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*Our Reference*      INV 2003/007404

*Date*                      14 January 2005

Dear Mr Ahmad

**Re: SUPERVISED INVESTIGATION INTO COMPLAINT BY MR BABAR AHMAD**

I refer to the recent meeting with your wife and father and write further to my letter to your wife dated 8 December 2004 about the complaint by you and your wife made against officers of the Metropolitan Police Service (MPS). As you are aware, this complaint was formally referred to the Police Complaints Authority for supervision on 7 January 2004.

I am now finally in a position to comment upon the misconduct aspects of this case. The Chief Officer of Metropolitan Police Service has written to me with his recommendations on disciplinary action. My role as Commissioner is to review his recommendations and decide whether or not I agree with them. If I do not, I have the power to direct the force to take an alternative course of action. You may find the enclosed note helpful as it explains the independent role of the Commission in this procedure and the factors which are taken into account in reaching a decision.

I should emphasise at the outset that I have concluded that there is sufficient evidence for one of the officers involved, PC [REDACTED], to face a disciplinary charge under the Code of Conduct for excessive force. I have therefore directed the MPS to make the necessary arrangements for formal disciplinary proceedings against this officer. You do have a right to attend the disciplinary hearing should you wish to do so. The MPS will be in touch with

disciplinary hearing should you wish to do so. The MPS will be in touch with you and your wife with regard to the hearing in due course. In the circumstances, I hope you will understand that I cannot comment further on the aspect of the complaint which relates to PC [REDACTED]. To do so might jeopardise the hearing.

Your complaint has been investigated by the Metropolitan Police Service Directorate of Professional Standards. The Investigating Officer's final report was submitted on 26 May 2004 to the Independent Police Complaints Commission, which replaced the Police Complaints Authority on 1 April 2004. Independent expert medical opinion was then obtained from Dr Guy Norfolk. Our interim statement was issued on 5 August 2004 expressing the IPCC's satisfaction with the MPS investigation into the complaint. The CPS announced their decision on 10 September 2004.

As have previously explained in the enclosed note, the IPCC is required to review the investigation under the rules that applied to the Police Complaints Authority, as the complaint was recorded prior to 1 April 2004.

### ***The complaint***

In your statement you set out your complaint. You state that on 2 December 2003 at 0540 you were both at home asleep in your bedroom. You say you heard a loud bang from the front door, got out of bed and went to the window overlooking the front. You saw a column of what seemed to be riot police and suddenly heard shouts of 'police, police' coming up the stairs. You say you remained by the window, but turned to face the bedroom door, put your hands above your head.

You state that 5-7 police officers entered the room, ran towards you, grabbed you and pushed you hard back against the window. You describe them as all wearing helmets and dark clothing. You state that officers brought you forward, began to swear and strike you. You say they used abusive language and that one was sarcastic. You say that officers were punching and kneeing you all over your body. You say that two to four officers were punching and kicking you. You state that you did not resist and add that you were punched and kicked for 10-15 seconds. You describe all the officers as white males. You add that you still didn't resist. You were pushed to the floor and state that 5-6 officers then started to strike you all over your body, especially on the head. You say that you were face down on the carpet and that they struck your head at least 20 times, especially the left side of the face and ear. The strikes to the head appeared to be from clenched gloved fists. You cannot describe any more detail about the officers. You say that one officer grabbed your genitals, pulling hard and causing you pain. You say that this beating continued for about thirty seconds.

You state that you specifically remember strike to the back (punches), strikes to the right thigh and upper side of that leg. You say these were repeated strikes and say that throughout this your arms were behind your back and restrained by officers. You say that your wife was screaming. An officer asked

you your name and then told you you were under arrest for something related to terrorism. You were searched whilst lying down and handcuffed. You describe the officers as very violent whilst cuffing you.

You state that officers pulled you up, pulling on the cuffs and causing you pain. You screamed in pain and were walked towards the stairs. You add that at the top of the stairs an officer stamped on your bare feet with his boots. You state that on seeing shoes on the floor, an officer sarcastically asked if they were allowed to wear shoes inside. You say that an officer kicked cushions which knocked over and broke a glass candlestick. You says you were made to kneel down in a prayer position and that officers sarcastically said 'where is your God now, you're in prayer now, pray to him' and laughed at you. You say that an officer asked if you had been searched and that officers said no. Officers made you lie down and searched around your private parts. You say that whilst officers looked for shoes for you to wear, another stamped hard on your feet and others swore.

You state that you were marched outside and put into a van and made to lie down. You say that officers punched you hard 5-10 times on his back and left kidney. You state that during the journey officers stood on your ankles and twisted your cuffs. You say that the swearing continued and that an officer later held your head in a headlock and you thought that you were going to die. On arrival at the station, you say that officers were still swearing and hitting you .

You state that you were not satisfied with the treatment given to you in custody by the first Force Medical Examiner (FME), specifically his second visit on 3 December 2003. You asked for an x-ray to check for any head fractures and was told by the FME that 'logistically it might not be possible because of security'. You were also refused ice packs and told it might be difficult to obtain them. You formally complained to Inspector Nash on 3 December 2003. You say that Inspector Nash said to you 'when I saw you come out of the van and into the police station it was obvious that you were in agony, but I did not know why you were in agony'.

In an additional statement you describe damage to items in your house and having to take sick leave due to injuries sustained.

You complain that officers handcuffed you when your wife was not under arrest and that officers smirked at each other in a derisive manner at her.

### ***The investigation***

The officers concerned were interviewed and denied the allegations against them. DCI Boucher was questioned about his briefing to officers. He stated, that he was satisfied from the intelligence received of the threat posed and the need to secure you.

PC Cowley describes you upon first seeing you as having your hands up, but looking around. He says that you struggled with officers and says he feared

you might harm yourself. He states that you were handcuffed and that they were soon checked for tightness and double-locked when you were sitting on the bed. He adds that you were taken downstairs in a controlled manoeuvre and were then searched for weapons. The officer also states that you were uncooperative in the police van and thrashed about.

PC Donohue and PC Jones agree with their colleagues. PC Donohue states that he applied handcuffs to you and soon double-locked them. PC Jones says that you ignored their commands and says that you actually lashed out with his fists towards PC [REDACTED]. He states that when restrained, you became more compliant. He says you was searched, including a search to ensure there were no hidden weapons. The officer escorted you to the police van and says that you then became violent. He says you kicked out at officers and were taken to the floor of the van. PC Jones states that you thrashed about and hit your head against the floor and metal seats of the van.

PC Todd was the officer told to remove your wife from the bedroom. She states that she took her to the prayer room. PC Bond-Vaughan was in charge of first aid and entered the house last. She says that she saw your wife with PC Todd and went to assist and made the decision to apply handcuffs to your wife.

Officers provide background to your arrest in their statements. They state that they were told that the subject was to be treated with every caution and attention. They state that they did not know how many individuals were in the house and that the subject should be treated as a highly dangerous individual. Officers were told that you were a terrorist, had attended Al-Queda terrorist training camps and was highly trained in both armed and unarmed combat. The officers also expressed their concern for their welfare when facing such a situation and noted the poor level of information before they entered your house. In describing the briefing they received, officers emphasized the lack of information and the unknown risk factor regarding you.

Officers describe you as resisting, struggling with officers whilst being handcuffed and detained. Other officers were involved in searching the house, mostly attending after the occupants had left. PC Jones added that he saw you in the cage at custody on arrival, but did not witness any inappropriate behaviour.

Inspector Nash, referred to in your statement, states that he saw you arrive and says you were shouting out. He states that he did not realise until later that you were the man he saw earlier that morning. He adds that he took your complaint.

Police Sergeant Martin was the custody sergeant who booked you in on your arrival at custody. He noted that you appeared in pain, had injuries and were handcuffed to the back. He says that he was told by arresting officers of the reason for arrest. PS Martin states that he noted the injuries and arranged for a police surgeon to see you.

PS Sutcliffe from the Officer Safety Branch provided statements regarding the use of handcuffs and commented on the CCTV. He also explained the use of the 'shoulder lock' technique (taking a person to kneeling position before lying them down). He states that he has no concern over use of restraint on you.

Two neighbours stated that they were awoken by the noise and saw men entering the house. Neither saw any struggle. A third neighbour five doors away also saw a man entering a police van, but saw no struggle.

The custody nurse who saw you says you had several injuries and displayed hostility towards her.

The custody record of your time in custody gave the time of arrest as 0540 on 2/12/04 and recorded that you arrived at the station at 0605.

It records that you were detained to enable officers to question you and others about conspiring together to recruit terrorists and carry out searches. It noted the use of handcuffs and that the first police surgeon was called to examine injuries at 0631. It fully records key events including police surgeon examinations, checks, when you were given prayer mats and copy of the Koran, solicitor visits, washing times, food and drink. You were released from custody on 8/12/03 at 1637.

Photographic evidence was also provided. Photos show a bruise under your husband's left eye and bruises to the left side of his face. There are also marks to the right side of his face, marks to his shoulders and arms and handcuff marks showing wear the cuffs had cut into the skin. There is also bruising to his feet.

There are also photos of your house showing different views of the rooms. There are photos of the police van and the inside floor. One photo of the inside front shows a footprint of a boot. Photos also show the cage outside the custody unit.

CCTV footage shows the cage outside custody. The sound quality is poor and voices are rather faint, although some words are perceivable. A couple of shouts can be heard from you as officers bring you in. No physical assault is visible.

Later footage shows you at the booking-in desk. You are restrained by officers initially before they remove your handcuffs. The sound is quite faint. You then appear compliant and signs several documents and seem to listen to the custody officer.

You were seen by eight different police surgeons during your time in custody. The doctors have all produced witness statements that detail your injuries and what they did in relation to them. Other than noting what he had to say about, the cause of the injuries that they observed or he reported they did no more than record the injuries and express only limited views as to their causes. Further medical evidence was provided by Dr Siddiqui and Dr Zia.

Dr Siddiqui considered that your injuries were consistent with your allegations made against the police. Dr Zia states that he examined you in the department of the hospital. He states that the injuries to the face and ears would be consistent with punches, that other injuries are consistent with blows sustained from blunt injury and abrasions on the wrist would be consistent with a sharp object being rubbed against the skin.

This material, together with the record of interviews with the officers, your wife's and your statement of complaint, the photographs and other material have been examined by Dr Norfolk on behalf of the IPCC and the MPS. Dr Norfolk is an expert in legal and forensic medicine. He has produced the expert reports on the likely cause of the injuries.

Dr Norfolk is of the opinion that you received multiple blunt force injuries during his arrest on 2/12/03. He says that you appear to have received at least 5-6 separate blows to the head and face of which at least 3-4 were likely to be direct blows from such as a human fist, rather than blows received when your head hit a fixed object such as the floor. He says that you also appears to have received direct blows from such as a fist, boot or knee to the following regions: left loin, right thigh, central back.

He concludes that the issue of reasonableness for officers to make a total of at least 6-7 direct blows to the body during the course of arresting a man they believe to be a highly dangerous terrorist suspect is a matter for others to decide. Dr Norfolk says that other injuries are consistent with your body striking the floor when you were taken to the ground, struggling against handcuffs and 'scuffing' your elbows, knees and feet against the floor whilst struggling.

Dr Norfolk adds that parts of your injuries are consistent with your body being gripped in attempts to restrain you. He says that certain allegations seem extremely unlikely given the photographic and medical evidence. Namely that you received well in excess of 20 direct punches to the head, was strangled to the point of near suffocation on two occasions and that your feet were repeatedly stamped on by the police officers. He adds that photo/medical evidence neither confirms nor rebuts your other allegations.

### ***Conclusions***

I wrote to the MPS on 25 October 2004 with my misconduct recommendations and have since discussed disciplinary issues with the MPS. As you are aware, the Crown Prosecution Service (CPS) decided that there was insufficient evidence to bring criminal charges against any police officers. The CPS looks at whether criminal charges could be proved beyond reasonable doubt when deciding whether an officer should be charged.

Before I can recommend or direct formal misconduct proceedings I must be satisfied that there is a realistic prospect of showing that the officers' behaviour has fallen below the standards set out in the police code of

conduct. This must be proved on a balance of probabilities, which means that the tribunal must decide that it is more likely than not that an allegation is true.

The first matter I consider is the question of the alleged abuse of authority by DCI Jon Boutcher in authorising the use of handcuffs on all persons found in the house. The evidence is that he did not expressly authorise the use of handcuffs but that he did say that such persons should be secured. He nevertheless accepts that he meant that handcuffs should be used. Section 3 of the Criminal Law Act 1967 makes provision for a person to use reasonable force in self-defence, to defend another, to prevent a crime. Section 114(2) of the Terrorism Act 2000 provides a constable may if necessary use reasonable force for the purpose of exercising a power conferred on him by virtue of the 2000 Act. The power being exercised was the execution of a warrant under the Act. Given the concerns about possible violence being used against the officers entering the house I consider it unlikely that a tribunal would conclude that DCI Boutcher acted in abuse of his authority in authorising the securing of persons found on the premises.

In reaching this opinion I have considered the issue of your wife's handcuffing and her not being arrested. This was done by PC Kelly Bond-Vaughan in the presence of and with the agreement of PC Nicola Todd. This appears to have been done without reference to the instruction given by DCI Boutcher but because of reasons of concern for your wife's and other officers' safety.

This brings me on to the issue of whether PCs Nicola Todd and Kelly Bond-Vaughan used excessive force by handcuffing your wife. Handcuffs should only be used where they are reasonably necessary to prevent an escape or to prevent a violent breach of peace. I am aware that your wife is a slight person. There were two officers present in the room with her and there were other officers within call. The handcuffs were applied at the front. They were removed from her within a fairly short period of time. The officers say that they were applied because of concerns about their safety. In my opinion, on a balance of probabilities, having regard to these facts and the surrounding circumstances I do not think that a tribunal would find that either officer failed to meet the appropriate standard on this issue.

Your wife also complains that Nicola Todd and Kelly Bond-Vaughan acted discourteously towards her. This is denied by both officers. Paragraph 3 of the Code requires that officers should treat members of the public and colleagues with courtesy and respect, avoiding abusive and deriding attitudes or behaviour. I consider it unlikely that a tribunal would conclude that either officer failed to meet the appropriate standard in this respect.

This brings me to one of the most difficult aspects of this case: the use of force by officers when arresting and searching you, when transporting you to Charing Cross Police Station and while in the detention area

Section 117 of the Police and Criminal Evidence Act 1984 provides that where a power is conferred on a constable under the Act the officer may use reasonable force, if necessary, in exercise of that power. Section 3 of the

Criminal Law Act 1967, which applies to arrests, specifies that only such force as is reasonable in the circumstances may be used. Paragraph 4 of the Code provides that officers must never knowingly use more force than is reasonable.

In determining what force is reasonable the courts and disciplinary tribunals will take into account all the circumstances including the nature and degree of force used, the gravity of the offence for which the arrest is to be made, the harm that would flow from the use of force against the suspect and the possibility of effecting the arrest or preventing the harm by other means.

It is not disputed that before the officers entered your house you were not injured in any respect and that when you were subsequently seen by doctors at Charing Cross Police Station following your arrest you were suffering from extensive, albeit relatively minor, injuries to different parts of your body.

There is a dispute between you and the officers about the circumstances of your arrest. You say that you were in a submissive posture when the officers entered your bedroom. In contrast the one officer (PC [REDACTED]) says that your stance was aggressive and that you would not get down onto the floor when instructed. This resulted in them forcing you to the floor where there ensued what appears to have been a violent struggle while the officers sought to handcuff you. During this time you state that you were struck and was otherwise assaulted.

As I have previously explained, I will not deal with the evidence from PC [REDACTED]. Although I am satisfied that excessive force was used against you when you were punched and /or slapped by one or other of the officers subject to the complaints I have determined that it would not be possible to prove on a balance of probability which of the other officers concerned used excessive force.

The evidence points to a violent struggle and injuries sustained would be likely to be caused to you of the sort that Dr Norfolk refers to as being consistent with such a struggle. Once you started struggling with the officers they would be able to point to the briefing that they had received and the nature of the arrest warrant in defence of any suggestion that they used excessive force.

I do not consider that a tribunal would, on a balance of probabilities, conclude that there was an excessive use of force in relation to those injuries, even if it were possible to say which of the four officers was responsible for them.

Where I think that there was excessive use of force was in the slaps to the face and the punches to the ears. In my view, those blows amount to an assault on you and could have only been done deliberately. The difficulty with this is that it is not possible to say which of the four officers was the person who either punched or slapped you. You refer to being punched when taken downstairs in the house. As I understand the evidence PCs Cowley and Jones were responsible for taking you downstairs. It is possible that if you

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were punched on this occasion that these were the punches that the doctors noted. However, it cannot be certain that the injuries to your ears and face occurred at this stage and, equally, if they did occur at this stage, which of the officers was responsible. In the circumstances I do not think that a tribunal would find that any officer used excessive force, despite the fact that it undoubtedly occurred, because the tribunal could not be sure on a balance of probabilities which officer was responsible for the excessive use of force.

You say that the officers stamped on your bare feet when being taken downstairs in his house and while at Charing Cross Police Station. So far as the alleged stamping on your toes in the house is concerned the officers most likely to have been concerned with this are PCs Cowley and Jones. The medical evidence suggests minor grazes when you were struggling on the floor. It seems likely that if officers did stamp on your bare feet the injuries would have been more significant. In my view I think it unlikely that a tribunal would decide on a balance of probabilities that either of the two officers had deliberately stamped on your feet.

You say that while in his bedroom and later in the front room of the property your genitals were grasped. Your trousers were undoubtedly pulled down while in the front room of the house and you were made to squad for the purpose of searching you. There is no medical evidence to support your allegation. If it occurred it is not possible to say which officer or officers were responsible.

You say that you was assaulted at Charing Cross Police Station. The evidence is such that no tribunal would conclude that has occurred.

I also note the evidence on the handcuffs from PS Sutcliffe. In the circumstances, even if it were possible to attribute an improper use of handcuffs to a particular officer, I do not think that a tribunal would consider that excessive force had been used in this respect.

The investigating Officer does not address in his report the issue of the briefing provided by DCI Jon Boutcher as Gold Commander for the operation. It has been criticised as rushed and inadequate. The briefing also undoubtedly lay emphasis on the possible dangers for officers carrying out the operation and was therefore possibly not proportionate and balanced in its details. Paragraph 5 of the Code of Conduct requires that officers should be conscientious and diligent in the performance of their duties. In my view a failure on a part of an officer responsible for briefing others for an operation, particularly one as sensitive as this one, who fails to provide a detailed and balanced briefing may fail to be conscientious and diligent in the performance of his duties. However, I think that on balance a tribunal would not conclude that DCI Boutcher failed to meet the appropriate standard.

I intend to address the failings of the initial briefing, which the investigation has shown to be inadequate and unsatisfactory with the Metropolitan Police Service following the disciplinary hearing.

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Regarding your wife's complaints, the officers involved say that handcuffs were applied because of concerns about their safety. The officers also denied acting discourteously towards her. I do not think there is any realistic prospect that a police misconduct tribunal would find that the officers breached the Police Code of Conduct. This does not mean that I do not believe your wife's account, or that I place greater weight on the evidence of the officers over hers.

I apologise for the lengthy content of this letter but I was anxious to address all aspects of the complaint as fully as possible.

I am sending a copy of this letter to Arani & co Solicitors and also to your wife and to your father. I have written to the Governor at Woodhill Prison requesting permission to visit you and will let your wife know his decision. Please do not hesitate to contact me or John Wadham, who will be dealing with this matter on my behalf whilst I am away on annual leave from 19<sup>th</sup> January – 14<sup>th</sup> February, if you have any queries.

Yours sincerely,

M.M. Pritchard

Mehmuda Mian Pritchard  
Commissioner  
**Independent Police Complaints Commission**

The name of the officer facing a misconduct charge has been blocked out because we believe in being presumed innocent before being proved guilty before a fair and impartial court in a fair impartial trial for everyone involved in this incident.

We believe it for Babar Ahmad, whom the UK government is trying to send to a US Kangaroo court on no evidence whatsoever, and we believe it for the Anti-Terrorist police, who came and beat Babar Ahmad and terrorised a whole community - for which there are eyewitness and medical accounts."

[www.FreeBabarAhmad.com](http://www.FreeBabarAhmad.com)