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Keynote Remarks by Nick Hardwick

Chairman

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Good morning and thank you for those words of introduction. As other people have said, it's a great honour and privilege to be here. I have to confess, it's also a little daunting because I know that many of you in the room were consulted and your expertise tapped into when people were planning and designing the Independent Police Complaints Commission for England and Wales. And so now to come and tell you how we've got on, feels like a bit of a risky thing to do. I'm also conscious that to some extent we're kind of the new kids on the block. There are people with a lot more experience than we have. But my experience so far has been that these kinds of international gatherings are incredibly useful, because - although the legal systems under which we operate are very different, the types of organizations we are involved in are very different, the culture of policing is very different - it never ceases to surprise me how similar the issues that we deal with on a day to day basis are for all of us wherever we work. And to that extent for me this is as much about as me listening to your experiences as it is to telling you some of ours.

The Starkest Questions Around Police Accountability

This is the kind of picture of the IPCC that at the moment people in England and Wales will be most familiar with.* These are some of our investigators doing a couple of our witness appeals. The one on the left is a witness appeal regarding the shooting of Jean Charles de Menezes in London two or three months ago. And as you know probably, Jean Charles de Menezes was suspected of being one of the suicide bombers who had attempted to set off devices on the London transport system, and somehow or other on July 22nd that suspicion turned to certainty and he was shot and killed by the police. Obviously there's a limit to what I can say about that case, but I wanted to raise it at the start because it seems to me that it raises some of the starkest questions around police accountability. Because I think that the concerns that some people would have in England and Wales, sometimes unspoken, but the nagging worry at the back of their minds, is:

* Referring to the two photos on page 2



does the interference of people like the IPCC, the demand for accountability we place on the officers involved in that incident, mean that next time, when maybe there really is a bomber on a train with a device they're going to set off, they'll hesitate for those few fatal seconds, and we as citizens will be at risk because of that? Is there a contradiction between the safety of the public and combating crime on the one hand, and police accountability on the other hand?

And it also raises questions about the standards by which we should judge the police. When the chips are down, are police accountable to the law in the same way as other citizens? Those are questions that this case poses in a most acute way and that we are going to have to try to answer.

We have always been clear about how, ultimately, we want to be judged. And what we've said from the beginning is that we believe that if you can increase public confidence in the complaints and the accountability mechanisms, that in turn will lead to greater trust in the police service overall. And that, in turn, helps the police do their job of preventing crime and catching criminals better. So in the end, what we say we want to be judged on, is not the number of heads we've collected, but whether we've made a contribution to increasing the effectiveness of the police service overall. Of course that then raises the problem of how you measure that - how do you know what impact you've had - and I wouldn't say that we have the answer to that yet.

Values of Justice, Independence, and Openness

In establishing the IPCC, we recognize that, certainly in England and Wales, we have sort of a blank sheet. No one has ever quite done this before. In England and Wales there aren't really any similar organizations. You would have to look to other jurisdictions to

find anybody who has done anything remotely the same. So we said at the start that we are *not* going to try and write a big procedure manual for how we're going to operate. What we're going to try to do is inculcate into the organization a set of values: core values. Then, as we experiment and find our way through the questions that we confront, all our staff can apply these values as they go about their day to day work. We've just done a survey of the staff who work for the organization, and it was encouraging to see the degree to which our staff were signed up to these values:

Justice and the respect for human rights - justice, true justice, includes questions of proportion; it's not a simple question of guilt and innocence.

Independence - we're conscious that if we're not independent, we're nothing. If people ultimately don't believe we're independent then we are worthless. But that independence is not just from the police, it has to be from the interest groups, from the politicians, from everybody.

Integrity - it's crucial that if we stand in judgment over the police service and find a lack of integrity in the police, then we have to expect to be judged by very high standards ourselves.

Valuing Diversity - we have tried to create an organization that is genuinely diverse and that can reach out to the very diverse communities in England and Wales.

Openness - and finally, we have tried to create an organization and a system that is genuinely open.

It's this last area that has been most difficult for us in some ways. I find when I talk this through with a police audience, I do "justice and respect for human rights" and they nod away at that; and I do "independence" and they nod at that; and I do "integrity" and they nod at that; and I do "valuing diversity." But then I do "openness," and they go, "not so sure about that one."

We have worked really hard to open up the complaints system, so that complainants and indeed police officers know what the complaint is, know what the progress of the investigation is, know the reasoning for the decisions that we make, are kept informed about the developments in their case, and are kept informed when nothing is happening as well, because that's often when the anxiety starts.

But we've also tried to create an *organization* that is open. We have our meetings in public, we try to be as accessible as we can to the media and to others.

A Long Time Coming

So what I want to cover this morning is just to look at what the pressures were that led to the creation of the IPCC, to explain how we fit into the other oversight mechanisms, and to talk you through some of our early experience. Of the three Cs of accountability that Christopher Stone mentioned in his remarks—crime, cost, and conduct - the only C we deal with is conduct. There is a plethora of other organizations dealing with the other Cs and many other letters of the alphabet as well.

What I would say about our development is it was a long time coming. It wasn't simply that someone had a bright idea and off the officials went. It had its origins probably in the inquiries into the riots that took place in Brixton (*which is part of South London*) back in the early nineteen-eighties. The judge who conducted that inquiry talked about a widespread and dangerous lack of confidence in the existing complaints system. And then at the end of the nineteen-nineties the death of a young man called Stephen Lawrence a young black man, led to another public inquiry which found out that racism is endemic in the police and had led the police to make a series of assumptions about Stephen's death that meant the investigation was never properly and effectively brought to a conclusion. This led to a recommendation for an independent complaints mechanism. And then there was the European Convention on Human Rights which placed new requirements on us for independent investigations into deaths following police contact.

But what I would stress is that critically these incidents—the Brixton riots and the Lawrence case, and a series of other, smaller cases as well—were about a breakdown in relationships between the police and the Black community. When I took up this role, I commented about this kind of racism in the police, and I don't mean that in a kind of crude or simplistic way, but there's no doubt that the critical incidents that undermine public confidence in policing as a whole, stem from a breakdown in police relationships with some sections of the Black community. We are therefore conscious that unless we are seen to have an impact on that, unless we are seen to address that, then I don't think we will have been successful.

It is interesting, the whole issue of public confidence. I don't know what is the picture in other jurisdictions, but if you do general public opinion surveys of people's attitudes to the police service in England and Wales, on the whole the police come out higher than other public services. The difference is that other public services—health and education—may start from a low base, but after people have had contact with those agencies, people's confidence goes up. Whereas the police start from a higher base, but after people have had contact with the police their confidence goes down. And not surprisingly, again as Christopher said in his introduction, confidence is lowest amongst the more marginalized communities, Black African/Caribbean, young, recent migrants, etc.

The body we took over from was called the Police Complaints Authority. It had full-time members who basically oversaw internal police investigations. There was a presumption of secrecy—of non-disclosure—and the police had responsibility to decide whether a complaint was a complaint. If the police thought you were a time-waster and told you to go away, there was nothing you could do about it.

What was striking when I took up my role, and which surprises me even now, was the degree to which a consensus had grown up right across the range of our stakeholders about the problems with this previous system. And not just the pressure groups, the cause lawyers and the family campaigners, but the police unions (*or staff associations*), the police chiefs, the police officers, and whoever you talked to pretty much came up with this same list. They all agree that at the end of the day, certainly in the most serious cases, the police investigating themselves simply lack credibility.

And because the previous system lacked that credibility, the police themselves would go to inordinate lengths to show they had not left a single pebble on the beach unturned. So the whole thing had got incredibly lengthy and disproportionate. Yet no one actually knew what was going on inside it, and no one was actually happy as a result. So you had a coming together of these supposedly very different interest groups—police, staff unions, pressure groups—with a very consistent view of what needed to change and what was wrong with the system.

What is striking is the degree to which that consensus is still there. I suppose I thought for instance, in the Stockwell case, which has huge media attention and hasn't gone altogether smoothly in some ways, that we might lose this consensus. But still at the end of the day, while the police unions may grumble, actually we are the lesser of a number of evils. They would still rather we did it, than somebody else I think. Now that may change when we get to the end of it, but at the moment that sort of consensus is still there.

The Scale of the Task

In terms of the scale of the task, last year there were about 24,000 individual police complaints. About a fifth of those were around incivility and rudeness, which is part of why public confidence goes down after contact. A similar number were for minor assault. A lot of the complaints, some of the higher profile ones, are not around what the police *did* do, but around what they *didn't* do. So, these include failure to adequately investigate a crime, particularly around domestic violence - not taking that seriously. And at the top of the list, about a hundred deaths following police contact. I think compared with other jurisdictions, this is a relatively small number. On average, we have about 3 people shot and killed by the police a year across the whole of England and Wales. So, compared with other places, that's not a lot, but in a sense that means that each individual occasion receives a huge degree of scrutiny.

All of this is governed by the Police Reform Act of 2002. First of all it covered all police officers regardless of rank, police civilian staff, and certain contracted staff, for instance detention officers. There were new rights of access to the complaints system, new rights of appeal for complainants, and new obligations to provide information to complainants and police officers subject to a harm-test. There is some confusion about this last point. There is no *absolute* duty on us to keep people informed. That duty exists only if the information we have is not harmful to national security and is not prejudicial to any subsequent legal action.

The other point I should make about the system is to stress what we don't do. We only look at matters of police conduct. We don't look at operational matters - matters of what is described in England and Wales as "direction and control." I think that's right. At the end of the day, I don't think that police should be accountable for their *performance* to a non-elected bureaucrat like me. I think they should be accountable for their performance to the elected politicians. On the other hand, I don't think they should be accountable for their conduct to the elected politicians. So I don't have a problem in principle with that division. Of course, to the people who complain to us, that distinction between an *operational* matter and a *conduct* matter is a lot less clear, and I think that does sometimes cause real confusion. A lot of cases are a mixture of the two, and sometimes the process is not as joined up as I might want.

Our Authority

We came into being in April 2004. There are two elements of our authority I want to briefly touch on: (1) our powers to independently investigate, not as a second stage, but as the primary initial investigators in the most serious cases, and (2) what we describe as our guardianship function, our responsibility for ensuring that the complaints system as a whole, whether it's the police doing the investigation or us, has public confidence.

The police must refer to us certain categories of cases at the most serious end. But they can also, in addition to that, refer to us other cases that seem to them to cause public concern. And we can ourselves call-in cases that we are concerned about. So to give you some examples, they sometimes refer to us cases that we don't think it's in the public interest for us to take. We had a spate when we started of what we described as "blue on blue" complaints - police officers complaining about other police officers. There is a bit of me that says, just sort it out yourselves. I'm not interested if this is a basic grievance management issue. It's not what the taxpayer gives us money to deal with. On the other hand, we call in all terrorism related complaints, regardless of whether there's been an injury. We don't always investigate those, but we require that we see them all.

To give you another example, one of our biggest investigations—this is very difficult to explain to an international audience—originated when the government decided to ban hunting with dogs. This was a big political issue in the UK. I know it may be difficult to believe, but it's true. There was a big demonstration in opposition while it was being

debated in Parliament. There was a section of the crowd trying to storm Parliament, and there were others who were just there to protest. And the TV cameras caught the police apparently laying about them very vigorously, so we called in some of those complaints. Although nobody died as a result of that, the fact that it was related to something that was happening in Parliament, the fact that it was broadcast nationally, meant it was something we felt we wanted to have a look at.

It may be useful, to say a little bit about the structure of policing in England and Wales. We have four regional offices, but there are 43 individual local police forces in England and Wales, which are each hugely different. There's the Metropolitan Police in London, which has about 40,000 officers, compared with some of the small city forces that have about a thousand. There are big differences in capacity, style, culture. And to some extent, one of the problems I think, is that the policing debate is driven by what happens in London and the Metropolitan Police. It doesn't follow that the problems that occur there are the same problems that occur elsewhere.

Police are accountable to their Chief Constable, to the Home Secretary (*the equivalent of the Minister of the Interior*), and to a locally selected police authority. But there is a range of other oversight bodies that have some kind of view on the accountability for the police, and these are as many as I could fit on the chart, there are a lot more than that. The Inspectorate of Police deals with police performance. There's also a Police Standards Unit which the Home Office set up because they didn't think the Inspectorate were tough enough. There's the Audit Commission, who look after how they spend their money. A great plethora, and what police chiefs will say to me is, "Look, I've actually got some of my best people in a back room somewhere producing reports for all of these bodies, including for you, who ask different questions, set different standards. Get off our backs, let us do the job." And so we are trying to place ourselves in a way that isn't seen to simply add to the bureaucracy without adding some real value.

Our Structure

The IPCC is headed by 17 full-time commissioners who by law can't have a police background. And we're building to about 150 full-time investigators out of a staff of about 350. Let me just say a couple of things about two elements of our structure.

One is our investigators. One of the biggest unknowns to us was who we should recruit to be our investigators. You have one group of people saying: if you have any police or ex-police on the books that compromises your independence. You have another group of people saying: look, if they aren't ex-police, you're simply going to get steamrollered, you're going to be investigating deaths and who else has the experience to investigate deaths apart from the police? So, more by luck than judgment I confess, we ended up with a mixture of about a third of our investigators—primarily in the more senior ranks—having a police background, and about two-thirds coming from other kinds of investigative background. So you have a kind of sandwich: you have the Commissioners

at the top, responsible for each investigation, who can't have a police background; you have the senior investigators, who on the whole do have a senior police background; and you have the investigative teams that are much more of a mixture. My view is, you can be as independent as you like, but if you're not competent, you're not going to satisfy anyone. On the other hand, the problem with the police before wasn't that they weren't competent, it was they weren't seen to be independent. And on the whole, the mixture that we've got at the moment seems to have done the trick.

I've been interested in the reaction we've had to the Stockwell case, because that's what has caused the national debate about our role. While there has been some criticism, on the whole people haven't criticized us for not being independent, and they haven't criticized us for not being competent. By and large, people accept those things for the moment.

The other thing I wanted to say about our structure is that we also have an advisory board, which includes a range of our stakeholders. These are the same people who contributed to setting us up: the police staff unions, the police chief officers, the cause lawyers, and the interest groups. We're at these meetings about once a quarter which are all very entertaining because they tend to fight it out and then we try to find a middle way through. But part of what we're trying to do is get a more informed public debate about what some of the realities and issues in policing are. It's been quite an interesting by-product of what we do; bringing the human rights NGOs face to face with the police unions in a way that doesn't really happen anywhere else.

Our Investigations

In terms of our investigations, we have a number of options open to us. A small number we will do completely independently with our own investigators. We can also *manage* police investigations. They'll be done by the police, but under our direction and management. We can also *supervise* police investigations, which will be under their control but they will report to us on progress. The majority will be done locally. Where we can, when it's appropriate, we encourage people to resolve things informally and quickly.

Those serious cases that are referred to us give you an indication of the scale. Last year, the first year of our operation, we did just over thirty independent investigations. The vast majority of cases were referred back to the police to deal with. But where the police are dealing with a case themselves, or where we supervise a case, then complainants have a right of appeal to us. They can appeal against the police not recording a complaint (*not putting it into the process to be handled formally as a complaint*); they can appeal against the local resolution process if they think they weren't properly told what was involved; and they can appeal against the outcome of a police investigation.

We get more complaints about non-recording than anything else. Because, of course, the way the system used to be judged was - few complaints: good, a lot of complaints: bad.

Therefore there was an incentive on the police to discourage people from complaining. Actually, some of the most interesting forces - the ones that said maybe these people have something useful to tell us, maybe we want them to come and tell us if they're unhappy - their complaint figures were high. Then they had the Inspectorate on their backs saying what's going wrong here, why are your figures so much higher than anyone else's? So we're trying to get a more sophisticated understanding of what these figures mean. You can't just take a simplistic view of that.

When we do an investigation, our investigators—while they're on duty—have all the powers of a police officer. So they can require entry to police premises, they can seize documents, they can interview under caution, and they have powers of arrest. But what's important I think, is that they're not the prosecutors. So what we're doing is testing to a criminal standard whether there is evidence of a crime or misconduct.

One of the difficulties is that there's a mismatch in expectations. If I use the Stockwell example again, what has been created as a public expectation in England and Wales is that somehow people are going to get a report that says what we believe happened. There won't be such a report. What we *will* do is produce a report for the prosecutors that says this is the evidence that we have that we think meets a criminal standard about whether an offence has happened or not. And that report won't be public until any criminal proceedings are completed. And so I think there's a kind of gap there, and so one of the things we're considering is if we need to do something separate that provides that explanation. But of course if there are court cases, there'll have to be a long wait before it's made public.

Making the complaints system as a whole work better

I just want to say that what people don't know so much about is one of the more unusual things that we do. As I've explained, the majority of complaints are still dealt with by the police themselves. I think that's right. I have no ambition to deal with more, because at the end of the day if there has been a minor infringement what I want the police managers to do is to say, "That conduct is not acceptable to me. It's not acceptable in my shift. It's not acceptable in my force." I think there's a problem if the message is, "Look, we've had to send it off to the IPCC. I'm afraid they've said it's not on, but look we'll all go down to the pub to have a drink to show there are no hard feelings." They have to take responsibility for it.

We have a statutory duty to set standards by which the police themselves deal with complaints, and we have powers to monitor and inspect those. We have a responsibility to promote confidence in the system as a whole. We have set up third-party reporting systems to improve access. And, critically, the one operational area that we *can* get into is to draw out the operational lessons that arise from the conduct complaints that we deal with.

So, just to give you an example, one of the first shootings we dealt with was a domestic incident. The man came out waving a big sword and the police tried to stop him with baton rounds - rubber bullets - and the baton gun misfired twice and he's on them with a sword, and they shoot him dead. We identified within a couple of days that there was a basic problem with the baton gun; there was a problem with the way that it fitted together, there was a design fault with it. So what we then had to do is feed that in really quickly, so that at the national level the fault was identified and could be fixed.

We'll also deal with broader issues. So a big issue for us has been that 50 percent of the deaths, half the deaths following police contact, have been of people with a mental health problem. Now obviously you can't just look at that in terms of what the police officers on the frontline in each incident were dealing with at that time. You've got to look at what's happening in the health services, what went wrong there to allow this situation to develop, what could the police have done further upstream to avoid the confrontation taking place. So we can look at those kinds of operational issues as well.

Public Confidence: Expertise and Local Presence

We are clear that it's as much a result in any individual case for us to say - we've looked at this thoroughly, we're persuaded the police did a proper competent job and that's an end to it. That's as much a result as saying the police are at fault. But of course where they are at fault, there's a court case, and for most of the big investigations we've done, the court cases have yet to happen. So what we've done hasn't been tested in court. We'll see how we get on there, but so far our progress seems to have been good. We have cut the time on some of these investigations, and that's been really key, I think, for building confidence in the police service. One of the things the police say to us is: "If we've done wrong, if there's a fair process, and at the end of that we have a penalty, we understand that's how it's got to be." But what I think they felt, with some justification, under the previous system the process of investigation was a punishment in itself. So by the end of it, even if they were found to be completely free of blame, their careers would have been on hold. A key thing in terms of any justice system is to speed it up and make it proportionate.

As I said, we have done a lot in terms of developing our learning and developing our expertise, so we do all the police shootings now. Already in 18 months, our investigators are more experienced in dealing with police shootings than the police are themselves. There is no police officer now who has the experience of dealing with police shootings that our investigators have.

One of the things we've been really clear about is that we're not an emergency service. We don't turn up with blue lights flashing. The police inevitably deal with the first hours and sometimes even days of an investigation, because we may not find out about it or it just takes us time to get there. But what has worked really well is what we call a *quick-time assessment*. We send just one senior investigator to the scene, very quickly, and that

has worked in terms of getting an early grip on what's happening, making sure things are being done properly until, if you like, our reinforcements arrive. The other thing that we learned to do is scale up and down investigations pretty quickly. So you'll start something off, maybe put quite a lot of resources into it to start with, realize early on that there's not a problem here, and then scale it down .

Finally, the feedback we get is that we've got a good local presence. We have a regional base; we're not just a London body, coming out into different parts of the country, telling them how we from London think things should be done. I think that's key to local credibility.

Public Confidence and Police Confidence

What are some of the challenges? I think there's a huge challenge in just maintaining public confidence in what we're doing. We have done some public confidence surveys, and so far there's a surprisingly high level of recognition of the IPCC. Depending on who you talk to, the levels of confidence are different. But we have a very determined effort to reach out to different communities to understand their concerns. And we seem to be responding to them. So we have a Muslim forum and we've done a lot of work trying to identify their concerns and make sure we're taking action. What we're trying to say is: "Even if you don't like the results—if your son's died in police custody, we can't bring your son back, we can't fix it, we can't make it better—but you can see how we've done it. We will make it as transparent as possible." But there is an issue still that the groups with the lowest levels of confidence are still the ones least likely to complain.

It seems to me that we won't get public confidence unless we also have police confidence. If, in the end of the day, the police don't believe in what we're doing, then I don't think the public will either. I think that would be the way it works in the UK. And so we've done a lot of work in trying to develop our practice in consultation with the police. I don't think being independent means you don't talk to anybody. So we have tried to talk to the police and other stakeholders around how we develop the standards that we're setting so that our systems don't add to the bureaucratic nightmare. Same issues: outcomes and transparency.

But we still have a battle really. I think the really smart forces have learned from the private sector that maybe there is a value to understanding what your customer—the public—is thinking, what it is you're doing that really hacks them off. You need to know some of that stuff.

Giving an example, it was actually in Brixton, where I was at a meeting with the commander who was, I think, a very smart cop. I was there because there was a complaint about a racist incident. The meeting was full of activists, church leaders, local community leaders—angry mood. He took it on the chin; explained what we were doing, listened, and engaged with what they were saying. And you could sense the mood in the

room beginning to change. And then a woman whose son had died in police custody, he was a drug swallower and he had died, made a very emotive speech. You could sense the audience was sympathetic, but they weren't taking her side. And then they started talking about kids on the estates making life a misery, and the commander started to say what could be done about that. Then they talked about gun crime, and he said, "Okay, now you can help me. This is what I need from you in order to be able to tackle this. This is the kind of information I want." And you could see before your eyes the way in which that early, effective, transparent, non-defensive reaction to a legitimate complaint was doing what we thought it would do.

Deal with the complaint well. That builds trust in the police service overall and that, in turn, helps the police get the intelligence they need to do their job properly. It's an anecdote. You can't read too much into that. But it was an example of how the smart cops see us as an opportunity, not just a threat.

The critical issues are how do we measure and know the impact that we're having on police outcomes overall. I've talked about some of the stuff we're doing on mental health, and we're doing a lot of work now also on road traffic police pursuits and deaths of innocent pedestrians in police pursuits. There's a constant tension when we deal with those kinds of operations - keeping the right distance between our role and the chief constables' role. That's a little bit of a tension for us.

People want contradictory things. For example, on the openness point, people want to know what's going on in everybody else's business, but they want their business kept private. The police have rights to privacy. Why should the individual officers accused of offences be treated differently from other employees in other situations? So there are all of those kinds of debates that are going on the whole time.

Our Future Plans and Priorities

Just to finish about our future plans. We are growing our investigative capacity as our core business. We're also taking on new responsibilities—which is a bit of a problem in some ways—for the Serious Organized Crime Agency, which is the first national police force, and for HM Revenue and Customs, and now also the Immigration Service as well. We will not handle general complaints against those bodies, but where officials in customs or in immigration are using police-like powers—which we're still in the process of trying to define—we'll deal with complaints about them as well.

A big future priority for us, as I've said is our accountability for the disciplinary outcome. We can do a good investigation, but the determination of innocence and guilt isn't a matter for us, and rightly so. We're the investigators; we're not judge and jury. But in the end a lot of the public, and the families, will judge our success, not on what we've actually done, but on how the court processes operates and the decisions that it makes. That's an inevitable conflict, but in principle I think that distinction needs to be there.

We have a lot of material on our website, more of what I've been talking about, so feel free to make use of it. It has been good to talk to you, I hope I haven't been too long and thanks for listening to me.