

IN THE POLICE MISCONDUCT HEARING
POLICE (CONDUCT) REGULATIONS 2020

B E T W E E N

COMMISSIONER OF POLICE OF THE METROPOLIS

- and -

PC LINGE, PC SZMYDYSKI, PC WRAY

DIRECTOR GENERAL'S SUBMISSIONS ON OUTCOME

[Numbers in square paragraphs are to the paragraphs of the decision
read by the chair on 26th June 2020.]

Introduction

1. You, the misconduct hearing panel, have stated that what took place on 3rd December 2020 was a disastrous and negative interaction between the police and child Q [102], whereby a fifteen-year old child was subjected to a strip-search that you have found should never have been undertaken [90].
2. You have said that the search was humiliating and degrading for child Q, unnecessary, disproportionate and inappropriate [135], and that it was a failure to respect child Q's rights [143], which had a considerable effect on child Q's feeling of self-respect [142].
3. That is not just from a position of hindsight. **You have found that such a search was foreseeably humiliating** [142]. As such, you have rejected that this was something the officers could only have realised with hindsight, and have said that the disproportionate nature of the search should have been clear at the time [40].
4. Your wording echoes the law on article 3 of the European Convention of Human Rights, as expressed by the Grand Chamber in the case of *Bouyid v Belgium* (2016) 62 EHRR 32, cited to you at an earlier hearing. The Grand Chamber held at paras. 105-106 that it would suffice for a victim to be humiliated in their own eyes for treatment to be considered degrading, and that this was particularly so for behaviour inflicted by law enforcement officers on persons under their control. It

further said at paras. 109-110 that ill-treatment is liable to have a greater effect, especially in psychological terms, on a minor than on an adult, that on numerous occasions the court had stressed the vulnerability of minors in the context of article 3, and that even where police behaviour might be deemed acceptable in the case of adults, it may be incompatible with article 3 for children simply by virtue of their being children.

5. As such, you have said, in terms, that you are **significantly critical** of the officer's decision for child Q to be strip-searched [48] and that had the officers met their professional obligations, child Q would not have been subject to such a humiliating and degrading experience [143]. This was because, as you have found, the officers adopted an inappropriately simplistic approach [102].
6. You have made no finding that this was a failure of training. On the contrary, you have found that **the officers did not follow the training that they had been given and did not seek advice** [102].

Your findings

7. You made the following findings, which the Director General invites you to consider carefully when deciding upon the appropriate outcome.

The decision to strip-search

8. The first point is in respect of the decision of PC Szmydyski and PC Linge to strip-search child Q.
9. You have found that PC Szmydyski and PC Linge, in deciding that child Q should be strip-searched, failed to give adequate regard to the fact that child Q was fifteen years old. That is in two respects. The first is the fact of child Q's young age. The second is that the potential effect of such a search on a fifteen year old girl going through puberty was not adequately considered [40]-[41], [149].
10. You have found that the officers failed to give adequate consideration to the amount of cannabis that they suspected child Q to be in possession of, child Q's being a potentially vulnerable victim of child exploitation, or of the risk of child Q's alienation

from the police – which you have said is particularly important in combination [40]. That is significant and gives rise to significant potential harm.

11. In making this finding, you have rejected PC Szmydyski's evidence that he played no part in the decision that child Q be strip-searched [10]. You found that he assumed a leading role in all material respects and called for a female officer to attend for a "further search" before he had even spoken to child Q – where he had previously used the words "further search" to refer to a strip-search [16]. You have rejected his explanation to you that he asked for this as best practice for a female officer to supervise no more than a search of child Q's jacket and outer clothes, or JOG search [14]-[19]. It was indicative, you have found, that he anticipated a strip-search search would take place [16]. And you have, in fact, gone further by finding that you cannot conceive of any sensible scenario in which PC Szmydyski could not have been at least aware of the search that was taking place [21].
12. **You have therefore found that PC Szmydyski was centrally involved in the decision to strip-search child Q** [26]. The effect of this is that you have rejected PC Szmydyski's evidence to you that he first learned of what had taken place when PC Linge told him of the strip-search as they left the school [20], [64].
13. As to PC Wray, you have said that the fact she was concerned about child Q but failed to consider the proportionality of the search was worrying [81]. She did not, you have found, perform her own analysis of whether a strip-search was proportionate [83]. PC Wray's failure to discuss the matter with PC Linge was also, you have said, a lost opportunity for her to reflect on the search generally and to understand that there had been no prior police search, no authorisation for a strip-search, and why there was no appropriate adult [83].

Failure to seek authorisation

14. The second point is the failure of all the officers to seek authorisation for the strip-search.
15. You have found that all the officers failed to obtain authorisation for this search from a supervisor, where you have said that the important issues were the decision to

perform the strip search, its performance in the absence of authorisation, and its performance without an appropriate adult. It is one of the three important failures of the officers that you have identified [43].

16. Moreover, you have said that **the requirement to obtain authorisation is a significant safeguard** to any member of the public when officers might consider a strip-search, and have found that as a result of the officers' failures to seek this, **child Q was denied that safeguard** [122]. That is a serious failing.

Threat of arrest

17. The third point is the threat to arrest child Q.
18. You have found that after PC Linge and PC Szmydyski decided that child Q would be strip-searched, PC Linge threatened to arrest child Q if she did not agree to this and that PC Szmydyski was present in the room when she did this [56]. That forms part of a failure by the officers to have adequate regard to child Q's age and her vulnerability.

No authorisation or appropriate adult

19. The fourth point is in respect of all the officers' failures to obtain authorisation or ensure that an appropriate adult was present during the search.
20. **The officers also failed, on your findings, to ensure that there was an appropriate adult present, where you have said that the presence of a suitable appropriate adult is a key safeguard of a child's rights [36], [133].**
21. You have rejected PC Szmydyski's evidence that he told the teachers to inform child Q's mother of the situation. You have found, conversely, that he told the teachers there was no need to contact child Q's mother [58], where you have said that she should have been a strong choice to be an appropriate adult [16].
22. Rather, you have found that PC Linge and PC Szmydyski took **entirely inadequate steps to prioritise the important safeguard** of ensuring the presence

of an appropriate adult [59] and that neither officer explained the role to a teacher to ensure that they understood it [60].

23. Similarly, you found that PC Wray was wrong to assume that the teachers were familiar with the role of an appropriate adult, that there was **no reason** for such an assumption, and that it represented **poor practice** [77]. It was incumbent on her, you said, to take some action to ensure that child Q's rights were respected, which she failed to do [144].

Continuing the search after learning that child Q was menstruating

24. The fifth point is in respect of PC Linge and PC Wray continuing with the search after child Q had told them that she was on her period.
25. You have found that despite child Q's stating she was on her period, PC Linge and PC Wray failed to consider the ongoing proportionality of continuing with the search. This was, you said, a missed opportunity for reflection to correct the original mistake to conduct the search and to avoid a further search of child Q's lower body. That is important because, as you said, the search of child Q's lower body would have been particularly humiliating [45]. As already submitted, you found PC Wray's behaviour in respect of this to have been worrying [81].

Further considerations

26. A particularly serious and inevitable consequence of your findings in respect of PC Szmydyski is that you must be of the view he lied to the panel both in respect of his not contributing to making the decision that child Q be strip-searched, and of his first learning of the strip-search when he and PC Linge left the school. He was prepared to allow PC Linge to take all the responsibility for the search that took place. That is highly relevant to the question of public confidence and public protection.
27. He also, on your findings, demonstrated no awareness of the seriousness of his failings. That is despite six years' experience as a police officer and seven years' experience as a police community support officer. PC Szmydyski's failure to appreciate the seriousness of his actions, coupled with his false explanations to

you, is of real importance when considering his insight into what happened, and what outcome would be necessary to ensure the protection of the public.

28. The particularly serious element of your findings in respect of PC Linge is that she was the police officer who received the information from child Q as to her being on her period, and yet she failed to stop, reflect and consider whether the search should continue.
29. One of the most shocking elements of this case causing real public disquiet, if not public outrage, is that child Q was strip-searched whilst on her period. PC Linge, who was the primary searching officer, continued with the strip-search without taking a single step to reconsider whether it was proportionate to do so, or to take advice, or to do anything. In the conversation the following day between child Q's mother, aunt and the headteacher, you will recall the point about which child Q's aunt was most vocal – that child Q was searched whilst on her period.
30. As you have found, that can only have increased the humiliation and degradation that child Q will have felt. It was a mercy that no menstrual blood was visible – but the impact of this upon child Q in these circumstances, and the damage to her from this, must be almost incalculable.

The Outcomes Guidance

31. The purpose of the police misconduct regime, as stated in the Outcomes Guidance at para. 4.4, is to maintain public confidence in the police service and its reputation, to uphold high standards in policing and deter misconduct, and to protect the public. That will require you to assess the seriousness of the misconduct, to keep in mind the purpose of imposing disciplinary sanctions and then choosing the sanction that most appropriately fulfils that purpose for the seriousness of the conduct in question.

Seriousness

32. Seriousness requires you to consider culpability, harm, aggravating factors and mitigating factors.

Culpability

33. First as to culpability. In accordance with the Outcomes Guidance at para. 4.11, despite the fact that officers intended to cause no harm to child Q, you should find that there is high culpability given your finding that the officers could reasonably have foreseen the risk of harm. In particular, at para. 142 of your decision, you said that the search was humiliating and degrading, and that had all three officers met their professional obligations then Child Q would not have been subject to such a humiliating and degrading experience.
34. You have made no finding that the officers' failures were as a result of inadequate training, and have positively stated that the officers failed to follow their training. That is where child Q was a child and, by virtue of that, and the circumstances relayed by the school to the police, vulnerable.
35. Whether or not the teachers were asking the police to perform a search is nothing to the point. The officers had their own duties and obligations generally and to child Q particularly. You have found that there was no good reason for the officers not to have ensured the presence of an appropriate adult, to have sought authorisation, to have considered all the relevant elements as to whether a search should have been performed, or to have considered new information as they learned it in order to reconsider their decisions and actions.
36. As such, the culpability in respect of the three officers and their failures was high. These are all highly culpable failures.

Harm

37. Second, the issue of harm. There has been real harm to child Q. You have read the medical information in the bundle. She has been diagnosed with post-traumatic stress disorder and a depressive disorder.
38. Child Q was said to have been achieving well in school and to be involved in extracurricular activities such as drama and sport. This incident resulted in her being unable to continue attending her school, and her education was severely affected.

39. In Bundle B at page 999, you can see that child Q's mother expressed concern at child Q's mood and personality. Her sleep and eating had been affected. She said she worried when she saw child Q falling asleep whilst having a bath. She said child Q was scared to leave the home and afraid of the police. She spoke about child Q having no motivation to do things.
40. There has also been real harm to public confidence. The strip-search of a fifteen-year-old child, in school, without her mother being informed, has been shocking to the public. That is recognised by your finding that the actions of PC Szmydyski and PC Linge amount to discreditable conduct. There has been real discredit brought on the police, and real harm to public confidence in policing.
41. You found that race was not a substantial effect on the officers' actions. However, the fact is that child Q was a Black child. The unintended consequences of the officers' actions have been to damage the relationship between the police and Black communities. It may not have been the officers' intention – but it is real harm that flows from their actions, it should itself have been foreseeable, and that is an important matter for you to take into account.
42. There is also harm caused by police in respect of schools and education. The ability or willingness of schools to seek help or assistance from the police will be adversely affected – no teacher or school will want to find themselves caught up in a matter such as this.
43. I had previously made submissions to you about the principle of policing by consent. The principle of policing by consent is built on public trust and confidence in the police. With that trust comes cooperation, dialogue and crucial sharing of information that is essential for the police to tackle crime. Harm to policing by consent, and the harm caused by the officers' actions in this case, result in harm to the protection of the public. When the public sees that police officers act as they have done here, there is the very real danger that they will be less willing to seek police assistance as victims, less willing to assist the police in their enquiries.

Aggravating and mitigating factors

44. There is little benefit in going through aggravating factors separately, as the elements form part-and-parcel of the misconduct and incident itself.
45. I do remind you in respect of mitigating factors, however, that you have not accepted the failures of the officers were due to training rather than their adopting an inappropriately simplistic approach to a sensitive matter. Although the officers had not been in this situation before, you have said that this required more, not less, from the officers. It increased the need for them to think the situation through. As you have said, there was no immediate time pressure and it cried out for their seeking advice and input from supervisors [149].

The appropriate outcome

46. As to what would be appropriate outcomes themselves, the panel must assess the seriousness of the misconduct, keep in mind the threefold purpose for imposing outcomes in police misconduct proceedings, and choose the outcome that most appropriately fulfils that purpose, given the seriousness of the conduct in question
47. In *R (Green) v Police Complaints Authority* [2004] UKHL 6, [2004] 1 WLR 725, Outcomes Guidance para. 2.4, Lord Carswell stated:

“Public confidence in the police is a factor of great importance in the maintenance of law and order in the manner which we regard as appropriate in our polity. If citizens feel that improper behaviour on the part of police officers is left unchecked and they are not held accountable for it in a suitable manner, that confidence will be eroded.”

48. You should also consider what is said by the Outcomes Guidance at para 4.74.

“Where gross misconduct has been found and the behaviour has caused – or could have caused – serious harm to individuals, the community and/or public confidence in the police service, dismissal is likely to follow. A factor of the greatest importance is the impact of the misconduct on the standing and reputation of the profession as a whole.”

49. Whilst the appropriate disciplinary outcome is a matter for you, in respect of all three officers the Director General asks you to consider the very serious nature of these allegations, the officers' culpability, and the very real harm to the community and public confidence.
50. Those are the Director General's submissions.

ELLIOT GOLD
CECILY WHITE

26th June 2025