



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 17 April 2024

Session 6



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CRIMINAL JUSTICE COMMITTEE

14th Meeting 2024, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)

*Sharon Dowey (South Scotland) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*John Swinney (Perthshire North) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stephanie Bonner

Bill Johnstone

Magdalene Robertson

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Committee Room 6

Scottish Parliament

Criminal Justice Committee

Wednesday 17 April 2024

[The Convener opened the meeting at 10:52]

Police (Ethics, Conduct and Scrutiny) (Scotland) Bill: Stage 1

The Convener (Audrey Nicoll): A very good morning and welcome to the 14th meeting of the Criminal Justice Committee in 2024. We have apologies from Pauline McNeill. Sharon Dowey joins us online.

Today we begin taking our stage 1 evidence on the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill. Before I begin, I declare that I was a police officer for Grampian Police and Police Scotland. I invite other members to declare any interests that they might have.

Russell Findlay (West Scotland) (Con): I have a past job as a journalist, and I spoke with our witnesses, Stephanie Bonner, Bill Johnstone and Magdalene Robertson.

The Convener: Thank you very much. As no other members wish to make a declaration, I refer members to papers 1 to 4.

I welcome Ms Stephanie Bonner to the meeting. It is vital that we hear the views of those who have personal experience of the police complaints system. The committee is very interested to hear your perspective on what is proposed in the bill.

I intend to allow around 45 minutes for the evidence session. By way of opening things up, I will ask a fairly simple question. Based on your experience, what should be changed about the police complaints system?

Stephanie Bonner: It would be good if I could read the opening statement that I have prepared, if you do not mind.

The Convener: Of course.

Stephanie Bonner: Criminal Justice Committee, I wish to make this short statement to help the committee before taking questions. I hope that this statement will cover some of your questions. I want to explain how difficult it can be to make a serious complaint against Police Scotland. In my case, it took more than six months from the discovery of my son's body to making a formal complaint against the police.

My first born—my 19-year-old son, Rhys Bonner—was discovered on 8 August 2019. A formal complaint was made against Police

Scotland on 6 March 2020. During that period, Police Scotland took me on a journey and I experienced many of its tactics first hand. I can only describe that journey as a hellish merry-go-round of distractions, deceit, deception and manipulation—all done in the hope that I would be overcome by grief and simply go away.

Rhys's body was discovered on Thursday 8 August 2019. The police closed their investigation on Monday 12 August 2019. That was four days later, or one full working day later, but Police Scotland never told me that—it led me on and on and on.

Every time I mentioned making a complaint, Police Scotland would stall or distract me, and at one point it sent female officers out to try to connect with me, befriend me and groom me. Those are the types of tactics that do not leave a clear trail of evidence.

When I asked Alex O'Kane to represent me in February 2020, Police Scotland refused to put a mandate in place for him. It told him in writing that the investigation was still on-going, despite it having been closed six months earlier. That meant that, in my case, it was not easy for me to even start the complaints process. It makes me wonder how many other grieving families have experienced the same obstructions and manipulation and have been prevented from making complaints. I know of other parents who have simply been overwhelmed by grief and have had no strength to engage with the police complaints process. While I am the voice of my son, I am determined to give other parents and other families voices, too.

What does it feel like to make a serious complaint against Police Scotland? Some of you may have watched the TV series "Mr Bates vs The Post Office". It is about one man's battle against a huge organisation—one man's battle to uncover the truth. My representative, Mr O'Kane, has used that type of compassion. He calls my journey "Mrs Bonner vs Police Scotland". Make no mistake: Police Scotland was hellbent on making my life difficult. It did not want complaints made. It did not want me to have representation, as it knew that it was easier to manipulate a grieving mother.

This month, the Police Investigations and Review Commissioner upheld another two complaints that I made. One regarded the police continually contacting me after being specifically told not to. The other regarded the police sending a marked police van with a number of uniformed officers to Mr O'Kane's home simply to deliver a letter that acknowledged an email he had sent.

That was part of a course of action to try to intimidate me and my representative. At one point, police officers put hands on me and gave me a

written warning to try to stop me campaigning for justice for my son. In other words, I was threatened by the force of the law in an attempt to silence me and to keep me from raising genuine concerns. Five of those concerns, including failing to properly investigate the death of my son, have been upheld by the PIRC review.

After the initial manipulation, misinformation, deceit and grooming failed, and an official complaint was made on my behalf, Mr O’Kane and I encountered Police Scotland’s wall of silence, as the police closed ranks to protect one other. It is a culture that you may have read or heard about in the media over the years, but if you have experienced it, you will feel how cold and calculated it is.

I made two complaints, which were interlinked. The first complaint was made in March 2020, and the second complaint was made in 2022, but they were put on hold by Police Scotland and the PIRC due to similar points. It has taken me more than four years to exhaust the police and the PIRC complaints process. It has taken more than four long and painful years just to prove that my son’s death was not properly investigated by Police Scotland. Potentially vital evidence has been lost forever, and I will never know what happened to my son. I will never know with certainty where my son’s body was discovered, due to two different sets of co-ordinates being held by Police Scotland and conflicting accounts and video footage that I secured from local people.

Police Scotland has put me through a prolonged and unnecessary nightmare, and I have lost all faith in it and its complaint process. Police Scotland has repeatedly given quotes to the media, suggesting that it is working closely with me, communicating with me and supporting me. That was painful to read, as it could not be further from the truth.

I wanted justice for my son. These people have asked me what justice looks like. I am looking at justice right now—I am looking at the justice committee and the changes that you might bring to policing. Police Scotland has to be reformed, and I am relieved that the justice committee has taken on that task. Thank you.

11:00

The Convener: Stephanie, thank you very much for such comprehensive opening remarks, which set the scene for us very helpfully and openly.

I will ask you about how important it has been to have a representative support you through your journey. I am perhaps slightly straying away from the provisions of the bill, but that was a very important aspect of your journey. Can you outline

a little more how important it was to have that support there by your side?

Stephanie Bonner: It meant more than the world. He says that I am the voice, but Alex O’Kane is my voice and my son’s voice. Every day, I have cried a wall of tears, but that man and his wife have made me so strong. I am so proud to hold my head high. They said that I was not losing my mind—those things were happening.

The Convener: Thank you. That came through loud and clear in your opening remarks.

Before I bring in other members, I will touch on the delays and the timescales that you have experienced since your son was discovered. How difficult have those timescales been for you? When we are looking at the bill, what should we consider about how that aspect of a police inquiry or review can be improved?

Stephanie Bonner: It took Police Scotland the best part of a year to investigate one complaint, and then it took the PIRC the best part of the next year to review the complaint. It was clear that the PIRC did not have access to all the information that it needed, and it repeatedly had to contact the police for specific documents. The PIRC was clearly delayed by the situation and was dependent on the police in relation to timescales. That left me waiting and prolonged my pain and distress.

As soon as I made a formal complaint, Police Scotland did not want to engage with me, so I could not ask other relevant questions about my son’s death, as I faced a wall of silence. That left me unable to lay flowers at the location where my son’s body was discovered. I still do not know with certainty where my son’s body was discovered, as Police Scotland gave two different sets of co-ordinates. They eventually said that one set was a mistake, so I do not know what to believe now. I have been left traumatised by that and I have lost all faith in Police Scotland.

The Convener: Thank you, Stephanie.

I will bring in other members to ask questions, starting with Fulton MacGregor.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning to you, Stephanie, and to those who are supporting you. Thank you very much for a powerful testimony and for bringing your son’s and your case to the Criminal Justice Committee.

I have a very small question, which is not on the sheet that was handed out to you, so I hope that it is okay to ask it. It is about the issue that you raised about legal representation and how you felt that the police pushed back on that. It somewhat surprised me when I heard that. Do you think that that is something that the bill could cover? When

somebody is at the start of a complaint process, do you think that it would be helpful if the police sat down and advised them to get legal advice?

Stephanie Bonner: I will answer your question. It is vital to remember that the police are being asked to investigate themselves. Unlike when they are asked to investigate criminals, they are investigating some of their own, so there will be a lack of willingness. As long as the police are being asked to investigate themselves, I do not believe that there is any way to avoid that. The sooner that the PIRC or other more independent and objective bodies become involved, the better. The heads of complaints form is problematic, because it asks you to summarise a lengthy complaint into a small box. The categorisation of a complaint is confusing, and the public might not understand whether a complaint has been correctly categorised.

The time that the police take to investigate a complaint has to be reasonable. The time that the PIRC takes is often dependent on the files that the police make available to it. In my case, the PIRC had to repeatedly ask police officers for more documents, and that took more time. It has taken me more than four years to have two interlinked complaints investigated and reviewed by the PIRC. Police Scotland does not give you anything to work with at all. It does not give you any guidance.

Fulton MacGregor: Would it have been helpful for you, and others in a similar situation, if, at that very early stage, police officers or people in the police had advised you to get legal advice and had been supportive of that?

Stephanie Bonner: Yes. I have never been shown any empathy or compassion—I never had experience of anything like that from the police. It would be great if it could be like that for other families in future. I would not like any other family to go through that, with their loved ones, in those circumstances.

Rona Mackay (Strathkelvin and Bearsden) (SNP): Good morning, Stephanie. Thank you for coming in and being so brave today. I have a quick question. Before you put in a complaint, which you clearly had to do, would a single point of contact have been helpful to you after your son's body was discovered?

Stephanie Bonner: The same person?

Rona Mackay: Yes.

Stephanie Bonner: Oh, definitely.

Rona Mackay: You would get them all the time.

Stephanie Bonner: You would get a wee bit of faith in them. You would get to know them and it would make you comfortable. Definitely. Especially

when you have wee kids and that as well. All these different police officers came in, and the way they were, I was scared for my kids.

Rona Mackay: Was there a difference in police attitude after you took out a complaint compared with before? From what you are saying, I know that there was poor communication before that, which is why you ended up having to put in a complaint.

Stephanie Bonner: When my son went missing, the police officers who came in and asked for photos and things were all lovely. They were so compassionate at the start. When the other ones started coming in, that is when I was getting scared. I asked them to look for my boy, and they were talking about resources. I did not know what that meant. I said to my partner, "What does that mean about money?" I went, "Please put money into my boy. Get a helicopter, sniffer dogs, things like that."

Rona Mackay: You should not have had to do that.

Stephanie Bonner: No, and they would not do it. I begged and begged.

Katy Clark (West Scotland) (Lab): Thank you, Stephanie, for being so brave as to come along today. It must be incredibly difficult. From what you said to Rona Mackay, it sounds as though you did not have a single point of contact and had to deal with quite a number of individuals, which is clearly a major issue.

I want to ask you about the duty of candour that the bill would create. Do you feel that there was candour from the police in your situation? Would such a duty have made a difference?

Stephanie Bonner: Which question was that?

Katy Clark: It is question 22—I am not sure how it is numbered for you. It is probably question 5. It is about whether you feel that there was openness from the police when you were—

Stephanie Bonner: No.

Katy Clark: So, in your experience, you did not feel—

Stephanie Bonner: Sadly, I do not think that the creation of a duty of candour will be enough. You are asking police officers who stand shoulder to shoulder with each other and may literally protect each other's backs in dangerous situations to be truthful and co-operative, which could lead to their colleagues being disciplined and punished. They protect each other every working day, so they are most likely going to protect each other in these types of situations. Perhaps giving evidence under oath, with a perjury-type system in place, might make officers more willing to co-operate. There have to be consequences in place if officers

do not co-operate or are proven to be untruthful. If police officers were held more accountable, public confidence might increase.

Katy Clark: It looks as though you have done a lot of preparation for today. Would you be happy to share anything that you have put in writing if we do not already have that?

Stephanie Bonner: I prepared answers to the questions that you gave me.

Katy Clark: It would be really helpful if you could let us have that afterwards.

Stephanie Bonner: I got mixed up. That is the answer to question 5.

Katy Clark: It is clear that you feel that there was no candour or honesty in your experience.

Stephanie Bonner: Oh no, there was definitely not—100 per cent.

The Convener: Can I ask you a question about the PIRC? Please tell us what you think about the introduction of a legal requirement for Police Scotland and the Scottish Police Authority to respond to recommendations that are made by the PIRC after it has dealt with a review. Do you have any thoughts on that?

Stephanie Bonner: Is that question 6?

The Convener: Do not worry if you do not have that to hand.

Stephanie Bonner: I think that could be helpful. It might require Police Scotland and the SPA to look more closely at the PIRC review findings and recommendations.

The Convener: That is very helpful.

Do any other members want to come in?

Russell Findlay: Hi Stephanie. How are you doing? I pay tribute to you for coming here today. None of us can truly imagine what you have been through and it is admirable that you want to do this in order to help other families.

Do not worry too much about the numbered questions. If it is okay, I would like to ask a general question to start with about what the experience has done to your faith in policing and to that of all the supporters that you have here today.

Stephanie Bonner: There is no faith.

Russell Findlay: Right.

Stephanie Bonner: Could you repeat the question?

Russell Findlay: Do you think that that faith can be repaired?

Stephanie Bonner: Yes, I think that, in the future, if things are put in place, that could be

repaired. I hope that other families will not have to go through this in future.

Russell Findlay: We spoke in 2020 when I was working at STV news. One of the issues that you raised then was that the initial catastrophic mistakes made by the police might have been due to what was deemed to be postcode policing. Assumptions were made, and there was no going back once the police had made their decisions.

Stephanie Bonner: There was no going back.

Russell Findlay: As the PIRC later established, you effectively had to conduct your own investigation to get answers. All that was compounded by the complaints process that we are looking at today. You have already done so, but can you explain the tactics? There were delays, the mischaracterisation of heads of complaint and attempts to put pressure on you. How would you summarise the entire complaints process? What did it do to you and how did it make you feel?

Stephanie Bonner: I do not know what I would have done without my representative, Alex O’Kane. The system is absolutely designed to break you. It is a very hard complaints system.

Russell Findlay: They have the resources and the arguments and they know the system.

Stephanie Bonner: That professional standards department was really a big farce. It was a horrible experience with the professional standards department, right at the start: it was awful.

Russell Findlay: Making a complaint as a member of the public about something that has happened is one thing, but you were a grieving mother complaining about something that is absolutely unimaginable to most people. There was no real compassion, except at the outset when the officers who came to you were respectful and helpful. I think the phrase that you used for what happened after that was, “a hellish merry-go-round,” which seems to sum it up.

11:15

Stephanie Bonner: I am getting mixed up with the question numbers.

Russell Findlay: Do not worry about the numbers. I am simply asking about how you feel, remembering some of what happened.

Stephanie Bonner: I couldnae believe that this was oor Police Scotland. I was begging for help. I couldnae believe it. I have lost all faith and, at this point, I do not think that it can be restored.

Russell Findlay: We do not expect you to know what the bill does. We do not yet know that,

because we have not looked at it properly. However, I assume that you would agree, in general terms, that we need to pass a law that changes the police complaints process. That is absolutely necessary.

Stephanie Bonner: Definitely.

Russell Findlay: That is why you are here.

Stephanie Bonner: Yes, that is a major factor.

Russell Findlay: Thank you very much.

Stephanie Bonner: In my case, the proposed change to the complaints process would have saved a number of months of distress and suffering. It was clear that the PIRC had to go at the pace of Police Scotland and that Police Scotland was going at its own pace, so the proposed option is a vital one. In my opinion, that is one of the most important suggestions.

John Swinney (Perthshire North) (SNP): Good morning, Stephanie. Thank you very much for coming in today and for the courage that you have demonstrated in facing up to the circumstances that we are discussing, which we are truly sorry about.

A moment ago, you made the point to Russell Findlay that, essentially, you were having to work against the system and you were pleading for help from the police. That strikes me as being entirely the wrong position for you to have been in, as a mother who was searching for your son. Could you say a little bit more about how you felt about how the police acted towards you when you began to raise your concerns about how they had handled your case?

Stephanie Bonner: I had just had a wee baby, and the way that the police came into my house—I am sorry. They were wearing bullet-proof vests. I was only a wee mammy and I had never been involved with the police in my entire life. Everybody says that their boy is good, but ma boy wisnae involved in any trouble. He had a job. The police really scared me, even about asking, “Are you looking for my son?” When my partner said some things, I said, “Gonnae no say that, because what if they don’t look for Rhys?” You are scared to speak up.

I felt sick. I had the wee baby. The radio was coming through and I heard the officer’s wife say something like, “What do you want for dinner?” So, I stood up because I had to go to the toilet, but they said, “Sit down.” I said, “I can’t. Please can I go?” They were telling me to sit doon, so I sat doon with the baby. I was holding my baby and I felt scared and intimidated in my own house. It was just awful.

My wee boy was out there. He was 19. One day, they came and said, “Sorry—we can’t go and

look for Rhys for two days.” I said, “Oh, please—it’s a lovely day.” They said, “There’s football things happening and we need all the police officers to go to this place.” That is what they told me—that they couldnae go and look for my wee boy for two days, in the short space that he was missing. That was hard.

John Swinney: Thank you for sharing that with us. The point that you have made highlights to me that, in the short period of time between Rhys going missing and his body being discovered, the police made mistakes. Is that fair?

Stephanie Bonner: Yes, lots of mistakes.

John Swinney: Do you think that your experience of the complaints process, which you have made very clear to us was a terrible experience, was bad because the police could not face up to the fact that they had mishandled the initial investigation?

Stephanie Bonner: That is 1,000 per cent what I think.

John Swinney: So, what would your message be to us about what it is that we need to fix here? We are all human, so we make mistakes. The police will make mistakes, because we all make mistakes.

Stephanie Bonner: I understand that, but mistakes like that cannot be undone.

John Swinney: I have been a politician for years, and I have made mistakes and got some things wrong, but it is important to be open.

Stephanie Bonner: Definitely. They could have been open and said, “We did this wrong at the very start. We’re so sorry, but we’re going to rectify this right now and say when we find things out”; I believe that they knew from the start that it was wrong.

John Swinney: So that was not your experience of what happened here. The police did not say to you, “Look, we’ve got this wrong”?

Stephanie Bonner: No, never. They have still not apologised—they said to my representative that they will not apologise to me, because it has gone over the timescale for complaints. They will not give me an apology. They have already said that to my representative—I got that from the PIRC. When I read that, I thought, “Oh, God”. My insides all turned when they would not even apologise—it was horrible.

John Swinney: Thank you.

The Convener: I know that this is extremely hard for you, Stephanie, so just take your time. We can easily suspend the meeting for a couple of moments if we need to.

Stephanie Bonner: No, it is fine.

The Convener: I will pick up from the point that John Swinney has just covered and ask you a wee bit about what Police Scotland needs to think about changing in relation to the way that it responds, particularly to incidents in which someone dies in unexplained circumstances, as was the case with your son, tragically. What does Police Scotland need to think about regarding how they can improve the way that they respond?

Stephanie Bonner: Every unexplained death—when your loved one is missing like that—should be put down as suspicious straight away. I think that it should be down as suspicious. Does that answer the question that you asked me there?

The Convener: That makes sense, thank you for that. That is a helpful response. One of the things in my mind is the role of family liaison support or a family liaison officer. Do you have any views on the benefit of that? Is it something that you were offered?

Stephanie Bonner: No, I was never offered that, but I think that it would make a big difference. My son was missing for 15 days, and I had to sit in and wait. I got a phone call every second day at 10 o'clock at night. My only contact with Police Scotland was my wee phone calls at that time. It was awful.

The Convener: Thank you. I am just looking around the room to see if members want to ask any other questions. If not, I will draw the session to a close. Is there anything else that we have not covered this morning about the bill or the police complaints system that you think it is important that the committee knows about? Do you have any final thoughts?

Stephanie Bonner: I absolutely agree that the PIRC should be given access to Police Scotland's complaints database. That would have made a great difference for the better in my case. I do not see that causing any negative issues for the public or the complainer. I suspect that the police might be more guarded in what they put on the database if they know that the PIRC can access it, but I think that that is a really important recommendation.

The Convener: I am going to bring this session to a close. Thank you so much, Stephanie, for joining us this morning. What you have shared with us has been extremely valuable for the committee to hear. Thank you for your support in the public gallery, which is most appreciated.

Stephanie Bonner: Thank you.

The Convener: We will have a short suspension to allow a changeover of witnesses.

11:24

Meeting suspended.

11:32

On resuming—

The Convener: I welcome Mr Bill Johnstone to the meeting. Good morning, Bill, and thank you for taking the time to attend today's meeting. We are very grateful to you for doing so—it is very much appreciated. I also thank you for kindly providing background information about your experience.

I intend to allow about 45 minutes for this session. Before we get under way, I turn to Russell Findlay, as I believe that he would like to declare an interest.

Russell Findlay: Yes. I just want to declare an interest more fully than I did initially. I have known Bill Johnstone for many years, and I wrote a book about his case, which is titled "Fitted Up: A True Story of Police Betrayal, Conspiracy and Cover Up". I think that it is proper that I let other members ask the majority of the questions, and I might come in after that.

The Convener: Thank you.

I will open with a general question. What should be changed about the police complaints system as it stands, based on your experience?

Bill Johnstone: Thank you for allowing me to come up here to give my experience to the committee. I would like to say that I could recognise every single item that the lady who has just left mentioned in her statement. Everything that she stated is exactly right, and things happen that are worse than what she stated.

I would answer your question in two parts. First, I would say dead straight that I would change everything. The reason for that is that is my long experience in the military: I have seen in-house investigations carry on for many years with the police in Northern Ireland and in the military. The system is, by definition, not fit for purpose. It is fatally flawed from the outset.

Politicians expect police officers to do the job that they do, which is really difficult—everybody accepts that—and it is the same with the military. A bond is formed that civilians do not really understand. You are an ex-police officer, convener. Depending on the level of complaint, the design of the system is based 90 per cent on trust and 10 per cent on naivety. You should not think that police officers, even in relation to the most basic complaint, would decide to ruin their pal's career—I say "their pal" because the system is so flawed that, even for a normal complaint, they would think that it was not that serious.

In my case, I went along to the police station of the officers concerned. It was dead serious at the time. There was a fire, but there was virtually no investigation. My initial complaint about the criminal investigation department officers who were on the spot was that they had basically done nothing. I was invited to the same police station that the officers were dispatched from to speak to their detective inspector. I was dealing almost entirely with the CID. They knew nothing of my background at the time, and I did not mention it—to me, it was not relevant.

When I went to the station, I spoke to their detective inspector and the two detective constables who were involved. At that point—this was in 2009—the form that I am holding up did not exist. I was sitting there when the DI took a statement. He was the detective constables' direct superior officer. That makes him an interested party, because the outcome of the complaint—it was quite serious at that point—would definitely affect him as their line officer. If he was to say, "Yeah, that was ridiculous. They didnae investigate that. They didnae bother about the foot of the fire. They didnae interview any of the witnesses whose names you gave", that would come down to his management and everything else.

As an ex-police officer, convener, you will recognise all that. If the two detective constables had done nothing, he could have done two things. He could have been absolutely candid, but, as Stephanie Bonner said, there was none of that. He could have said, "Okay, we will deal with these two guys, but whatever happens within that process, you are not making a criminal allegation." In the event, he sent me a letter that was absolute nonsense, and said that I could go to professional standards. The problem with professional standards is that it is manned by the guys who they used to be pals with when the guys were serving cops—or by guys who are still cops. I saw all that nonsense with the Royal Ulster Constabulary in Northern Ireland and in the army. I could not believe that in-house investigation was still going on in Scotland.

The letter came and I went to professional standards. However, professional standards goes only by what it gets from the police and you do not get to see that, ever. I did that through my solicitor. What made my case so serious in the beginning was that, rather than going to professional standards alone, I went directly to Anne McGuire, who was the senior officer in charge—the chief—of the CID in Scotland at that time. The whole system went completely against me. Like Stephanie Bonner said, when she made a complaint and it became serious, the complainer became the victim of Police Scotland.

The Convener: I want to draw you back to the question and what you spoke about earlier. You teased out in your response that bond, camaraderie and, perhaps, culture within Police Scotland. Thinking about the provisions in the bill and the bill being an opportunity to address some of the issues that you have described, what key things does Police Scotland need to think about in relation to how that bond and its implications can be addressed?

Bill Johnstone: You have hit it right on the head, convener. You cannot remove that bond from police officers, firemen, soldiers or anybody else who works in that type of environment. It is naive to think that you can say to them, "Look, you can't do this. What you need to do is—" That just is not happening.

This might sound quite harsh, but the only way to sort this and to have any chance of having a complaints system in which you do not end up like Stephanie Bonner—I was in the system for 10 years; actually, it was 11 years—is, in the public interest of all people in Scotland, to remove the police from the system in the first stages of the complaint.

A first officer deals with a complaint initially, and you have a culture of self-investigation that can only breed corruption—that is an environment where it is gonnae thrive. There is no way that you can change the system in a way that would make police officers decide to say, "You know what? I'm just gonnae ruin you. You might even be going to the jail, and, guess what? See, because I covered up to begin with, maybe I'm coming with you". That is not gonnae happen. There is nothing that you can do to change that system, except to remove the police from the initial stages entirely, and for somebody else to deal with the complaint. You have to wheel round that.

The Convener: A moment ago, I think that you said that this took up 10 years of your life. One of the issues that we are aware of is the extraordinarily long timescales that some people experience. I come back to what the bill contains. Does it do enough to address the issue of the lengthy timescales that people are experiencing? How do you think that should be changed?

Bill Johnstone: The way to change it is to look at what happens with the initial complaint. I will use the example of the PIRC. When you first go to the PIRC, it has to respond to you in a short time period, which is something like 30 days. The PIRC will come back to you and say, "We've got your complaint and this is our response. We are waiting for the documents from the police." Therein lies the problem, because the process is left open ended depending on the documentary evidence or whatever that the police cherry picks to send to

the PIRC and depending on how long it wants to play it out before the evidence gets to the PIRC.

Here is an example of when I first went to the PIRC. It was two years before the PIRC came back to me after I made a complaint that involved it. The heads of complaint were absolutely ridiculous compared with what the complaint was. For instance, I was allocated a false criminal record, and it was done by way of alias. I do not know whether you know what that means—I have a copy of the record here.

You will know this better than anybody, convener: in the criminal history system, you have the Scottish intelligence database, the Scottish criminal history system and the general criminal history system that is in one big sphere. To allocate somebody a criminal record by way of alias is a conscious act. There is but one way that it can be done: you have to go into the system, find somebody who is more or less close enough to whoever it is that you are looking at—with a similar date of birth and close enough in age, height and everything else—and you have to make an entry in the CHS with a marker that links that person to the Scottish Criminal Record Office or the Scottish criminal history system. I can see that you recognise what I am saying, convener. The only way that that is possible is for someone—a police officer, not a civilian member of staff—to sit down and consciously go in and link somebody by marker, perhaps referencing a small bit of intelligence, as an alias that is used by that criminal.

11:45

When I spoke with police officers about the 28 crimes that were reported, I learned that they included death threats, fire raising, vehicles being set on fire and vehicles being destroyed. There was not a single detection in any of those crimes. In four instances, closed-circuit television footage was never recovered.

When I found out about that and got a copy of the record of when I was charged by the police, I realised that that was why the police's focus during those three years was on me, not on the perpetrator of those crimes. My counsel said that the criminal record was one of the worst criminal records that he had ever come across.

The Convener: From what you say, it seems that those actions contributed to the lengthy timescales that you experienced.

Bill Johnstone: Personally, I see the PIRC as another line of defence for the police. I will give you a good example of that shortly.

In theory, the PIRC is an organisation that can hold the police to account. However, the police are

in control of all the documents and the timescales. At that point, the PIRC process is open ended. Of course, if the timescale was such that the process had to conclude within, say, six months, and the police were forced to produce the documents within that period, that would not mean that the police would not be cherry picking what they send to the PIRC. The most important thing to bear in mind is that the complainer is never allowed access to what has been sent to the PIRC. You can ask for it, but there is no chance that you will get it.

The Convener: Thank you. We have limited time today, so I will open up the session to other members.

Rona Mackay: Thank you for coming in to talk to us. I want to go back to some of your previous comments about the PIRC. I understand that you do not think that the PIRC is independent enough to scrutinise the police and that the complaints system should stand outside of that.

Bill Johnstone: I will shortly give you a good, strong example of my reasons for thinking that.

Rona Mackay: Okay. Do you think that an entirely independent board should be investigating complaints?

Bill Johnstone: Yes.

Rona Mackay: During the long time that you have been involved in this, was there any mention at any time of the Scottish Police Authority?

Bill Johnstone: No. I was dealing with fairly senior officers—detective chief inspectors and people like that. My allegations changed from being serious allegations about what they like to call a service complaint at the point when I found out about, for example, the false record. I was sitting down with a DCI in the police station at Helen Street and I said, "This is malice." At that point in the game, he knew that I understood the system very well. I knew about the system because, when I was in the army, one of the units where I worked had full access to the criminal history system across the United Kingdom, and the system had not changed. I understood the system inside out, basically. At that point, when he realised that I understood how the criminal record could have come about, it became completely impossible for my complaint to go any further. He shut it down. The PIRC is just a ring of defence round the police.

You are interested in the PIRC situation. I will give you an example that covers that completely. I have here a document that sets out the police complaints system process. It says:

"if the allegation lodged is of a criminal nature, the Force cannot resolve"—

this is the important part—

“or attempt to resolve the complaint.”

That is in the complaints process. Unfortunately, that is usurped by the police’s operational procedures—that is what you have to look at. There is a paragraph in that that says that, if the allegation is a criminal one, an inspector must report—can report—to the Crown or they can report to professional standards so that they can assess the allegation. That is what it says. The police complaints process document contradicts that statement. I am not finished.

In my case, I sat down with counsel and wrote a letter—I have it here—to Chief Constable Livingstone, who has just retired. It had a list of 18 officers. The highest-ranking officer was a detective chief inspector. Nine of the complaints were for perverting the course of justice and preventing evidence from being available. Everyone knows that that is a common law crime. That letter was sent to the chief constable. He went straight back to the DCI, who was at the top of the list on the complaint, and asked him to deal with the complaint. He then got a superintendent to send me a letter, which said that my complaint had been sent to professional standards and that they had said:

“the allegations you have raised do not amount to criminality.”

The letter said that, unless I was prepared to accept that my complaint was non-criminal in nature, it would be

“abandoned”

by the police.

Before I wrote the letter, I had spent three years building my case against the police officers, because we had had a disclosure during the trial that I was on and I was acquitted unanimously. The superintendent told me that I could go to the PIRC, so I went to them. After 10 months, the PIRC came back and said—I will paraphrase, because I have not brought the letter with me—“We can’t deal with your complaint, Mr Johnstone, because the allegations are criminal in nature.” Take that in for a minute.

The PIRC, under its standard operating procedures, is supposed to have the authority to deal with that. In order to do that, it must send a complaint to the Crown or go back to the police and say, “We have responded to the complaint and you will deal with this as criminal.” In the letter, the lady from the PIRC said that she had to go to her senior review officer in order to decide whether perverting the course of justice was a criminal allegation. I would imagine that it would take 10 minutes for someone to figure out that it was a criminal allegation, not 10 months. Over

those 10 months, I continually emailed and phoned the review officer, and I was panned off all the way down the line.

Rona Mackay: Do you think that they were hoping that you would just give up and say, “I am not waiting any longer”?

Bill Johnstone: It became so serious that I was asked to speak to Dame Elish Angiolini. She was shocked—she will not mind me saying that—that I had not been put in front of the procurator fiscal years before. She looked at the paperwork that I showed her, then looked across to the other lawyers who were there and said, “While we’re doing this?” Those were her actual words.

I refer back to the officers involved when things started off, and the question of things being covered up and then becoming criminal. To go back to the convener’s question about the loyalty of officers, when the matter became criminal, we were talking about half of the criminal investigation department officers in Glasgow. When I was on trial—Russell Findlay was there in the court—28 police officers were called by my counsel. All bar one were CID officers. That other officer was a uniformed officer. The police officers who had charged me were four of the officers who were subject to the complaint before I was charged.

That night when I got attacked by the guy wi the knife, after the death threats, I phoned the police. They came and they put me in the back o the van. I am lookin oot the windae and I see two of the CID officers who were part o my complaint. There was a detective sergeant and a detective inspector fae Maryhill talkin to the uniformed officers.

The Convener: I know that it is very difficult not to refer to your own experience, but I wonder if I can move you on. There are a number of other questions that we would like to ask.

Bill Johnstone: This case would probably take two years to go over, not 45 minutes.

The Convener: I am sure it would.

John Swinney: Mr Johnstone, you raise an important issue, which Stephanie Bonner also raised with us in the earlier evidence session, that there appears to be a necessity for the initial investigation of complaints about police conduct to be handled by a body outside Police Scotland. Is that your reflection on your experience?

Bill Johnstone: I think that you have to have something like an ombudsman, outwith the whole criminal justice system.

John Swinney: Does the PIRC meet your expectations?

Bill Johnstone: Absolutely not. On the two occasions when I went to the PIRC, the allegations concerned were very serious, and one

was a criminal one. The PIRC agreed. For the officers to put their necks on the line in writing, saying that the allegations were not criminal allegations, with false statements on crime reports and that kind of carry-on: that is all serious stuff for those police officers. There was also all the documentary evidence that my lawyers and I had got during disclosure during the trial.

This is not just my view about the PIRC. I read through your bill and I noticed, I think in relation to section 13, that, in the consultations, everybody seemed to be questioning the independence of the PIRC, and I am not surprised at that. You would need to have people who had never been police officers, who are not the Crown and who do not work for professional standards. This is what you get paid for: to figure out how you are gonnae dae this—and I do not envy you it. Scotland is a small country but it has a huge police force and you cannot have the police dealing with their ain complaints or be involved in any part of the process.

To answer your question—and this is where you have a problem—you would have to have a completely independent body to look at the complaints, regardless of how serious they are. That body would decide whether a matter is criminal and what the head of complaint is. For instance, when I made the criminal allegation about the false criminal record, the head of complaint was “We see this as a service complaint.” It is a bad service. It is also a joke. It was a criminal allegation, not a service complaint. The PIRC took it as a service complaint and dealt with it as a service complaint—and that was at my first visit to the PIRC.

John Swinney: Do you think that that is just the nature of it? You have made a strong argument that all these issues need to be taken away out of the hands of anybody who has had anything to do with them previously. In a logical sense, that is the type of approach that we would take in all processes. We cannot, for example, have somebody on a panel making a decision if they have been involved in the case beforehand.

12:00

Bill Johnstone: Mr Swinney, I was sitting giving lengthy statements to a detective inspector on Helen Street. One of the statements was against a detective chief inspector. I got to police officer number 5 and, when I was leaving, I saw that, sitting in the office next door to the DI who was taking the statements of criminality—this is not trivial stuff; these are serious issues, and police officers are possibly going to prison—was his boss, the DCI. That is when I said to him, “You told me you’re an independent and that you’ve got nothing to do with this.” I said to him, “Who’s your

superior officer—is it him?” and pointed to the name on the next door, who was on my list. The answer was, “Well, yes, but that doesn’t really matter”, and I went, “Right—this stops.” I am sitting there with a DI who is subordinate to the top guy on that list, who the chief constable has sent to deal with the complaint about the criminal allegations against these guys. That is just bonkers.

We cannot have the police taking part in the complaints system. For as long as you want to leave them in there, you will be doing this all over again, with ladies such as Stephanie Bonner, four or five years down the line.

The Convener: I want to ask about the duty of candour. The bill contains a proposal to create a duty of candour for Police Scotland, so that officers and staff are required to be truthful and candid and to co-operate in proceedings.

From your experience, do you think that that is sufficient to give you more confidence that police officers would co-operate with investigations, for example, including those against other officers? If not, what do you think should be put in place in that respect with regard to a duty of candour?

Bill Johnstone: The only way that you are gonnae get complete candour from police officers against other police officers is if they are under oath and if, before that, they are presented with evidence to show that, if they go in there and just spin a story for their pals, they are gonnae go to jail. That is the only way that you can dae it if you want candour from any organisation, and the police in particular.

As I said earlier, I have seen it in the military. To its detriment, we did in-house investigations there as well, at regimental level, and it was ridiculous. We had colonels holding boards of inquiry about serious issues, when those issues really should have been dealt with away from the military completely.

The problem is that, although you can take an issue away from the military and maybe even give it to the police, and you will get some sort of independent investigation, with Police Scotland or any other police force, where an issue will be dealt with solely by police officers, the process is, by definition, raw from the start—it is not gonnae work.

The Convener: Linked to that, another provision in the bill places a legal obligation on Police Scotland to create a code of ethics. Would that give you more confidence in the behaviour of the police? Should there be some sort of sanction or implication should an officer breach the code of ethics?

Bill Johnstone: Absolutely, but the problem is how you decide when they have breached the code of ethics when nobody will co-operate. You cherry pick and send all your paperwork to the PIRC, but it just doesn't work. As I said right from the start, the only way that you can sort this is by root-and-branch reform. That involves having an organisation that is completely divorced from the police force altogether.

The ethics thing is all very well, but nobody will go along with that. That should be there just now. We are talking about police officers. These are guys who are supposed to be out there protecting people in Scotland. So if you are asking whether, if they had better ethics, it would be all right, the answer is now, because it is not going to happen.

Fulton MacGregor: Thank you, Bill, for your very powerful testimony and for coming in here to try to make change. You have made it pretty clear to colleagues already that you do not think that the PIRC is really the right body to deal with this. The bill has some focus on improving, for want of a better word, the PIRC's role and making it more robust.

Although we have just started, we have already heard some evidence about instances in which the PIRC has been successful—effective is probably the right word. That has clearly not been the case for you. If there is not going to be what you wish—a totally brand-new, independent organisation—and the main function is to remain with the PIRC, can anything be included in the bill to improve the PIRC even further, and to provide that distance between the police officers and the PIRC?

Bill Johnstone: If you were going to keep the PIRC in place, which I do not think is a good idea, the complainant should be giving a statement direct to the PIRC, especially for fairly serious complaints. There will be complaints that are fairly trivial and that are not a massive concern—although, for the people involved, they will be a big concern. The PIRC can be effective only if it has teeth—I mean real teeth—and it can force the release of documentation from the police, but mainly if the initial statement is given to the PIRC, or to an organisation like the PIRC, and the police are not allowed to be involved in that initial stage.

The initial stage, depending on the officer and the seriousness of the complaint, will be predetermined. If you go to a police station and start talking about criminal allegations, in that police station, where that is going—or where it got blocked, in my case—will be predetermined.

Dame Elish gave me the second name and details of the fiscal who dealt with criminal allegations against the police. Through my solicitor, I sent an email to the fiscal whose details Dame Elish had given me, and communication

was also sent by post. That was in 2020, just before Covid, and we have heard nothing. We all know how bad Covid was—I know, because I had it twice—but, I can assure you that that communication went to the fiscal. The fiscal went to the DCI or the SI—by that stage there was a superintendent on this—and the fiscal spoke to them and they said, "This guy's just nuts."

The committee might think of this. I was doing this for 11 years. For seven years, there were serious criminal allegations against 18 senior CID officers whom we—counsel, not just me—could see from the crime reports had broken the law. The evidence there was very strong.

Why have I not been charged with making vexatious complaints against police officers or wasting police time for the past 10 years? In fact, it is almost 12 years, if you go back to the non-criminal stuff. I suggest that, if anybody in this room walked into the nearest police station today and made a complaint of that nature against a CID officer, particularly a senior officer such as a detective chief inspector or a superintendent, and the complaint was vexatious or false—if you were just doing it because you wanted to—you would quickly be charged. You would be put in front of a judge.

This has not yet went in front of a judge. The police have never charged me with anything to do with that. Yes, they ran out and charged me when I was standing there after this guy tried to stab me. They didn't bother taking any DNA samples off the knife, which I told them to make sure they did—aff the handle of the knife. Why have I never been charged? A book was written with this whole story in it, and every single police officer and MSP is named in that book, but nobody has come back and said, "What's that about? You're a DCI and you're in a book, accused of corruption, and you don't do nothing?"

The Convener: I will bring Fulton MacGregor back in. I am conscious of the time.

Fulton MacGregor: Bill has answered my questions but I will just clarify those points. You are saying that, obviously, the PIRC is not your preference. The PIRC is in place but, at that very early stage of the process, the police officers whom the complaints have been made against should not have any involvement in the initial approach from the PIRC. That is your approach to the PIRC.

Bill Johnstone: The PIRC had details of the complaint. There were criminal allegations that were deemed by professional standards in the police and a superintendent to be "not criminal in nature", to use their words. The PIRC took 10 months to come back and say to me, "Actually, we

cannae dae a thing for you.” As an organisation, the PIRC is not fit for purpose.

Fulton MacGregor: I should have said that, with regard to there being no contact and the police officers concerned not being able to view those complaints, that should be the case in both formal and informal processes. You sound most concerned about those informal processes—that informal culture. An informal culture will exist in any organisation, but those processes are a particular concern in something as high profile and high risk as the police.

Bill Johnstone: In the middle of the process, I had phone calls fae one of the DIs who is on that list. He said to me, “I’ve spoke to PIRC” and named the person he was talking to at the PIRC. I said to myself, “Hang on a wee minute here. This guy’s subject to the complaint. This DI is subject to a serious complaint and he’s talking to Mrs So-and-so.” I am not going to name anybody. The mere fact that there was communication on the phone between the woman in the PIRC who was dealing with my complaint and one of the people who was subject to the complaint, which was a criminal allegation, was shocking. He definitely was talking to her. He wisnae just saying that to bluff or play it doon. I am 100 per cent sure about that because, when I asked her about it, she ducked and dived a wee bit but she said, “That is part of the process”, and I went, “Naw, it isnae.”

Russell Findlay: I am struck by the fact that the tactics that you experienced and that you recognised in respect of what Stephanie Bonner went through have been replicated—the same tactics in respect of a grieving mother and a former British Army intelligence officer. That is quite something.

I think that my question is, helpfully, a yes-or-no question—one I have never asked you before. Nine years ago, you discovered that you had been wrongly, and potentially criminally, assigned a criminal record by way of alias. Police Scotland has not told you, at any point, how that happened. Yes or no—do you think that it will ever disclose that to you?

Bill Johnstone: No.

12:15

Russell Findlay: A lot of our focus is on the police, but we can sometimes overlook the role of the Crown Office in much of policing work in Scotland; they very often work hand in glove. In your case, by virtue of speaking to Dame Elish Angiolini, you were directed towards making a direct complaint to the criminal allegations against the police division of the Crown Office. You also referenced attempting to have your complaint heard by the PIRC, but your concern is that Police

Scotland was in a position to cherry pick—that was the phrase that you used—what it would disclose of your allegations.

Bill Johnstone: Yes.

Russell Findlay: The same goes for what its disclosure might be to the Crown Office, although, in this case, it did not choose to disclose. My question is about the legislation. Could there be a mechanism whereby if there was full transparency around those submissions to the PIRC and to the Crown from Police Scotland, that would build public confidence that at least the complainer knew that the powers that be—the PIRC and the Crown—were being told something that was reflective of what they were saying?

Bill Johnstone: I will add to that. I had to fund everything to do with lawyers and all sorts myself. The complainant should have access to funding to get a suitable solicitor, who should have access to what is going to the Crown and the PIRC from the police. The complainant is always in the dark. Whatever is being disclosed, there should be a legal mechanism so that the complainant has a lawyer who is paid for by the system, so that they get access to those submissions.

Russell Findlay: One proposal in the bill is that the PIRC should have access to Police Scotland’s systems, which seems perfectly sensible. That would open things up if there are attempts to withhold certain information, but that is opposed by the Scottish Police Federation.

I will make a quick point. You described going to the PIRC, which said that it could not look at a particular set of circumstances because they were of a criminal nature, but when you went to Police Scotland with the same information, it deemed them not to be criminal, and if you did not accept that, it would not look at them.

Bill Johnstone: That is correct.

Russell Findlay: That was an absolute catch-22 situation.

Bill Johnstone: It was also an illegal act by the officer involved, because she blocked lawful process. The PIRC says that they were criminal allegations and counsel says that they were criminal allegations, but an unnamed sergeant at professional standards decided that they were not criminal allegations. False statements on crime reports and such things are serious crimes for a police officer to commit, and they were numerous and backed with evidence.

Russell Findlay: You have nowhere to turn at the end of the day.

Bill Johnstone: You are jammed—what do you do? You do what I did. You do what Dame Elish suggested—you go straight back to them. I went

to them twice, do not forget. The same thing happened again—nothing, because it is too big. Too many police officers were involved, and you would end up with half the CID in Helen Street in the back of a van.

The Convener: I will have to come in and draw things to a close. We are running slightly over time. I know that we could probably sit here for the rest of the morning.

Bill Johnstone: Maybe for the rest of the week.

The Convener: Thank you very much for attending. It has been very valuable to hear your views. We will have a short suspension and a change of witnesses.

12:18

Meeting suspended.

12:21

On resuming—

The Convener: I welcome Magdalene Robertson to the meeting. Ms Robertson is joining us online and I believe that she prefers to be addressed as Maggie. Welcome, Maggie, and thank you for taking the time to give evidence today and for kindly providing some background information about your experience.

I intend to allow about 45 minutes for this evidence session. Mr Findlay, do you need to declare an interest before we start?

Russell Findlay: I have previously spoken with Maggie about what she is attempting to deal with.

The Convener: Thank you very much indeed.

Maggie, I will open with a general question about the police complaints system. What do you think should be changed about the system, based on your experience?

Magdalene Robertson: I would suggest that the system needs to be changed completely. To talk about the things that do not work would be to talk about everything. It should be scrapped, reset and replaced with something completely new that is based on different morals and a different group. That is the way forward—it should be scrapped and set up again. That should not be done through the minds of those who cause the issues and problems in the first place. You cannot create a new way forward by working with those minds who created the issues in the first place.

The Convener: Thank you.

One of the issues that has come up in the evidence that the committee has taken this morning is timescales, which I think that you will relate to. May I ask you about that? How do any

potential delays in the system impact on people involved in it? What should we be thinking about with regard to how that should be addressed in the bill that we are looking at?

Magdalene Robertson: Times should be set. There are unknowns and knowns; we cannot set a time for unknowns—nobody can because we do not know about those yet—but they should have a plan in place that sets out expectations, and they should deliver on them. They have not just dug this up; this is an investigation, and there should be plans in place that set out their expectations and what they intend to achieve. The report and the summary of how they are managing to progress should be given back to the complainer and internally to their auditors.

There might be a turn-about, too, where things become much more serious. For example, somebody could be charged with murder during the investigation—that changes things, doesn't it? It becomes much more serious. The pace needs to change, and they need to evolve the process to suit.

The Convener: That was really helpful.

I now open it up to questions from members, although I might also come back in with one or two. I will bring in Katy Clark first.

Katy Clark: Thank you very much, Maggie, for being willing to speak to the committee.

You are suggesting that we start again with the complaints process. The PIRC, which is what we have at the moment, has been in place for only a relatively short period of time—just a few years—and you have talked about wanting an organisation with a different set of morals. How would you ensure that any new system does not fall into any traps or failings that the PIRC has? Do you not think that the PIRC could be reformed to incorporate some of the changes that you are suggesting?

Magdalene Robertson: No. I stick with the fact that you cannot fix a problem with the same minds that created it. That is well established; it is a basic rule for life and living. What we have here is an organisational culture in the police department where you do not get ahead unless you fit in with that culture; if you think outwith it, you are not going to get ahead. The PIRC is made up of ex-police, so it has the same culture and mindset. We cannot go ahead with making improvements and investigating police with the same mindset that has created those issues. You cannot do it—it is impossible. I do not know why it was set up in such a way in the first instance.

Katy Clark: We heard something similar from a previous witness, so perhaps I can pick that up. If, as you are saying, former police officers are not

appropriate people to be employed in those roles, what kind of skill set do you think the organisation should draw from?

Magdalene Robertson: We should base the debate on the question of why those people were hired in the first place and look at the culture and mindset that the organisation and its people develop and learn. Regardless of whether you are against that culture, the fact is that, when you join an organisation, you have to develop and get along within its culture; you will always adopt it, because you have to. It is basic psychology. For those who get hired for the other side—the PIRC—there is still that old-boy network, the group, the police gang; there are people saying, “Oh, do you remember this?” That group or set of people is in place.

You need to set up a new department within yourselves and figure out how you are going to do it, but the current way is not the way. We see that: it is corrupt—wholly corrupt.

Katy Clark: Okay. Thank you.

Magdalene Robertson: Thank you very much, Katy.

Rona Mackay: Good afternoon, Maggie, and thanks for doing this.

Following on Katy Clark’s questions about the PIRC, I am looking at the response that you got from it after your complaint was made. Our papers say that the PIRC summarised the complaint by saying that

“senior police officers, or an officer, gave instruction to detectives involved in a murder investigation to ignore your rape allegation against a named individual”

and that

“After you provided an additional statement”

in 2015,

“there has been inactivity and this male has not been questioned by detectives subsequent to you providing this statement.”

The PIRC said that its role was to examine the manner in which your complaints were handled by the police. It indicated that, although the review would consider how the police investigated the complaints, the PIRC would not be investigating your complaints or the matters giving rise to them, and it did not uphold your complaint about the police. That seems astonishing to me.

Magdalene Robertson: Yes.

Rona Mackay: It is almost funny—it is just so strange. How did you feel when you got that response?

Magdalene Robertson: I knew that I was going on to the hamster wheel and that it was going to

be a hamster wheel for years. I was going to get left with nothing—I was just going to be expelling energy.

The only way that I could get through it was to do two things. The first was to document it, and the second was to deal with my own mental health during the process, so that is what I did. I knew it was going to be difficult, but I also knew that I had to look after myself at the same time.

Not only was it astonishing, but the full and entire process was consistently thrown out. The PIRC talked about interviewing Iain Packer in 2010, but it did not do that. It lied—it could not prove that it did the interview. When I asked it to prove and verify that it had actually been done, it would not do it. That was tough, because I knew I was dealing with liars and that I was butting my head against things and could not move forward.

12:30

Rona Mackay: Did you feel that you were being failed by the system at that point?

Magdalene Robertson: I was being depleted of energy. It was an exercise to deplete me of my energy so that I had nowhere else to go. It also depleted me of the time that I had, because everything is time barred. If I wanted to take the police to court, I would have to go through the whole process, and that takes away time. That time bar was in place, and time was ticking away. It was the PIRC’s intention to deplete that; I do not see it as anything else.

The Convener: I want to ask you about the proposals for a duty of candour for Police Scotland. A duty of candour for officers and staff relates to their being truthful, candid and co-operative in proceedings. Do you think that the proposal is sufficient for you to have confidence that police officers will co-operate with investigations, including those carried out against or in relation to other officers?

Magdalene Robertson: Have they not already sworn a duty and taken an oath? Have they not already got a duty under statutory law? Is it not already bound in law that they have to do all of what you have mentioned? Has that not been bound in law for hundreds—maybe even thousands—of years? How long have we had the police? Why do we need another set of rules?

If I were in the police or the PIRC and someone said, “Would you like to create another set of duties?”, I would say, “Yes, I will take that on and I will write as many lists as you want.” It does not matter; it makes no difference. Just scrap it and stick with the duty that we already have.

As soon as we start getting more specific, we home in on very specific items and, when we get

very specific, people find it easy to opt out and say, “We did not agree to that specific item, but it still fits in the boundaries.” Just scrap it—it is a waste of time. It is a rabbit hole that we will be guided into by those in the PIRC who are going to waste their time and money on dealing with it. Scrap it.

The Convener: Another provision in the bill is for a code of ethics. Do you feel that such a provision, which would place a legal obligation on Police Scotland to create a specific code of ethics, would give you more confidence in the behaviour of officers? Should there be specific sanctions for a breach of the code of ethics?

Magdalene Robertson: I would consider what would happen if there were a breach of the code of ethics that the police are already sworn to; I would not create anything else. I cannot express how much I disagree with doing that. There should definitely be clear information on what the minimum is that it would suffer if it committed an offence. That is what needs to happen. Police Scotland needs to be charged if it commits offences or does not uphold its duties.

The Convener: Thanks for that. Russell Findlay has a question.

Russell Findlay: Hi, Maggie. Thank you for joining us.

You described your ordeal with the police complaints process as like being on a hamster wheel, and a previous witness described it as “a hellish merry-go-round”. I suppose that what both descriptions have in common is the idea of an endless circularity to the process, and it seems to have been designed that way.

Another common feature of what we have heard is the way in which, at the outset, the police are able to be selective about how they categorise complaints. That categorisation sets the tone for everything from that point, in terms of how something is dealt with internally and how the police might represent the issue to the PIRC or, indeed, the Crown. Do you think that it could be helpful for the bill to include much greater transparency around that crucial early moment? It might include that already, but I am not entirely sure that it does, to be honest.

Magdalene Robertson: Transparency is key—transparency all the way through. It gives the person who is reporting the crime—“incident” might be a better word, as it might not be a crime—confidence about how it is categorised. Incidents need to be categorised in terms of how serious they are, so that people can decide who is going to deal with them, but there should be transparency and the person who is making the complaint should have equal input into that. There

must be a meeting of the minds and an agreement.

Russell Findlay: So, a protocol whereby the complainer absolutely has to be fully apprised of what their complaint constitutes is required, and there should be no slight softening of things or removal of issues.

Magdalene Robertson: Yes.

Russell Findlay: Some people who have not experienced what you, Stephanie Bonner, Bill Johnstone and others have experienced might find what we are talking about quite extraordinary. Police Scotland is very effective at telling the public that all is largely well, and it is absolutely the case that the vast majority of police officers do an incredibly difficult job with the greatest of integrity. Can you explain why you think that Police Scotland, or any police force or, indeed, big organisation, might seek to waste people’s time and public money on a process such as the one that you have described when, in fact, doing the right thing would be more efficient and better for their reputation in the long term?

Magdalene Robertson: When there is a culture in an organisation such as the police that has been built up over hundreds of years, people want to protect it. That is natural. They do not want blame, and that is why they will cover things up. That is what I believe, anyway.

Russell Findlay: So, part of the reason is to protect the reputation of the organisation, and, as we have heard from Bill Johnstone, there is also an element of individual protection.

Magdalene Robertson: Yes.

Russell Findlay: Bill Johnstone and other witnesses have said that, at the outset, every complaint should be looked at by some independent entity. There are huge cost implications to that. We have already heard concerns about the cost of the bill perhaps being much greater than the financial memorandum states. Would you agree that, at the outset, every complaint would need to go through an independent body or some kind of sifting process?

Magdalene Robertson: That would mean that you should eliminate the PIRC, because, if you need to have someone marking each step, why not just have that external body handle the complaint? Why do we need the PIRC? Why not have a separate entity?

Russell Findlay: The bill gives the PIRC much greater powers, so that might be the solution.

Magdalene Robertson: Maybe people who are not in the police and have not come from the police should be involved. We need to look at the networks that the police are involved in, too—they

are old-boy networks. These are people who have worked with each other and whose families have worked with each other. They are connected, they are in the same golf club, they could be in the same Masonic lodge, or they might know each other from media connections or involvement in football teams. They are involved in various ways. They are also connected personally within the workforce and through the management of their jobs.

If they have done something wrong or covered it up right at the beginning of their career, people know about it and then they cover up something else, something gets hidden or something is not reported. Then there is a bigger picture; there is a Pandora's box to be opened, and none of them wants it to be opened. These are not single little items that they do not want to be disclosed—these are major items.

For example, when I made a freedom of information request in relation to the two PIRC officers who were investigating my complaint and their relationship with the senior police officers whom I had reported, the PIRC cited five sections of the Freedom of Information (Scotland) Act 2002 as to why it could not provide that information. I have them written down—they were absolutely ridiculous. They included section 28, which is on relations within the United Kingdom. It would not provide me with information on those police officers and their relationship with senior police officers, because it would affect relations with the rest of the UK, including Northern Ireland and Wales. That is ridiculous.

Another was section 41. That one—you might know it—provides an exemption if the information relates to communications with Her Majesty and the royal household. These are ridiculous parts of the legislation that it gave to me as an excuse for not sharing that information.

I would like clear freedom of information, given before the PIRC even does the investigation. It should provide a statement of fact that PIRC officers either know or do not know the officers who have been complained about.

Russell Findlay: You are in the right place as far as freedom of information is concerned. Katy Clark is proposing a bill to improve and strengthen the freedom of information legislation.

The Convener: With regard to misconduct procedures in the context of former police officers, do you agree that it should be possible for misconduct procedures to commence and continue against former police officers for allegations that, if they were proved, would amount to gross misconduct? Should the procedures relate only to gross misconduct?

Magdalene Robertson: I have an example. In my complaint, I wanted the PIRC to follow up against police officers. There was one piece of information that I provided many times that it absolutely refused to check. That information was really important because it was from Alexis Blake from the Crown Office and Procurator Fiscal Service, and we know how senior she is. She wrote to me and told me that she was investigating possible criminal activity of the senior police officers that I was complaining about. The PIRC decided that it would not follow that up. That is key—it is criminal that it did not follow that up. I still do not know what happened. I do not even know where the report from the Crown is. That should be investigated as part of my complaint. Therefore, yes, if the process relates to gross misconduct, we need to define what gross misconduct is.

Niggling complaints about the police might be about something small, such as miscommunication. However, in my situation there was hard factual evidence to hand that was not even from me—I was not making it up; it came from the Crown. Senior legal officials who represent Scotland were saying that they were investigating possible criminal activity, so they must have had reasonable cause to believe that in the first instance. If they had reasonable cause to believe that, there is evidence, is there not? Why was that evidence not used? The PIRC was investigating those crimes. Why were the officers not charged? The Crown and the police know about it and those guys are walking free. It is absolutely shocking.

The Convener: That is very interesting. Goodness me.

I am interested in what you think about the intention to allow proceedings against former officers to commence or continue. The timescale for that is up to 12 months after an officer has left the force, unless, according to the bill, specific criteria are met. Do you have a view on that?

12:45

Magdalene Robertson: A crime is a crime. It should not be time barred; it should depend on the seriousness and the effect that it had on people or their property.

The Convener: Thanks for that. You think that it should not be time limited, is that right?

Magdalene Robertson: It should definitely not be time limited—no way.

John Swinney: Good afternoon, Ms Robertson. You have made a powerful case about the need for what I might call a significant hurricane of fresh air into the system. You have obviously seen the

bill that we have before us; am I right to deduce that, given your experience, you do not think that the bill is adequate to address the degree of scrutiny and transparency that is required of the system?

Magdalene Robertson: Yes. Given my experience, I think that we need to have another mind or culture create that system. I do not know who that should be, but it should not be the current one. We need to have transparency all the way through the system. Transparency should be a statement of fact throughout. It should never be requested—it should be there, but I am not so sure how it would go.

John Swinney: You pose a significant challenge to the committee. You have marshalled your arguments powerfully in front of the committee, and they raise a huge question about the transparency of actions and the confidence that members of the public and the committee can have in the culture of the police force and those who scrutinise the police force as being essentially built around the principle of transparency. Do you have any further thoughts that you could share with us about how we might strengthen the provisions that are in front of us and address the concerns that you have expressed?

Magdalene Robertson: It should never be voluntary. Somebody highly paid should come in and audit—it should be somebody who can be proud of their job and somebody who is not given a bonus as such. It should be somebody who is honourable and has integrity—perhaps somebody from the military. It should be somebody who understands the process and understands what cuts the wheat from the chaff, what is important and what is not so important, and how that can affect people. It should be somebody who understands on a psychological level who they are dealing with, whether they are telling the truth and whether they are hiding something. I would look for ex-military or ex-Navy people, members of the fire brigade or people like that. That is the team that I would look for—people we can trust and who are honourable.

Fulton MacGregor: Thank you very much for your evidence so far. I want to ask a question that is a wee bit from the other side of the discussion that we have had today. All our witnesses today have spoken about serious cases and serious impacts. Thank you again for bringing that to the committee in the way that you have done. At some point you have acknowledged that the seriousness of concerns is on a scale from very low to very high. We are making changes and we want to get that independence right, but how can we quickly identify complaints that are less serious and can be dealt with quickly to prevent the system from becoming overwhelmed?

I ask that question because almost anybody could have a complaint the minute they find that the police are in their lives, but not all of those complaints will be as serious as those described by you and your fellow witnesses today. Have you had any thoughts on how to do that? We would not want to create a system that gets clogged up quickly.

Outside this committee session, we have been speaking about other bills that have been through Parliament, and in respect of which too many complaints have gone to the police in the initial weeks. We do not want the time of police officers or any other organisations to be taken up in that way—we want them to be concentrating on cases such as yours and Stephanie's. Have you got any ideas about how we might quickly get to that stage? I am sorry if that question is a wee bit out of the blue.

Magdalene Robertson: Fulton, you are saying that you do not want there to be any bottlenecks: you want to be able to categorise complaints so that they can quickly be sifted. Why can that not be done? What is causing a bottleneck and what is the stopper? Why are complaints not categorised?

There should be a categorisation depending on the people, too. An old-age pensioner who really does not know how to operate the system and takes time, but has a really serious complaint against the police—maybe around something that was not an investigation but a physical assault or something like that—needs to be dealt with differently than somebody else who has a systematic, more process-related complaint about the police, which will not really have an effect on them or affect them mentally.

You have to deal with a complaint that way—have it categorised and worked out, but allow the categorisation to change over time because, during the complaint, things can change. You must not allow the bottlenecks. You have to deal with the complaint—ask who is complaining and what they are complaining about and allow the officer to highlight to another team or teams where that complaint should go.

You have to allow the police to apologise at the outset, too. That might solve a lot of issues without having to go into full, big, complaints that go on and on.

The Convener: Okay, thank you. Maggie, we are just coming to the end of the session. Can I ask you a final question? It is not in the bill, but it relates to the PIRC, about which we have spoken at length this morning. The bill expands some of the functions of the PIRC in relation to complaints and allows for a broadening of its role in the misconduct process. Do you feel that there is

sufficient oversight of the PIRC in the role that it currently fulfils? Do you feel that anything further would be required if it is given further powers? I know that, to a certain extent, you have already articulated that this morning, but would you like to add to that?

Magdalene Robertson: Okay, I will come right out with a question—not deliberately and not to trick you, but you will understand. On 28 February, Iain Packer was convicted. The police apologised for their handling of the case. On 28 February, I went back to the PIRC and said, “Hi. Given that the police have apologised and admitted liability, would you please consider opening up my case for complaint again?” It was ignored. I went back on 6 March—it was ignored. I went back on 8 March—it was ignored. We are nearly hitting seven weeks after that, and guess what? The PIRC is still ignoring it.

We need somebody to make sure that the PIRC does its job, because where do I go? I have nowhere to go; there is no governing body for the PIRC. It is mates and people who know each other, who can grease each other’s hands and help their mates out. That is what we have here. I still have nowhere to go with this complaint. I need to seek civil action against those police at my own cost—I need to fund it myself. That is what I need to do if I want justice.

The Convener: Okay. Thank you, Maggie. On that very powerful final note, I will bring the session to an end but will hand back to you in case you want to make a very final point.

Magdalene Robertson: Yes. What has happened is that the police and the PIRC have managed to set up a perfect situation where they can protect themselves against the public that have been victimised by them. It is absolutely ridiculous. It sounds like something out of a science fiction novel. It does not appear to be true, because it does not sound true. Yet, here we are, and it is true—can you believe it? Oh, my goodness.

Let us scrap all this nonsense about giving them another list to create. Let us start charging those people. Action needs to be taken against those who have committed those crimes within the PIRC and those who are in the police who have helped to grease their hands. Those guys are criminals.

The Convener: Thank you for joining us this morning, Maggie. It has been really valuable to hear from you, and we are grateful for your time.

Magdalene Robertson: Thank you all for your time.

12:56

Meeting continued in private until 13:13.

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