesting a report from Superintendent B.

19.2 Please see the comment under complaint 5.

20. COMPLAINT SIX- CONCLUSIONS AND RECOMMENDATIONS

20.1 This complaint is not substantiated.

21. COMPLAINT SEVEN- SUMMARY OF EVIDENCE

21.1 Mr Grange permitted both of them to retire without securing a

statement regarding their involvement in Robbie's inadequate and corrupt police investigations.

21.2 This complaint has similar aspects to those considered at points 1, 5 and 6. I have already discussed the chief constable's role in respect of allowing retirement and have concluded that I cannot identify any misconduct in this regard. Similarly I have discussed at point 5 that Chief Constable Grange was not responsible for making investigation decisions on this case. Regulation 9 Notices were issued to Supt B and D/C/Supt A prior to DCC Richards being appointed as SIO. It would not have been appropriate to obtain a witness statement from the two officers unless their status was reviewed and they were considered to be witnesses rather than suspects. As mentioned before, once the officers were under notice of investigation the options were for the SIO to interview the officers or for the officers to submit a written response. Once the officers retired there was no legal basis on which to force the officers to be subject of misconduct interview or to provide any response.

22. COMPLAINT SEVEN- CONCLUSIONS AND RECOMMENDATIONS

22.1 This complaint is unsubstantiated. It was the remit of the senior investigating officer rather than Chief Constable Grange to attempt to secure any form of account, whether through an interview or a written response.

23. CONCLUSION

23.1 Having given consideration to the IPCC documentation, the evidence provided by Mr Powell, Mr Poole, Mr Clough, Mr Taylor and Mr Grange, and the remit of chief constables in respect of misconduct investigations, this investigation concludes that Mr Powell's complaints should not be substantiated.

23.2 It is unfortunate that this report will do little to alleviate Mr Powell's feelings of frustration in respect of the earlier investigations. It is entirely understandable that he feels cheated over the retirement of D/C/Supt A and D/Supt B and the fact that they were not held accountable for their

inadequate management of the investigation. However, that does not alter the fact that ultimately there is no evidence of misconduct in the chief constable's actions and decisions in respect of these officers.

23.3 The effect of the inadequate and ineffective investigation and subsequent CPS decision for the family of Robert Powell cannot be underestimated. It is my opinion that the chief constable, on behalf of Dyfed-Powys Police, should recognise this through a public apology.

23.4 Recommendation- The chief constable, on behalf of Dyfed-Powys Police, makes a public apology for the inadequate and ineffective investigation conducted by Dyfed-Powys Police Officers into the circumstances surrounding the death of Robert Powell.

24. LEARNING REPORT

Independent Investigation into complaints made against Chief Constable Grange of Dyfed-Powys Police by Mr William Powell.

Introduction

This report concerns an independent investigation conducted by the Independent Police Complaints Commission (IPCC) into complaints made against Chief Constable Grange of Dyfed-Powys Police by Mr William

Cassie Powell.

Mr Powell submitted a number of complaints against Chief Constable Grange for failing to take appropriate action in regards to the investigation of the circumstances surrounding his son Robert Powell's death on 17 April 1990.

Overview of Incident

The events following the death of Robert Powell are complex and numerous and a brief background history will help place the complaints subject of this IPCC investigation into context.

Following a post-mortem examination it was established that Robert Powell had died of Addison's disease, a treatable adrenal deficiency. In 1994 the Powell family made a formal complaint to Dyfed-Powys Police about the doctors involved in Robert Powell's care in relation to falsification of medical records and conspiring to pervert the course of justice. The issue of manslaughter by gross negligence was raised at a later stage.

In brief, the Dyfed-Powys Police criminal investigation was conducted between 1994-1996 and 1999-2000. A detective superintendent and then a detective chief superintendent had overall responsibility for this criminal investigation at various stages.

Mr Powell raised concerns about the handling of the case. As a consequence of these concerns Dyfed-Powys Police suspended their inquiries and in September 2000 an external review was commenced.

This review led to a further criminal investigation which resulted in an advice file being submitted to the CPS. In April 2003 the CPS again advised against a prosecution of any party.

The review also led to an external misconduct investigation which concluded that Dyfed-Powys Police was guilty of institutional incompetence. The two officers' subject of Regulation 9 Notices had both

retired before the misconduct investigation was complete.

The complaints which form the basis of this IPCC investigation concern Mr Powell's perceived failure of the chief constable to hold the two key officers accountable for their inadequate investigation. Specifically Mr Powell complains that Chief Constable Grange allowed the officers to retire so that disciplinary proceedings could not be taken and to cover up these senior officers' gross failures and criminal behaviour. He complains that the detective chief superintendent was permitted to continue with the police investigation into the death causing further damage to any future prospect of a prosecution, despite concerns of the deputy chief constable and the external reviewing officer. He also complains that the chief constable did not secure a report or statement from the two officers regarding their involvement in the case.

Type of Investigation

The Commissioner for the region decided that the complaints raised by Mr Powell would be independently investigated in the form of a review by the IPCC. As a result of reviewing the extensive material in the possession of the IPCC relating to this case, the Commissioner agreed that more active investigation was required to fully look at the various complaints.

Contact Details

Deputy Senior Investigator Sarah Patten, Wales & South West region.

Findings & Recommendations

Finding

The considerations and rationale for the decisions not to suspend the two key officers' subject of Regulation 9 Notices were not documented.

Local Recommendation

	The importance of recording decisions and rationale concerning the suspension (or not) of police officers/ staff is highlighted to all relevant individuals.
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14/11/07

Sarah Patten

Deputy Senior Investigator, Wales & South West