Justice Committee

Police and Fire Reform (Scotland) Bill

Supplementary written submission from the Scottish Police Federation

Thank you for the opportunity to give oral evidence to your Committee on 28 February 2012. I would like to make a further submission to you on three aspects of the bill.

**Early Appointment of Chief Constable**

At a meeting of the Joint Central Committee of the SPF on 13 February 2012, serious concern was expressed about the appointment of the chief constable being scheduled for December 2012. It was felt that this was much too late to allow the new chief constable to appoint the other members of the service’s executive and for them to make important decisions about the shape and operation of the service. SPF fully understands that Scottish Ministers do not wish to exert undue influence on the appointment of a chief constable but believes an independent panel could be established to appoint him or her on this first occasion. SPF would like to see the appointment made as soon as possible.

**Police Investigations and Review Commissioner**

At your meeting on Tuesday 6 March 2012 when you heard evidence from Professor John McNeill and others, important issues were raised relating to the role and responsibilities of the Police Investigations and Review Commissioner (PIRC). On behalf of the SPF I want to make the following points:-

SPF does not agree with Professor McNeill (col 1069) that the bill should make referral mandatory in serious incident, serious injury and police use of firearms cases. SPF believes this can adequately be covered in the regulations.

SPF agrees with Professor McNeill (col 1069) that forensic services should be made available to PIRC at no cost.

SPF does not agree with Professor McNeill (col 1070) that the police service and the Scottish Police Authority should be ‘required’ or have a ‘duty’ to co-operate with PIRC. We believe the bill at s67 makes adequate provision in this regard.

SPF does not agree with Professor McNeill (col 1071) that the PIRC should have primacy where a single incident engenders both a criminal inquiry and a PIRC investigation. The Lord Advocate is the head of the systems of criminal prosecutions and investigations of deaths in Scotland and is independent of any other person. The chief constable has a duty to comply with instructions from the Lord Advocate, the sheriff principal or the appropriate prosecutor in relation to offences and prosecutions. SPF believes that situation should persist where such a double investigation is necessary and the Crown should direct how the investigations are organised. We agree with Andrew Laing HMICS (col 1072) that the general principle should be set out in the bill and the bill should not be overly prescriptive.
SPF agrees with Professor McNeill (col 1073) that the PIRC and a head of investigations should be appointed as soon as possible.

**Police Appeals Tribunal**

As we wrote in our initial submission, SPF agrees with the provision in the bill that three solicitors or advocates comprise the tribunal. Further, we believe the chair of the tribunal should be from the Faculty of Advocates to give it the gravitas and standing it deserves. Police officers loosing their jobs are akin to doctors being 'struck off'.

SPF has serious concerns about the way misconduct hearings are currently run with hearing chairs believing they can run them as they see fit. SPF also has serious concerns about disregard for processes including:

- the admission of statements in lieu of oral evidence where no agreement between the parties has been reached
- disclosure only of statements which support the 'prosecution'
- subject officers or their representatives being prevented from testing 'evidence'

SPF believes that a tribunal constituted in accordance with the provisions of the bill and with a chair from the Faculty of Advocates will assist in enforcing compliance with proper processes in these areas.

Calum Steele
General Secretary
16 March 2012