IN THE POLICE MISCONDUCT HEARING
POLICE (CONDUCT) REGULATIONS 2020

B E T W E E N

COMMISSIONER OF POLICE OF THE METROPOLIS

- and -

PC KRISTINA LINGE
PC RAFAL SZMYDYNSKI
PC VICTORIA WRAY

SPEAKING NOTE

INTRODUCTION

1. These allegations of Gross Misconduct are presented by the Director General of the Independent Office for Police Conduct ("IOPC") on behalf of the Appropriate Authority of the Metropolitan Police Service ("MPS").

2. The allegations have been independently investigated by the IOPC. The three accused officers are all still serving within the MPS.

3. The allegations relate to the strip search of a 15 year-old schoolgirl, "**Child Q**", at her school in Hackney, on 3rd December 2020. The search involved the removal of Child Q's clothing including her underwear, her bending over and, thus, the exposure of her intimate parts including, necessarily on the Director General's case, her vagina and anus. Child Q was menstruating at the time, as she told the officers, but they nevertheless proceeded with the search. It is not disputed that Child Q's sanitary pad was thereby exposed. The object was to search for cannabis. No cannabis was found.

4. PC Rafal Szmydynski, the male officer, was the most senior officer in attendance. He was crewed with PC Kristina Linge, a female officer, and was involved in making the arrangements for the search – including, crucially, requesting the attendance of a **second** female officer, PC Victoria Wray.

5. PC Linge performed the strip search, accompanied by PC Wray. No other adult was present for the search: it was just the two police officers and Child Q, in the medical room at the school, with the door closed.

6. After the strip search proved negative, there was further searching of Child Q's hair. This was a "no stone unturned" approach to what, on the Director General's case, could never have justified such intrusion, namely the possible discovery of a small amount of cannabis.

7. None of the officers made any contemporaneous record of the search.

8. PC Szmydynski made a record later in the day on 3rd December and PC Linge made a record over a month later, after a complaint had been made. The Director General's case is that neither officer was straightforward or transparent in those accounts and both sought to minimise and obfuscate what had occurred.

9. Stepping back from this case – the central facts of which are largely undisputed – there are, perhaps, two features which best explain the public outcry there has been in response to it:

   (i) First, that Child Q is black. It is the Director General's case that this kind of gross overreaction by the police – to strip search a school pupil on suspicion of something relatively minor, possession of cannabis – would not have happened to a white pupil and is, regrettably, explained by Child Q's race, whether or not the officers were consciously aware of this at the time.

   (ii) Second, the lack of accountability for the powers which the officers exercised. Police officers exercise considerable powers and must do so with the consent of the public. The power to perform a strip search on anyone, let alone a child, is subject to policies and procedures which are designed to prevent its misuse. Unjustified overreach of such powers is capable of undermining public trust and confidence in the police and bringing discredit on the Police Service as a whole.

10. The Reg 30 notices allege that the officers performed the search, or allowed it to be performed, in a manner which was wholly disproportionate.

11. The Standards of Professional Behaviour alleged to have been breached are **Authority, Respect & Courtesy**, **Duties & Responsibilities**, **Equality & Diversity**, **Orders & Instructions** and **Discreditable Conduct**. PCs Szmydynski and Linge are also alleged

to have lacked **Honesty and Integrity** in their inadequate and misleading records of the search.

12. These breaches amount to **Gross Misconduct**, i.e. to breaches of professional standards sufficiently serious to justify dismissal. Although PCs Linge and Wray have made limited
admissions, all three officers deny Gross Misconduct.

13. Child Q is, most regrettably, unable to give evidence, because of the psychological effects that this strip search has had on her. Medical evidence has been supplied on her behalf. The Chair has ruled that the written statements she has provided are nevertheless admissible and it will be a matter for the Panel, at the close of all the evidence, to decide what weight to accord to them.

KEY POINTS FROM THE OPENING

14. The Director General relies on a fuller written Opening containing page references etc; but supplies this oral summary to **focus** on key points; and for the benefit of the officers, the press and the public.

Background

15. This case was investigated by the IOPC following complaints made by Child Q's social worker, the school, and solicitors acting for Child Q in early 2021.

16. The officers have each supplied a series of written responses and statements and have each been interviewed.

17. PC Szmydnski is the most senior officer, who had been with the MPS for 5-6 years in December 2020 and a PCSO for some 7 years before that. He was a response officer based at Stoke Newington alongside PC Linge, who had been performing that role for just over a year (since April 2019). PC Wray was the youngest in service and still in her probationary period.

18. All officers had been trained on stop and search powers and were, or should have been, familiar with the MPS Stop & Search Policy, which was on the MPS intranet. They all knew, or should have known, that a strip search:

(i) is the most intrusive form of search permitted under stop and search powers and should only be used where necessary and reasonable;

(ii) requires the authorisation of a sergeant;

(iii) must involve an appropriate adult if it concerns a child – where that adult must not be someone who has been involved in the "investigation";

(iv) must be recorded – all officers are familiar with the basic '5090' stop and search form produced in a typical street encounter;

(v) two same sex officers are required if intimate parts will be exposed.

19. These were **basic** policing principles and the officers were, or should have been, aware of them. They had all conducted stop and searches before and they had all conducted strip searches before – albeit only ever in custody and never involving a child.

20. They all knew that two female officers were required for this search.

21. The Panel is particularly well placed to assess what these officers knew or should have known – being chaired by a senior police officer, and with the benefit of members with their own expertise and experience.

22. This case does not turn on training. The officers knew or should have known of the need for necessity and proportionality when exercising police powers, the importance of respecting human rights, of not treating someone less favourably on grounds of race, not allowing discriminatory considerations to influence their decision making and to take special care when dealing with children.

Concerns about Child Q

23. The police attendance on 3rd December 2020 came about after Child Q's teachers raised concerns about her smelling of cannabis on arriving at school that morning (as it happens, for a mock exam).

24. Those teachers are referred to via their positions to protect their identities following a previous ruling by the Chair.

25. There had been a similar incident 2-3 weeks previously (11/11/2020) when Child Q had arrived late to school appearing to be under the influence of cannabis. On that previous occasion staff had searched her bag and blazer, finding nothing, and Child Q's mother had come to collect her from school.

26. On this (the December) occasion, the teachers again searched Child Q's outer clothing: her bag, blazer and shoes, again finding nothing.

27. But the smell of cannabis was strong (multiple witnesses say this) so the Safeguarding Deputy rang the safer schools officer, PC Sivaji, for advice on what if any further steps could be taken. The SSO is a designated police officer with particular responsibility for liaison with schools. Unfortunately, this being during Covid, PC Sivaji was unable to attend the school himself due to Covid restrictions, so he advised the Safeguarding Deputy to ring 101 for further advice.

28. the Safeguarding Deputy duly rang 101. She relayed her concerns about Child Q having attended school smelling of cannabis, for a second time. She said she was worried Child Q might be bringing drugs into school, potentially on behalf of someone else, which might pose a risk to other pupils but also **to Child Q** as she might be at risk of exploitation in the community.

29. The contents of that call were recorded on a police 'CAD' (computer aided dispatch system) and transmitted over the police radio.

30. PCs Szmydynski and Linge accept having received the information from that CAD when they were asked to attend. They, therefore, knew that Child Q was a 15 year old school pupil, that the school believed she was in possession of cannabis, and that the teachers had already searched her with negative result. They knew that there were safeguarding concerns about Child Q potentially being groomed in the community and, thus, of her potential vulnerability. They knew about the previous incident in November when Child Q had been searched by the teachers for cannabis and sent home with her mum.

31. It was also relayed to PCs Szmydynski and Linge that a **female** officer was needed. PC Linge has accepted that this "planted a seed in her mind" that something more than the removal of outer clothing (which had already been done by the staff) might be required.

Discussion with teachers – request for second female officer

32. PCs Szmydynski and Linge spoke to the teachers when they arrived at around 11am: principally the Safeguarding Deputy and the Headteacher. Both officers accept being told (as they had already gleaned from the CAD) that the school suspected Child Q of being in possession of cannabis and had wider concerns about her potential exploitation in the community.

33. PC Linge says it was PC Szmydynski who "took the lead" in the discussions: this would make sense, since he was the more senior officer.

34. There is some dispute about what was **decided** at this stage, i.e. whether the officers decided to strip search Child Q.

35. Importantly, it was at this time (11:12), around 20 minutes after arriving at the school that PC Szmydynski made a request for "another unit **with female officers**" to "assist us **with further searching** if need be".

36. This strongly indicates that **PC Szmydynski** was at least contemplating a strip search, as there was already a female officer on site (PC Linge). By asking for a **second** female officer PC Szmydynski was envisaging a strip search being performed.

37. There is also some dispute about what, if anything, was said about an "appropriate adult" at this stage. The teachers say they were advised by the officers – principally PC Szmydynski – that there was no need to contact Child Q's mother until after the officers had spoken to her. PC Szmydysnki says he thought the mother had already been contacted; although this is contrary to what PC Linge recalls (that Child Q refused for her mother to be contacted).

38. This does not much matter because of the upshot: no appropriate adult was arranged.

Appropriate adult

39. A brief word on appropriate adults. Although a technical term within PACE Code C (para 1.7) the **function** of an appropriate adult ("**AA**") is relatively straightforward: this is someone who is a child's parent or guardian or, where such a person is not available, someone who is not a police officer or otherwise involved in, or a witness to, the investigation. The role of the AA is to safeguard the child's rights and welfare, to support

and advise the child on those rights, to ensure that the police are acting properly (and respecting the child's rights) and to help the child to communicate with the police should they wish to.

40. A search of a child may take place in the absence of an AA **only** if the child signifies **in the presence of the AA** that they do not want the AA to be present during the search and **the** agrees to this; in which case **a record** must be made of the child's decision and signed **by the AA**. **Pausing here**, this requires a suitable AA to be identified **in the first place**, and for each step of the process (if the AA is not, in fact to be present for the search) to be recorded. This is to ensure that the child's rights, and the protections afforded by the AA, are respected and transparently recorded by the police.

41. The officers suggest, to varying degrees, that the Safeguarding Deputy was acting as the appropriate adult, even though she was not present during the search.

42. It was, or should have been, obvious to these officers that the Safeguarding Deputy could not act as the appropriate adult. On the officers' own accounts, the Safeguarding Deputy was the person who had summoned the police to the school, was Child Q's 'accuser' (for want of a better word), was adamant that the officers would find cannabis on Child Q's person and, so, was not a person who could reasonably be expected to challenge the police in their actions.

43. Neither officer made any record about any of these considerations: PC Linge's pocket notebook is blank for 3rd December 2020 and PC Szmydynski's has never been retrieved.

Speaking to Child Q in the medical room – decision to search

44. There is no dispute that PCs Szmydynski and Linge spoke to Child Q in the medical room in the absence of anyone else (Child Q was brought into that room from a different room where she had been waiting).

45. So, even if the Safeguarding Deputy or one of the teachers could have been a suitable AA (which the Director General does not accept), no one in fact performed the role of AA for Child Q and no record was made about why that was.

46. Instead, the two police officers spoke to Child Q about why they had been called and asked her a series of questions with a view to deciding which of their powers to exercise.

They accept that they ultimately decided to search her for cannabis pursuant to Misuse of Drugs Act 1971 s.23 based on what she told them. PC Linge accepts (as Child Q has said from the outset, but PC Linge only later accepted) they told Child Q she would be arrested if she did not consent to being searched.

47. There was, in addition, a risk that Child Q was under the influence of cannabis given the smell of cannabis which had prompted the call to the police.

48. The reality is that **both** officers – PC Szmydynski and PC Linge – decided that Child Q should be strip searched and that PC Szmydynski has, dishonestly, disclaimed knowledge of this decision in order to avoid being held accountable for his own actions.

49. PC Linge would not have proceeded with such a search – of a child, in a school, which neither had ever done before – had she not discussed and agreed it with the other, and more senior/experienced officer present. PC Linge, the teachers, **and** Child Q **all** indicate that it was **PC Szmydynski** who "took the lead" in the discussions and advised on whether any of the teachers should remain in the medical room (indicating that this was not necessary: so none of them did).

50. As previously stated, PC Szmydynski's request for the second female officer strongly suggests that he knew a strip search might, and subsequently would, be taking place.

51. PC Linge is clear in her understanding that PC Szmydynski knew a strip search would be taking place: she says they both decided, after speaking to Child Q, that a strip search was required.

52. PC Wray, a probationary constable, understood that the request for a second female officer meant that a strip-search was being requested.

53. An outer clothing search had already been performed by the teachers, as both officers knew. There would have been no point completing another of those. This was what PC Szmydynski had said, having spoken with his supervisor, PS McCallister, over the radio prior to the officers' arrival.

54. PC Szmydynski's knowledge and permission of a forthcoming strip search is also consistent with his own account, which is that he asked the Safeguarding Deputy to be

the AA and invited her to be present during the search, but Child Q declined this – there was no need to ask for an AA if only an outer clothing ('JOG') search were contemplated. The Panel will recall that there are different types of search. The Director General uses the term "strip search" to denote a search involving the exposure of a person's intimate parts.

Authorisation and object of the search

55. No authorisation was sought for the strip search. Plainly (as PC Linge accepts) this would have been extremely helpful, and was required by the both the College of Policing APP and MPS search policy.

56. Nor is there any dispute that the object of the search was to find cannabis concealed somewhere on Child Q's person. By PC Linge's admission, the quantity of cannabis Child Q was suspected of carrying was "small".

57. This (the quantity of cannabis suspected in Child Q's possession) is particularly relevant to the **proportionality** of the search because the more intrusive the search, the more stringent the justification for it needed to be.

58. A stringent justification might, for example, have been if Child Q was reasonably suspected of concealing a dangerous weapon or substance posing a serious risk to herself or others – for example, a knife; a concealed bag which might be swallowed and could split, as PC Wray has suggested; or a **large** quantity of drugs, as the Safeguarding Deputy has suggested.

59. Strip-searching a child on suspicion of possessing a small amount of cannabis was, self-evidently, not proportionate. The officers' continuation of the search in these circumstances shows that they did not stop to think whether the exercise of their powers was reasonable; they had decided to find the cannabis which the Safeguarding Deputy (mistakenly) thought they would find.

60. The Object of the search is the second part of 'GOWISELY', the mnemonic for what must be communicated by the police to the person who is stopped and searched. Despite the obvious sensitivity of <u>this</u> search, PC Linge accepts she did not go through GOWISELY properly and, in particular, that Child Q was not told of her entitlement to a copy of the search record. This is not a "performance matter" (as PC Linge suggests). The search

record would have been an **essential** record of what took place, and why, and so a key document for holding the officers accountable for their actions behind closed doors.

Arrival of PC Wray

61. PC Wray was the operator (non-driver) in a police vehicle driven by PC Rahman. She had heard PC Szmydynski asking Sgt McCallister about the powers they had prior to his and PC Linge's attendance.

62. PC Wray had heard the request for a second female officer to attend the school via the radio and understood this was to facilitate a strip search (a more thorough search involving the exposure of intimate parts) – otherwise her attendance would have been "wholly unnecessary".

63. On arriving at the school (c11:18) PC Wray was told, by a teacher (she believes the Safeguarding Deputy) that Child Q smelt strongly of cannabis and the teachers were worried about her.

64. PC Wray proceeded to the medical room whereupon she entered, PC Szmydynski left, and the door was closed.

65. PC Wray also spoke to Child Q before searching her and, as PC Wray accepts, did not inform Child Q of the ground for or object of the search, or ask Child Q if she had already been informed of this, saying she "presumed" the other officers had done this.[22] As one of the two officers who conducted the search, it was **elementary** for PC Wray to ensure that Child Q had been informed of the grounds for the search.

67. PC Wray was not merely a "witness" to the search but a police officer with a responsibility to ensure that it was carried out properly and in a manner which safeguarded Child Q's rights. PC Wray accepts, correctly, that the role of a witnessing officer includes ensuring that the searching officer is acting in a manner that is lawful and necessary.

Strip search of a child in the absence of Appropriate Adult

68. PCs Linge and Wray both say the search was carried out "according to [their] training" – meaning in stages, with the removal of Child Q's upper clothing (on the upper half of her body) before her lower clothing – thereby accepting that they **had** received training on strip searches.

69. There is little, if any, dispute about what took place during the search:

(i) Child Q was required to remove her clothing, PC Linge searched it before Child Q was permitted to put it back on.

(ii) At some stage before Child Q removed her underwear, she told the officers she was on her period. They both accept saying "we are all women here" or that they were all females or words to that effect;

(iii) After that remark, the officers continued to require Child Q to remove her underwear (whether simply lowered or physically handed to PC Wray) and then to bend over, which would inevitably have exposed her vagina and anus to the officers (this being the obvious intended effect of asking her to bend over);

(iv) Child Q says she was asked to cough and spread her buttocks before one of the officers asked "is there anything up there?", which the officers do not specifically deny (little turns on this given the inevitable exposure of Child Q's intimate parts from bending over; but Child Q's account is consistent with the admitted conduct of the rest of the search and its object of finding a small amount of cannabis secreted somewhere on Child Q's person);

(v) PC Linge accepts seeing Child Q's sanitary pad.

70. Stepping back: it should have been obvious that the strip search of a child, at her school, on suspicion of possessing (what PC Linge understood to be a small amount of) cannabis, was grossly disproportionate.

71. Even if the officers had reasonably concluded such a search would be proportionate, there was no good reason not to ensure that the proper procedures (meaning safeguards) were followed i.e. (i) that an appropriate adult was present; (ii) authorisation was obtained; and (iii) a record was made of the fact and circumstances of the search and the presence (or absence, with reasons) of an AA. The officers did none of these things.

72. The point at which Child Q said she was menstruating was an obvious opportunity for the officers to reconsider the necessity and proportionality of the search. Yet they continued,

remarking “we are all women here”, or saying that they were all “females”, and thereby treated Child Q as an adult rather than a child.

73. No cannabis was found on Child Q’s person.

74. Despite the negative result, the officers (as PC Linge accepts) proceeded to search Child Q’s hair, also with negative result.

75. These actions were **grossly unnecessary and disproportionate** in view of Child Q’s age, sex, potential vulnerability, the suspected quantity of cannabis, the potential harm and risks to Child Q, and the alternative means of dealing with the situation, such as taking her home or making a safeguarding referral.

Teachers’ knowledge

76. There is uncertainty as to whether the teachers knew that a strip search would be taking place. It is **unlikely** – certainly so far as the Headteacher was concerned (since she was notified of it only when a complaint was made) and certainly **before** the search took place.

77. But little turns on this because it is the **officers’** actions which must be the focus for the Panel. The teachers will, inevitably, have looked to the police for guidance on what the police could legitimately do. That was a matter which only the officers could determine, exercising their own professional judgment.

78. None of the individuals involved in this case – PC Sivaji, the teachers, or these officers – had ever been involved in a strip search of a child on school premises. This weighs against the suggestion that the teachers knew, in advance, that this would be taking place.

No record of the search

79. No contemporaneous record was made about the search: in the officers’ pocket notebooks, or in a form ‘5090’ (the standard stop and search form) as would be routine for any stop and search in the street – which all of these officers had conducted.

80. PC Szmydynski made a “Merlin” record several hours later. Merlin is a system which has a different purpose: it is a tool for coordinating multi-agency intervention for vulnerable individuals. The Merlin entry PC Szmydynski made did not make clear that a child had

been strip searched at a school and in the absence of authorisation or an appropriate adult.

81. PC Szmydynski was chased for further information about the incident by PC Sivaji sending two emails on 4th and 18th December 2020. PC Szmydynski ignored those emails and failed to contact PC Sivaji, despite being on duty for 14 working days throughout that period and sending a number of other emails before and after PC Sivaji's emails.

82. PC Linge had placed the following on the CAD at 13:59 on 3rd December: "person in concern search for class b, nothing's been found, Merlin to follow".

83. Despite being reminded, by PS Atkin, to complete a '5090' form, PC Linge failed to make any record about the search until 13th January 2021 – more than 5 weeks after the search – by which time a complaint had been made. PC Linge had been working for a similar length of time (13 working days) over the Christmas period. She then placed an entry on Crimint (the general crime-recording system). Although this did indicate that a strip search had been conducted on a school pupil, it did not record the absence of authorisation or an AA.

84. PC Szmydynski and PC Linge belatedly produced records which were deficient and misleading. They, both, were reluctant to respond to requests for further information, because they realised they had not acted appropriately and wanted to hide, gloss over, or sweep the incident under the carpet in the hope that nothing more would come of it.

Race

85. The Panel has the Director General's detailed submissions on the proper approach to allegations of discrimination at paragraph 143 onwards of the written Opening.

86. Rare is the case where an openly discriminatory (e.g. racist or sexist) remark or action has been delivered; or that such influences are admitted by the accused.

87. More commonly, Panels are invited to **infer** that what has occurred was connected to the person's protected characteristic, whether consciously or subconsciously.

88. It is necessary to ask why the officers overreacted to such an extent and why their actions fell so far below what was required of them in acting as they did. The extent of the

overreaction, failure, lack of a satisfactory explanation or answer, and the statistical evidence and reports cited in paragraphs 152-153 of the written Opening, demonstrating that black people were, at the material time, more likely to be stopped and searched than white people, that discrimination is a contributing factor in the use of stop and search powers, and that black schoolchildren are more likely to be treated as older and less vulnerable or in need of protection and support than their white peers, when considered all together, show that the Panel should infer it was Child Q's race.

89. The Panel should therefore infer that one of the reasons Child Q was treated in such a disproportionate manner was, in part, because she was black. She was treated as being older than she was, more likely to be involved in criminality, and subjected to a more intrusive search, than she would have been had she been a white school girl in the same situation, arriving at school, smelling of cannabis.

90. The officers' excessive searching of Child Q was also indirectly discriminatory on the grounds of her age and sex in that she was subjected to a strip search, whilst menstruating, on the justification that she and the two officers, PC Linge and PC Wray, were all "women" or "females".

Impact on Child Q

91. The strip search has, unsurprisingly, had a major effect on Child Q and visited precisely the sort of disruption on her schooling, mental health, welfare, and family life which the statistics show are commonly the result of disproportionate use of police powers against black people (see para 152(i) of the Opening).

92. It is most regrettable that Child Q does not feel able to give her evidence to this Panel as a result of how she was treated by these officers.

SUBMISSIONS ON STANDARDS

93. If the Panel agrees with the Director General's characterisation of the officers' actions, the facts of which are largely undisputed, then the breaches of Standards as alleged in the Reg 30 notices are likely to follow.

94. This is a case which turns largely on the **characterisation** of the officers' conduct, i.e. how culpable or excusable were their actions, and not what exactly happened (on which there is broad agreement).

95. As a final word, the Director General reminds the Panel of the three-part purpose of these proceedings:

(i) to protect public confidence in, and the reputation of, the Police Service;

(ii) to demonstrate to other officers that misconduct of this kind will not be tolerated, and thereby to maintain high professional standards; and

(iii) to protect the public by preventing similar misconduct from happening again.

96. There has been a lack of accountability in this case. The failure to make proper records inevitably makes the Panel's task more difficult and is something from which these officers should derive no benefit, since it is liable to erode public confidence in policing.

97. It is the Panel's function to hold the officers to account for their actions.

98. If proved, the matters alleged against all three officers would, unquestionably, be so serious that dismissal would be justified. Their actions and omissions have resulted in Child Q suffering harm to her mental health and feeling physically violated. They have caused Child Q and her mother to feel demeaned and disrespected. They have brought discredit on the Metropolitan Police and upset race-relations yet further between the police and minority communities.

99. That is the case being presented. Further submissions may be made at the conclusion of the hearing.

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2nd June 2025