

Private and Confidential

IPCC Police Complaint Appeal

Refs.: PC/5183/09    2009/15379

Date: 28 May 10

Author: JFL

Additional Information

Reasons for Appeal

I disagree with the findings of the police investigation into my complaint, the (lack of) proposed action resulting from the police investigation into my complaint, and the decision that the police have made about whether an officer that I complained about has a case to answer. Also I was not given enough time in which to edit my statement. I was allowed around a week, after the DPS had taken six months to deliver it.

Original Complaint

I complained about police actions in regards to myself during what police termed Operation Fontine:

Note My point numbering below is not the same as the DPS' numbering.

1) DI Hewitson and Superintendent Ball because there were no grounds for suspicion and therefore not for the RIPA s49 notice.

*See points 12 and 2, below.*

2) DI Hewitson because the RIPA s49 notice contained falsehoods and was very misleading and biased.

The RIPA s49 notice states: "The baggage was found to contain a number of innocuous chemicals, and the following items which could be used, in conjunction with other items, for the production of explosives / improvised explosive devices namely: mixing beakers and stirring spatulas, temperature reducing / freezing spray, smoke detector, fire blanket, fire extinguisher, a programmable circuit board, plastic putty, 3 x boxes of "bangers" that explode on impact with the ground, DMA eliminator, a model rocket and firing mechanism, (minus the solid fuel propellant). Additionally books detailing how to make a pipe bomb, how to manufacture ammunition and firearms, a book on how to make methamphetamine and a book on advanced computer encryption. A set of ballistic body armour, a security scanning / metal detecting wand, a hunting catapult and pepper spray were also found."

Yet the original DSTL forensic report statement reads, "Some of the contents of the luggage could be used for the manufacture of explosives or explosives devices but none of the items (as far as I could tell from the images) were obviously for this purpose and, with the exception of the throwdowns and model rocket, they all appeared to have other non-explosive uses." [Emphasis is DSTL's.]

Using only part of this statement (and removing the emphasis) is misleading, misrepresentative and biased.

There was no mention that they had seized every single item in my house and so this context was not correctly given.

I am a scientist, a computer scientist, and have been since (before) reading science at university 15years ago, as well as an amateur scientist. I have science GCE qualifications. In this de facto context none of the items constitute even a single item of circumstantial evidence of terrorism. Neither of these two necessary contexts were given on the RIPA, nor to Superintendent Ball, nor to the CPS, nor to the Magistrates, nor to the Judge.

Going through the police list:

Amateur science equipment available even in larger toy stores:  
a number of innocuous chemicals,  
mixing beakers and stirring spatulas,

Amateur science equipment:

DMA eliminator (correctly called Luminol blood test reagent, training version),

Computing equipment for my business:

temperature reducing / freezing spray,  
a programmable circuit board,  
security scanning / metal detecting wand,

General home items:

smoke detector,  
fire blanket,  
fire extinguisher,  
plastic putty (correctly called Fimo modelling material and in its packet),

General home toys:

3 x boxes of "bangers" that explode on impact with the ground,  
a model rocket and firing mechanism (minus the solid fuel propellant),  
a hunting catapult,

Computing library book:

a book on advanced computer encryption,

Scientific library books (all brand new library condition with receipts showing UK purchase within past months):

books detailing how to make a pipe bomb (correctly Steal This Book by Abbie

Hoffman with **one** of 300 pages with a rough sketch of a bomb), how to manufacture ammunition and firearms (correctly Home Workshop Prototype Firearms: How to Design, Build and Sell Your Own Small Arms by Bill Holmes (US). I wanted to know how a gun works, the most powerful tool of our age and so bought a book.), how to make methamphetamine (this is an organic chemistry textbook detailing how to synthesize organic compounds similar to amino acids the building blocks for life),

Security items:

A set of ballistic body armour,  
pepper spray.

Both items were legally purchased in the US. I note that all the items are 100% legal within the UK apart from the pepper spray. I appreciate that the pepper spray is illegal in the UK, I declared it to police upon asking before importing it, carefully described where to locate it within my luggage, apologized for having it to DI Hewitson and the police dropped the arrest without charge. The body armour was for personal protection. They are marketed as 'executive protection' items and when walking the streets of New York City carrying large amounts of cash and valuables, as I did recently, they do serve a very useful, legal purpose.

It's like saying someone with a licensed gun is a suspected murderer, because they have the tools. No crime had taken place and no plans for crime were uncovered. Very minimal tools for crime were uncovered, all legal, and all with other legitimate uses.

DPS "It could therefore be said that on the balance of probability that this product is a DNA eliminator... Therefore although the description is different and not the one you would use, it does not appear to be incorrect."

I disagree. It is very misleading to describe an item **only** in terms of the possible misuse of it. It's like saying a hammer is a spatula because it can be used as one, or as a bomb detonator as a hammer could be used as one.

DPS "The notice does state that you refused to answer questions and were obstructive before your arrest, and it would appear from your own information, that you were both helpful and talkative. However none of this appears to be during your interviews in relation to your detentions and arrests for terrorism and explosives, nor during any safety interviews. Therefore, in relation to being helpful and talkative regarding the offences for which you were arrested it would appear, as stated by yourself, that you were 'silent'."

I disagree. DPS wrote, quoted above "during your interviews in relation to your detentions" there were no interviews in relation to my TACT detention (singular). The detention notes should show that I was communicative in a helpful manner. As stated to DPS the black officer present at SPI may recall my helping him fix the interview cassette machine. The safety interview shows that I talked to DI Hewitson in a helpful, clear and direct

manner.

The RIPA s49 notice states:

"Police in London were contacted and Mr JFL was detained upon arrival at St Pancras. He was questioned about the contents of the baggage left behind in Paris. He was obstructive and declined to answer most questions. He was arrested on suspicion of being concerned in the commission, preparation or instigation in acts of terrorism."

At this time I was talking with police, and being helpful towards their investigation. We discussed at ease about the uptake of Windows Vista. This helpful attitude of mine was also continued at Paddington Green when I answered questions in the public safety interview. I note that I also answered the questions put at the public safety interview in Southampton.

DPS "RDX is a military high explosive that was widely used during World War 2, and was part of the famed 'Dambusters raid' bombs. It does have some commercial use and that appears mainly in shaped charges for the demolition of structures. RDX forms the basis for many common military explosives. Therefore the entry was factually correct."

This again shows extremely misleading, and biased comment, this time from the DPS. *See elsewhere in this document for a fair description of this explosive.*

DPS "Using the words DNA eliminator reads more eloquently and accurately describe the product involved. [DI Hewitson]"

This is again not a fair description. The product is correctly called Luminol blood test reagent, training version. I repeat that to describe **solely** in terms of an abuse of it is completely misrepresentative, extremely misleading, heavily biased and incorrect.

If I didn't answer a question during TACT detention it was because it was impossible to describe to SO15 about the "baby wipes container" they mentioned as it was not present in my luggage and never again mentioned by police in any documentation whatsoever. I suggested to the SO15 officer at the time that it may be a translation issue. We later went on talk more and also repair the faulty electronics in the room.

DPS "The container of modelling putty I would describe as plastic putty, and has the same meaning and use as plastic putty."

Here DI Hewitson correctly described it as a modelling art supply. Being that "plastic explosives" is a type of explosives even mentioned in the DSTL in relation to containing RDX and "plastique" another name for this then it is misleading and biased to call it "plastic putty". It was in its packet clearly showing the label describing its use and is correctly called Fimo "modelling material".

DPS "I am unable to prove that, on the evidence available, that the 'inaccuracies' are misleading."

I strongly disagree. Does this statement indicate that the DPS acknowledges that "inaccuracies" were made in the RIPA s49 notice?

It is strongly indicative that SO15 did not actually suspect me of manufacturing explosives because they did not test my items for actual past manufacturing of explosives. This would have been very simple to do and at no stage did they request this test.

I suggest that the sole reason for SO15's harassment of myself was to test their new legal 'muscle' of the RIPA pt III, and not for a legitimate suspicion.

3) DI Hewitson because of the unnecessary case / Op Fontine and the multiple points raised in the other parts of this complaint against members of the police under the charge of DI Hewitson.

4) DC Wood, DI Hewitson because of the setup organized by and falsehoods told by DC Wood in regards to the passport offences, i.e. that he knew me to be innocent yet DI Hewitson charged me. There is no indication that DPS enquired as to witnesses, details provided by myself to DPS and again restated here that it was in the company of another CTC officer at Belgravia Police Station around 22 Sep 08, of the statement made to DPS and yet later denied by DC Wood, in regards to his statement of September 2008 that 'I would never be getting my passport back, why? because it was invalid due to my change of name'.

5) DS Holt and DC Freislaar because they physically manhandled me during my arrest and public safety interview in Southampton on 07 May 09,

DPS "DS Holt stated that other members of public had been prohibited from entering the area of your arrest and that he moved to your location as soon as he was allowed, and gave you clothing In circumstances such as these 'manhandling' could not be avoided."

Merriam Webster (En-US) dictionary described manhandle as "to handle roughly." This appears then to be an admittance of guilt of the bad, improper treatment of myself.

DPS "With DS Holt disputing you account regarding the pulling of your handcuffs and being tapped in the chest, and with no other evidence to assist me in refuting his account I am unable to uphold your complaint or prove that any officer has breached the standards of professional behaviour."

There was a third officer present, it was the officer documenting the safety interview. He should be called as a witness. There were also many other officers involved in that raid that could be asked.

DPS "Mr JFL could have assisted during this process but he chose not to.  
[DS Holt]"

As proven by my responses I did answer the public safety interview questions fully.

6) DS Holt because he was in charge of the arresting team that kept me handcuffed for 90minutes without the slightest need, in Southampton on 07 May 09 and thereby violated the police guidance statement regarding handcuff usage in the Hampshire Constabulary Premises Search Book.

In the Hampshire Premises Search Book under general notes for guidance under the Human Rights act, it states that, 'In most cases it will be difficult to justify the use of handcuffs as a necessity where there are no grounds to believe that a person concerned would cause injury or damage or suppress evidence.'

There are no grounds to believe that I'd have caused injury, nor damage nor suppress evidence. I was surrounded by many very heavily armed officers. I was extremely closely surrounded, against a wall, by the three officers, DS Holt, DC Freislaar and other. DS Holt touched me on my chest frequently. At no time did I present any physical resistance whatsoever to police. Nor have I ever been violent. I was of 'good character'. Where I was standing was two closed doors and 100m away from my residence, with **many** officers between, and so would have been unable to suppress any evidence. I was not forensically tested and so destruction of that evidence is not relevant.

DPS "Therefore on the evidence available it would appear, on the balance of probabilities, that you could be considered a risk and therefore it would be proportionate in the circumstances to ensure you were restrained until your safe detention inside Fareham police station."

What was the risk of? The DPS do not state. Their statement is unclear and unjustified.

7) DI Hewitson because he was in charge of the arresting team that kept me handcuffed for over 420 minutes (four hundred and twenty minutes) without the slightest need after I had voluntarily surrendered, in London St. Pancras Int'l / Paddington Green MPS on 15 Sep 08.

The DPS write, "In light of the information being passed to CTC officers, the need to ensure their safety; your detention; and their requirement to preserve evidence it would appear that, on the balance of probability that the need to retain you in handcuffs was both necessary and proportionate to the crime the officers were investigating."

This is totally untrue. I had voluntarily surrendered into police custody. I had previously organized with police (HMRC) my surrender into custody that day. I was a 34 year old, professional computer scientist with my own

small business and of 'good character'. I have never been violent nor disobeyed a police order in the flesh. There was no evidence to destroy as I was separated from my luggage, and if I had known about the possibility of 9ng of RDX then assumedly I would have already have cleaned my hands by then. Also being able to destroy 9ng of RDX without any dedicated facilities would have been a needle in a haystack situation which could have been physically prevented had I started to do this.

8) DI Hewitson + DC McInerney because DC McInerney heard my requests for medical attention, during extremely painful, intense stomach~ pain and did not permit any nor did he inform his commanding officer DI Hewitson, on 15 Sep 08, at Paddington Green MPS. Also no urination, defecation, food nor water facilities were provided for 4-8hours varying by lack of facility available.

DPS "(Again bearing in mind the scale of explosive traces found, this appears to have been a wise move) [DI Hewitson]"

and previously:

DPS "...the very small trace of explosives found on his hand... [DI Hewitson]".

This previously comment annuls the logic of his later statement. If it is the scale and not solely the fact that explosives were found, then surely a very small amount is better than a large amount and therefore the 'scale of explosives traces found' would not have been a legitimate factor, as DI Hewitson states, for prohibiting medical diagnosis, medical treatment, urination facilities, defecation facilities, drinking water nor food.

DPS "However, it should be noted that I can find no officer or documentation recalling your wish to avail yourself of those facilities."

As I informed DPS, my requests for medical attention were directed at the senior ranking officer in the room DC McInerney, also he confirmed that he was the senior officer, rather than PC Paddon. PC Paddon was very clearly in earshot and listening to every one of my requests. DC McInerney also asked me how I was feeling and as informed to DPS, I informed DC McInerney again that I was in intense pain. I repeat, as is stated on my DPS statement, that I can be seen on the CCTV doubling up in pain frequently, getting more frequent as time progressed. DPS officer accompanying DPS Sergeant on 09 Dec 09, informed that CCTV is kept for ~5-10yrs. No indication that DPS viewed this CCTV evidence. The blame appears to be with DC McInerney as he didn't permit a doctor and also that he didn't inform DI Hewitson, as well as DI Hewitson because he was in charge.

DPS "I can find no evidence supporting your alleged requests"

Yet the DPS make no statement that they asked DC McInerney, nor directly asked PC Paddon in regards to her witnessing my requests made to DC McInerney, nor any mention of reviewing or considering review of the CCTV evidence of my medical condition.

DPS "it is likely that, unless the opportunity arose before your detention under TACT, that you did not have an opportunity to eat, drink or dispel bodily waste until the conclusion of the forensic seizure. It is further likely that this occurred over a period of three hours and thirty minutes"

Yet the DPS also state that at "1320hrs he de-arrested you and passed you to CTC officers who detained you under TACT" then "At 2035hrs the record noted that you were given a cup of water." This is over seven (7) hours. Twice as long as calculated by DPS.

9) DI Hewitson because he was in charge when my urine was seized and added to the evidence without my consent nor knowledge.

DPS "As such the item was bagged and produced as an exhibit JZM/10, when in reality it was never going to be any part of the evidential chain/opportunity. [DI Hewitson]"

It was seized, labelled and entered as evidence therefore 'in reality' it was taken as evidence, without my knowledge, approval or any warning.

DPS "However, the reasoning behind the seizure will not negate from the fact that the item should not have been 'seized' but destroyed at the earliest opportunity."

Therefore my complaint should be upheld.

10) DI Hewitson because he provided no receipt for my seized possessions (over 110 evidence photos worth of items) including providing no receipt nor any written statement that police had seized my passport,

DPS "DI Hewitson stated, 'When Mr JFL was in custody he did not ask me for a receipt for his possessions,'"

I understand from multiple solicitors that police must provide a receipt for property seized whether or not specifically requested. Also none was left in the bags for me to discover two years later on their return.

11) DI Hewitson and DC Wood because of the false arrest of myself for suspicion of manufacturing explosives that DC Wood made under DI Hewitson on 02 Dec 08.

DPS "there was sufficient evidence to arrest you for that offence"

I disagree. 9ng of the commercial and military explosive RDX was their evidence. It is present in over 75 commercial products, see:  
<http://www.globalsecurity.org/military/systems/munitions/explosives-nitramines.htm>

As the police dropped their case and arrest in May 2009 then they obviously

agreed then.

The amount is too small to be relevant. For example, if someone in the military would had handled C4 and had 100ug (100,000ng, one hundred millionths of one gram) on his glove touched the foreign exchange counter and gave it half, 50,000ng then I had the next day touched it and received only 1/10 of 1% then I would have had five times more than actually detected.

This extremely small trace amount being present only on one of my two hands, whilst none, not 8ng nor 5ng nor 1ng but none, detected on (my right hand and I am right handed nor) under my fingernails on either hand, nor any on any of my clothing, not a single nanogram. As a scientist I see that the controls were not properly done. Items that should have been tested to rule out the possibility of cross-contamination from the police include the handcuffs applied before testing, the officers handling myself, the first detention area, the police tape recorder that I repaired, the urine bottle, the water cup, et cetera.

I also note that my train was around the first to have travelled through the Eurotunnel after the fire that weekend.

It's like the quasi-science saying about Caesar's last breath, that every breath that everybody draws has one molecule of it in, because of the numbers. There are so many molecules of air within each breath, then these are dispersed over time around the planet.

The DSTL forensic report states: "This level of RDX is consistent with, for example, contact with an item or items contaminated with this explosive."

DSTL report shows two legal, home sources of explosives. Neither were tested for RDX by the police. Upon my complaint one only was verified as not the source of the contamination. With the other yet untested for RDX.

12) DI Hewitson and PC Paddon because of the false arrest of myself for suspicion of terrorism that PC Paddon made under DI Hewitson on 15 Sep 08.

There was no evidence and therefore it is a false arrest. It is also the start of SO15's harassment of myself.

*See point 2.*

13) DI Hewitson and DC McInerney because DC McInerney verbally prohibited me from taking a break during a two hour full TACT printing session, ten hours into my ordeal. I had previously disclosed to PC Paddon that I was "extremely exhausted".

DPS writes "I further note that you stated that you 'took a break anyway' and that no-one physically stopped you. It is therefore difficult to identify how you were 'refused any type of break' when quite clearly you

were not."

I was physically able to force a break \*only\* by directly disobeying a DC officer's instructions that no break be taken, his response to my request. I risked legal and other consequences for this. Therefore the complaint still stands that a break was not permitted.

\*14) DI Hewitson because of the malicious prosecution of myself for the RIPA charges when there was no valid explosives case on 08 Mar 09 (when the RIPA s53 charges were made) to require a RIPA notice.

My solicitor Mr. Ben Holden of Edward Hayes Solicitors received notice that the explosives case was dropped in May 09. This should have stopped the prosecution of the associated RIPA s53 charges because there was now no suspicion of explosives manufacture.

The fact that the CPS and the Judge were not informed of this cessation further proves the harassment of myself by DI Hewitson and his team.

*See points 1 and 2.*

15) DI Hewitson because of the malicious prosecution of myself for the CJA s36 (passport) charges because DC Wood under DI Hewitson told me, in the company of another CTC officer at Belgravia Police Station around 22 Sep 08, that I would never be getting my passport back because it was invalid due to my change of name.

The police have never given my passport back, exactly as DC Wood said. This further proves the malicious prosecution and harassment of myself.

Because I was forced to plead guilty to prevent a guaranteed extra three months imprisonment, this act does not justify the **prior** malicious prosecution and continued harassment by police.

*See point 4.*

16) The Fareham Police Station, Police Desk Sergeant because he implied that I was under suspicion of burglary / robbery / theft without arresting me by requiring that I underwent a Smart Water test.

DPS "its use is standard practice".

This does not invalidate my complaint point. My complaint point still stands. Similarly to the RIPA pt III this unjustly moves the burden of proof from the police onto the person in custody.

17) DC Wood, Property Officer because brand new property that was seized by the police was returned faulty.

DPS "it would appear that the CTC officers have made attempts to restore some property to you even though they are in possession of a deprivation order."

A deprivation order was made for **some** items, not all. In Portsmouth Crown Court a deprivation order was requested for a list of **some** of my possessions, it was unchallenged and was then made by the Judge. DPS appear to completely misunderstand this fact.

18) DI Hewitson because he left me on 16 Sep 08 in a large city that I hadn't lived in for years, with no identification, no currency, no bank cards, no possessions and knowing that all my possessions were seized by himself, and very minimal clothing without any waterproofs and only one top layer.

DPS "with no other evidence to dispute DI Hewitson's account I am unable to uphold your complaint or prove that any officer has breached the standards of professional behaviour."

The fact that Ms. --- was forced to make a 2sec decision to answer a vague question put by a desk sergeant, to \_\_ myself, someone who she has had very minimal contact with for the past 7yrs, is no guarantee that I'd be housed, clothed or fed. Therefore my complaint point remains.

No benefit to police would have been gained by maintaining seizure of all my bank cards. They could have returned one. If Ms. --- had legally changed her mind and went out, I'd have been left with the police to face for not being able to pay a taxi driver and then be homeless, penniless and barely clothed in a foreign city.

### Comments on the DPS Report

Two officers blatantly told falsehoods to the DPS, they are DC Wood and DS Holt. I request that their superiors be informed of my allegations in this regard.

Contrary to his statement DI Hewitson did not drive the van from SPI to Paddington Green, instead a large, male Glaswegian officer drove. The decision not to allow a seatbelt was enforced by the DC and PC present without any communication with DI Hewitson.

DPS "Risk is linked in the English Thesaurus with the words danger, jeopardy, peril, hazard, menace and threat, on the balance of probability your bags could be described by all of these words. It could therefore be said that on the balance of probability, that the officers believed there to be a risk both in the items in and the transportation of, your bags."

This was off topic, but I disagree. Firstly, the French tests came back negative. Secondly the UK Explosives Officer said in his statement that

there was obviously no bomb present. DC MacDonald states: "As a previously trained Licensed search officer within the Metropolitan Police from what I could see I was satisfied that I was not looking at an improvised explosive device".

I note that an FoI report gives not a single complaint upheld against S015 in its entire history of 200 complaints.

**end**