

# A Tangled Web

Why you can't believe crime statistics

CIVITAS

Rodger Patrick

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*'O, what a tangled web we weave,  
When first we practise to deceive!'*

Sir Walter Scott, *Marmion*



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# Author

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Rodger Patrick, BA (Hons), MSc. (by research), PhD, Beta Gamma Sigma (awarded by Aston Business School) in an ex-Chief Inspector of West Midlands Police. He served for thirty years in the West Midlands Police before retiring in 2005. During his career he carried out a variety of roles including training, personnel, CID, community relations and public order. However his greatest operational challenge was policing a large inner-city area including the Balsall Heath area of Birmingham during the 1990s when community representatives came onto the streets in large numbers to challenge the drug dealers, pimps, kerb crawlers and street sex workers who, they maintained, were responsible for making the neighbourhood unsafe for residents. Negotiating a way through this crisis of confidence in the police brought about a transformation in the way the local police interacted with the populace and heralded a sea-change in the way the area was policed. By 2000 the area had ceased to be Birmingham's 'red light' district.

This experience stimulated his academic interest in the relationship between police governance, policing style and effectiveness and he completed a case study on the Balsall Heath experience as part of an MSc (by research) at Aston Business School in 2004. This quantification of the impact of changes in police accountability led to an attempt to assess the impact of performance management

on police effectiveness as a piece of doctoral research. However, it quickly became clear that the data on police performance was being distorted by various 'gaming'-type practices. This rendered any attempt to gauge accurately the impact of change on performance based on official statistics virtually meaningless. The focus of the research then shifted to the identification, categorisation and measurement of 'gaming' practices and the implications for the governance and regulation of the police. This study was carried out at the Institute of Local Government Studies (INLOGOV), University of Birmingham and completed in 2009.

The author applied for a position on the Crime Statistics Oversight Committee in 2013 but his offer of assistance was declined.

# Acknowledgements

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The statistics on which this report is based were provided by Her Majesty's Government Statistical Office and the Home Office Research Development and Statistics Department. I would like to thank those who participated in the anonymous refereeing process for their helpful comments on an earlier draft of this book.

# Methodology

This research is based on the observations of the author, who served as a chief inspector in the West Midlands Police during the introduction of New Public Management and the performance management regime that accompanied it (1995 – 2005). In order to overcome the limitations of a purely ethnographic study, the author's observations were triangulated with internal and external police performance data and documentation, some made available under the provisions of the Freedom of Information Act 2000. The potentially distorting influence of researcher bias was minimised by 'investigative triangulation',<sup>1</sup> using various specialists to provide their interpretation of the data and documents under study. The specialists, eight in total, were all retired officers who had experience and knowledge of police performance frameworks, crime policy, diversity, public protection, crime analysis and police operations. Their ranks range from sergeant to Association of Chief Police Officer (ACPO) level, i.e. officers of Assistant Chief Constable rank and above, and two had worked for HMIC. The documents referred to can be obtained from the Freedom of Information officers of the police forces referred to. The data on recorded crime rates was collated from the annual Home Office Crime Bulletins for England and Wales 1998/99 to 2011/12.<sup>2</sup>

Incidents or investigations involving the various forms of 'gaming' behaviour were identified and the impact of the remedial action on the performance of the force in question was examined to estimate the scale of the behaviours, before and after the event. Analysis of similar events over time enabled patterns to be established, i.e. the statistical anatomy of perversity, many forms of which fit modern definitions of police corruption, discussed later. This provides the basis for a range of gauges which could be used to estimate the likely presence of perverse behaviour. The research process also provided an insight into the response of the various police regulators and the Home Office and facilitated an evaluation of their performance.

A national survey using the Freedom of Information Act 2000 was also carried out in order to identify forces employing policies ostensibly designed to identify and eliminate the false reporting of crime. These are referred to as 'false reporting' policies. It was suspected that the presence of such policies and practices indicated the return of 'cuffing', facilitated by a re-interpretation of the National Crime Recording Standard introduced in April 2002. This made it possible to analyse the recorded crime patterns of those forces using such a policy. Once the patterns were established the academic literature was reviewed.

# Summary

This book assesses the reliability of police data in England and Wales, arguing that it is being manipulated to such an extent that it serves little purpose in measuring crime levels or the performance of the police service. However, the data provides a rich and reliable source of evidence on the impact of performance management systems of control on the behaviour of police officers. Methodologically, it relies on a 'grounded' approach, based on the participant observations of a serving officer who identified and categorised various forms of 'gaming' behaviour employed to improve reported performance by unethical and in some cases unlawful means. By examining the impact of known incidents, exposures or scandals on the performance of the police forces involved, it became possible to quantify the extent to which such behaviours were distorting the data used to judge efficiency. The widespread occurrence and repeated nature of incidents involving the same phenomenon suggests that this form of police deviance is organisational in nature. This in turn raises questions about the standard of police leadership and those entrusted with the governance, oversight and scrutiny of the service. A critique of both is woven into the fabric of this report.

The book is structured with a general introduction followed by four chapters on the different forms of 'gaming' behaviours identified and a conclusion. Each of these chapters outlines the evidence and ends with an assessment of Kent Police which was the first force to be investigated after the introduction of Police and Crime Commissioners and the appointment of a non-police Chief Inspector of Her Majesty's Inspector of Constabulary. This will hopefully enable the reader to form a view on the effectiveness of the reforms.

This book is based on a series of articles published in the *Police Journal*, 2011, vol. 84, numbers 1, 3 & 4, and a number of written submissions to the Home Affairs Select Committee 2011a , 2013a & 2013b and Justice Select Committee 2011 & 2012.

# Introduction

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## A Perverse Policing Model

### Performance management

The Conservative governments of the 1980s and early 1990s and the New Labour administration elected to office in 1997 introduced performance management as a means of enhancing political control over the professionals charged with the delivery of public services.<sup>1</sup> It was envisaged that this system, based on measurement and accountability practices used commercially, would transform public services by replicating the self-regulating mechanisms operating in the market. For every public service, including the police, a raft of performance indicators were developed, all designed to deliver increased control over public expenditure, improved managerial competency and increased accountability.<sup>2</sup>

### Police governance

Structurally, the introduction of performance management involved a shift in power within the tripartite arrangement of police governance enshrined in the Police Act 1964: police authority; chief officer of police; Home Secretary. The Police and Magistrates Court Act 1994 represented a move towards central control, conferring powers on the Home Secretary to set priorities.<sup>3</sup> The performance measures on which chief



officers were to be judged were primarily crime reduction and detection rates, based on data collected by the police themselves. There has been a fluctuation in emphasis between detection rates<sup>4</sup> and crime reduction since 1994, when the first national objectives were introduced,<sup>5</sup> and different types of crime have been prioritised.<sup>6</sup> However, it was performance on the reduction and detection of volume crime<sup>7</sup> that could trigger central intervention if a force were deemed to be under-performing.<sup>8</sup> It should also be noted that reducing recorded crime has a positive impact on the detection rate, which is calculated as a percentage of recorded crime. This means that failing to record unsolved crimes improves the percentage of crimes detected.

The British Crime Survey (BCS), now rebadged as the Crime Survey for England and Wales (CSEW), is the other method used by the UK government to measure crime levels. Statistically reliable at national levels, it excludes large groups of the population, e.g. non-householders, businesses and people under 16, and incorporates a limited range of offences.

### **The threat posed by 'gaming'**

One of the greatest threats to performance management is the phenomenon known as 'gaming', generally accepted as one of the failings of the Soviet centrally planned economy.<sup>9</sup> Whilst acknowledging the advantages of performance management, De Bruijn observed: 'Once a system of performance measurement has been designed and introduced, the perverse effects will, in the long term, force out the beneficial effects.'<sup>10</sup>

The questionable reliability of data produced by the police had deservedly attracted the critical attention of

## INTRODUCTION

social scientists: 'Nearly every social scientist, for instance, is aware of the pitfalls of using the FBI's Uniform Crime Reports – or any other archival records based on crimes reported by law enforcement agencies.'<sup>11</sup>

Black (1970) and Kitsuse and Cicourel (1963) went so far as to argue that police data was of little use except for monitoring the organisational behaviour of police officers. Maguire concluded:

Criminal statistics had to be analysed as the product not of a neutral fact-collecting process, but of a record-keeping process which is geared first and foremost to organisational (primarily police) aims and needs.<sup>12</sup>

The dysfunctional effects of performance management on the police were highlighted during the early days by Likierman (1993) and Rogerson (1995). Various types of 'gaming' were reported on at length in Her Majesty's Inspector of Constabulary's (HMIC) thematic report on police integrity in 1999. Such perverse behaviours would be encompassed by more recent definitions of police corruption based on the motivation behind the actions.<sup>13</sup> Peter Neyroud, the then Chief Constable of Thames Valley, referred to police gaming as 'administrative corruption' in his evidence to the Public Administration Select Committee (2003).

Despite a number of official reports endorsing the reliability of police data,<sup>14</sup> the public continue to be mistrustful of recorded crime statistics, while individual police officers have regularly exposed the fact that they are engaging in 'gaming' behaviours designed to reduce recorded crime rates. One such revelation was made by Steve Williams, the Chair of the Police Federation, in May 2013 when he expressed the concerns of police

officers seeking to expose such wrongdoing that they risk falling foul of the restrictions being introduced as a result of Lord Leveson's report (2012) on the conduct of the press, which condemned whistle-blowing by officers to the press: 'The latest crime figures showed a five per cent fall but I'm not sure that is the case. I don't think the true story is getting out because of the fear factor in the wake of Leveson.'<sup>15</sup>

Whilst under-recording crime is the most common form of police 'gaming' behaviour, it is not the only one. However, it is likely to become the most prevalent, as the coalition government elected in 2010 dismantled the plethora of centrally set targets and placed the focus on reducing crime.

## The perverse policing model

An inquiry instigated by a Kent officer who blew the whistle on collusion with offenders, motivated by a desire to improve detection rates,<sup>16</sup> exposed the continued existence of the main forms of 'gaming' behaviours, all identified by the research on which this book is based.<sup>17</sup> The categories can be described as follows:

- '*Cuffing*': making crime disappear by failing to record it. This is facilitated by a re-interpretation of the National Crime Recording Standard introduced in 2002 to ensure the accurate recording of crime and a pre-disposition to assume that victims are falsely reporting crime in pursuit of bogus insurance claims. In effect, this treats victims as suspects; thus, by an Orwellian twist, it reduces the well used slogan 'tough on the causes of crime' to getting tough on the victims who are causing crime by reporting it.

- *'Nodding'*: the practice whereby suspects nod at locations where they claim (or can be induced to claim) that they have committed crimes and are thereby able to have them 'taken into consideration' without any risk of increasing their sentence. This administrative procedure has a long history of abuse and there have been a number of reported instances involving inducements in the form of reduced sentences and the supply of sex, drugs and alcohol in return for admissions.
- *'Stitching'*: fabricating evidence. Whilst the use of such tactics to secure convictions in court has largely been addressed by the Police and Criminal Evidence Act 1984, administrative procedures still offer the opportunity to obtain detections without sufficient evidence to secure a conviction. These procedures are examined and evidence presented which suggests 'stitching' is still prevalent.
- *'Skewing'*: concentrating effort and resources on offences subject to performance indicators. It would appear that more difficult and resource-intensive areas of police activity such as the prevention and investigation of serious crime (e.g. child abuse and sexual offences ) have suffered as police leaders seek to hit the targets set for them. The spread of resources, a by-product of the move to local geographical policing, is also identified as a potential problem as officers are re-deployed to more affluent neighbourhoods.

In aggregate, the above tactics represent what can be referred to as the Perverse Policing Model. The evidence presented at the conclusion of each of the following four chapters will enable the reader to assess whether Kent Police could lay claim to such a perversity.

## The crux of the matter

Whilst the scale and repeated nature of such behaviours supports the body of theory on the organisational nature of police deviance, chief constables have in the past escaped sanction from those charged by the electorate to govern the police. It is the view of the author that this is the cause of the re-occurring nature of police 'gaming' behaviour. It has yet to be seen whether the introduction of directly elected police and crime commissioners will remedy or aggravate the situation.

# 1

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## Cuffing: The Art of Making Crime Disappear

### A long history of distortion

Police forces in the United Kingdom are no strangers to performance management. Even during the establishment of the service in the nineteenth century, chief officers were keen to demonstrate their effectiveness by the use of statistics. In the case of the first and only commissioner of Birmingham City Police, the provision of data showing the increase in arrests during his period in office failed to secure him the post of chief constable.<sup>1</sup> Whilst this may, in part, have been due to an English abhorrence of over-zealous state interference on the French model, with its reliance on surveillance, it does indicate that the police themselves viewed performance data as a means of pursuing their political objectives.

Distorting the data appears to have just as long a history. Malcolm Young, a retired chief superintendent with experience in a number of police forces, presents a picture in which recorded crime levels could be reduced or increased at will. On the one hand, this involved suppressing crime levels in order to enhance public confidence in the service's ability to control crime; on the other, reflecting the true levels in order to support the case for increased resources.<sup>2</sup> He goes on to describe

a variety of tricks used to avoid recording a reported crime, collectively known as 'cuffing' in reference to the magician's art of making something disappear up the sleeve or cuff. These tricks include failing to believe a victim's account and therefore declining to investigate it. Young notes that the victim's social status could influence the likelihood of this occurring: recording a theft as a loss; recording the crime in an unofficial register and thus avoiding the statistical returns; or misrepresenting the circumstances as a less serious offence, e.g. converting robbery into theft from the person or attempt burglary into criminal damage.<sup>3</sup>

## Crime recording standards

The variations caused by such manipulations were known to the Home Office and a number of studies had been conducted by their researchers, Burrows *et al.* concluding:

The clear implication from this is that the exercise of 'police discretion' is the primary reason for the recording shortfall: the police will often apply an evidential standard to allegations of crime made to them.<sup>4</sup>

An 'evidential' crime recording standard is one 'where the details of any incident will be challenged and validated in the same manner that might be expected if the case were to be presented in court in order to charge the suspect'.<sup>5</sup> In effect, the victim has to convince the officer that they are telling the truth.

Her Majesty's Inspectorate of Constabulary (HMIC) was also conscious of the threat such behaviour posed to public confidence in the police service, and their fears were confirmed by the Channel 4 *Dispatches* programme in March 1999<sup>6</sup> that was based on the revelations of a

detective chief superintendent from Nottinghamshire. This led HMIC to conduct a thematic inspection on integrity.<sup>7</sup> A sample of forces was examined and 'cuffing', 'nodding' and 'skewing' were identified as problematic. HMIC appeared to minimise the scale of such 'gaming' behaviours:

Her Majesty's Inspector of Constabulary has conducted many detailed scrutinies of crime recording systems and is satisfied in general there is little evidence, today, that these practices are in any way widespread. There are, though, still pockets of unethical crime recording which need to be eradicated to ensure the public has confidence in police performance figures.<sup>8</sup>

This trait of 'playing down' the extent of problems uncovered was demonstrated by the fact that a significant rise in recorded crime was recorded in the following year by the West Midlands Police, one of the forces in which 'cuffing', in the form of unofficial crime registers, had been discovered during the inspection: 'Crime increased by 16 per cent in 1999/2000, some of which may be due to the introduction of policies and procedures to ensure the integrity of crime recording.'<sup>9</sup>

The 16 per cent increase is of interest as the force adopted a *prima facie* crime recording standard in response to HMIC's findings. A *prima facie* standard requires the recording of alleged crimes as reported and without scrutiny. This figure was consistent with the estimated level of under-recording identified by HMIC in Gwent in 1998.<sup>10</sup> It should be noted that some offences are more vulnerable to 'cuffing' than others and, once an evidential standard is adopted, reported crime levels can be distorted to a greater or lesser degree.



## New Labour and the National Crime Recording Standard

In order for performance management control systems to be effective, it was essential that reported crimes were recorded accurately and to a common standard across the board. The Labour Government elected in 1996 was at that time committed to addressing the frailties of the system. Home Secretary David Blunkett stated: 'It is vital to measure crime accurately if we are to be able to tackle it effectively.'<sup>11</sup>

The National Crime Recording Standard (NCRS) was introduced in April 2002 in an attempt to ensure that forces throughout England and Wales were recording data to a uniform standard.<sup>12</sup> The NCRS aimed to enhance victim sovereignty by encouraging a victim-focused approach to crime recording and thus enhancing trust in the police. Whilst the initial guidance on the NCRS encouraged the taking of victims' accounts at face value – a *prima facie* standard – the actual wording of the NCRS is not so explicit:

Following the initial registration, an incident will be recorded as a crime (notifiable offence) if, on the balance of probability:

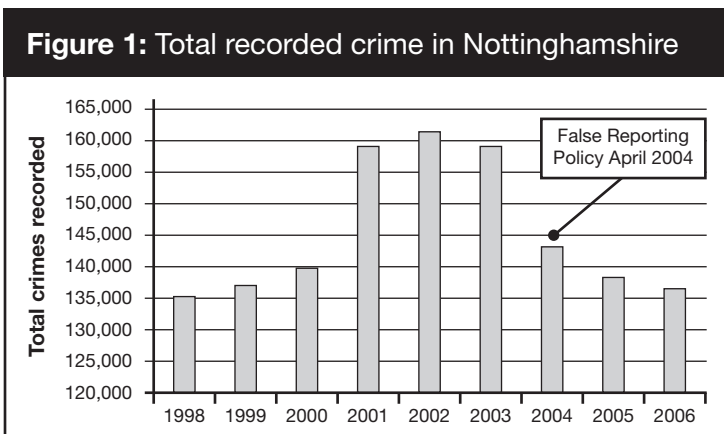
- (a) the circumstances as reported amount to a crime defined by law (the police will determine this, based on their knowledge of the law and counting rules), and
- (b) there is no credible evidence to the contrary.<sup>13</sup>

The initial Home Office guidance on the NCRS suggested the 'balance of probability' test was to be applied to reports of crimes made by third parties and, as such, fell short of a pure *prima facie* model:

NCRS can be seen as a shift towards a *prima facie*-based model of crime recording, although it should be stressed that the NCRS does not imply pure *prima facie* crime recording.<sup>14</sup>

## Cracks start to appear in the NCRS

The original ambition to ensure that victims' accounts were taken at face value did appear to be realised post-2002 and the Home Office carried out a study to test compliance rates.<sup>15</sup> The cross-checks carried out as part of the British Crime Survey (BCS) also confirmed that recording rates were improving.<sup>16</sup> The Police Standards Unit (PSU), established by the government to improve police performance and intervene where forces were deemed to be failing, requested the Audit Commission to carry out a series of tests on each force and report on their compliance.<sup>17</sup> However, by 2004/5 evidence started to emerge that a return to an 'evidential' standard and associated 'cuffing' was occurring.<sup>18</sup> An examination of Nottinghamshire Constabulary's recorded crime profile (Figure 1) demonstrates the suddenness and scale of the change:



Data supplied by the Home Office

In 2000 an HMIC inspection of the force had raised concerns about the reliability of this force's crime recording procedures:

Some minor problems were found during the Inspection and HMI suggests that the Force considers a more comprehensive audit of both crime and incident recording to gain an accurate view of performance.<sup>19</sup>

The subsequent increase in recorded crime levels again exposes HMIC's tendency to understate negative findings as well as demonstrating the differences between evidential and *prima facie* standards. Such a conclusion suggests that the equally dramatic fall in 2004/5 was also linked to a change in the recording standard. A Freedom of Information request submitted as part of a national survey established that Nottinghamshire had introduced a 'false reporting' policy designed to deter those suspected of making fraudulent reports of crime in pursuit of bogus insurance claims.

### **False reporting policies: the thin end of the wedge**

Policies and tactics designed to deal with the false reporting of crime (false reporting policies) emerged during the Street Crime Initiative instigated by Prime Minister Tony Blair in response to the rise in street robberies. Twelve forces with higher-than-average robbery rates spearheaded a multi-agency response, coordinated by the Home Office. Whilst the operation stimulated partnership activity and innovative tactics, it did blur the boundary between the political and operational spheres. On reflection, it may have blunted the desire or motivation for critical scrutiny, as both the

executive and administrative arms of the state shared equal responsibility for failure. That said, during the course of the initiative, anecdotal evidence emerged of the false reporting of mobile phone losses as robberies. This was believed to be fuelled by the nature of mobile phone insurance which required the owner to have been the victim of crime in order to claim a replacement phone. The intuition that there was a problem was given further credence by the research of Smith (2003) who found that 16 per cent of those seeking to report a personal robbery did so over eight hours after the event. He also noted that those late reports were more likely to involve a mobile phone and to be made at the front desk of a police station rather than through an emergency call. This was flagged as a curious finding worthy of further investigation by the Street Crime co-ordinating group.<sup>20</sup> Alternatively, this behaviour could be the outcome of the low propensity of victims to report robberies to the police. Dodd *et al.* noted: 'It is estimated only 51 per cent of robberies and 57 per cent of theft from the person were reported to the police.'<sup>21</sup>

So it is quite possible that offences which would otherwise have gone unreported were being reported legitimately in order to qualify for insurance replacements. However, covert operations conducted by the National Mobile Phone Crime Unit (NMPCU) uncovered evidence of staff at mobile phone outlets encouraging customers who had lost their phones to report them as robberies in order to qualify for a replacement. Tilley *et al.* concluded:

According to guidance produced by the NMPCU, estimates of the extent of false reporting range from less than five per cent of all street crime to as much as 25 per cent. However, as described above, the research evidence is weak and these figures are

largely based on anecdote. They should therefore be treated with a good deal of caution.<sup>22</sup>

However, Tilley's note of caution was ignored. It was assumed there was a major problem with fraudulent reports, and the forces involved in the Street Crime Initiative introduced policies and procedures designed to address the issue. They alleged high levels of 'false reporting', with South Yorkshire Police claiming that: 'one in five "victims" were lying when reporting a robbery'.<sup>23</sup> This view was re-iterated by others:

West Midlands Police has pledged to take firm action against people who falsely claim to be the victims of crime. This followed research carried out in Coventry which indicated as many as 20 per cent of reported robberies could be false. In Birmingham city centre in February, 12 out of 70 reported robberies were discovered to be false after officers had spent many hours examining CCTV footage.<sup>24</sup>

Prosecutions for offences relating to false reports received high levels of publicity, which created the impression the problem was widespread.<sup>25</sup> The following factors were believed to be indicative of a potential false report:

- Late reporting to the police (several hours or days later)
- Allegations reported over the phone
- No contact with the emergency services via the 999 system
- Discrepancies in the account given to the reporting and investigating officer
- Lack of independent witnesses to the crime
- Victim unable to give detailed description of the offender, or unable to identify them

- Victim stating that they do not want any further action by the police; they only want to get a crime number
- The type of property being reported stolen, e.g.
  - benefit money – in order to obtain emergency cash payments through the benefit system in the form of crisis loans
  - cash lost by children – reported stolen to explain the loss to a parent or guardian
  - student coursework – in order to obtain an extension for a deadline
  - other high value items – wages, designer goods, passports<sup>26</sup>

Whilst none of the above characteristics or ‘trigger factors’ were suspicious on their own, it was felt that the presence of three or more factors was worthy of further investigation as a possible false report. The reduction in recorded robberies during the period when the ‘Street Crime’ forces were developing and employing tactics to address false reports appeared to correspond with the large percentages of fraudulent reports being quoted in the press. The West Midlands Police issued mock eleven pound notes outlining the ‘trigger factors’ and warned officers to be on their guard.<sup>27</sup> It was therefore assumed that reducing these false reports made a significant contribution to the overall reduction in robberies commented on by Tilley *et al.*:

Two years into the initiative, figures for the year 2003/4 show that robbery is 24 per cent lower in the ten forces than it was in 2001/2 and 17 per cent lower across England and Wales as a whole.<sup>28</sup>

However, it was specifically stated in the guidance issued by the Home Office that mere suspicion should

not prevent the recording and investigation of the initial complaint:

All allegations of street crime must be recorded... when indicators of possible false reports are present, the victim and secondary investigation should be encouraged to attend the police station, or be visited by a police officer at their home or place of work.<sup>29</sup>

Had this requirement in relation to crime recording been complied with, then the forces reporting a high incidence of false reports should have been recording correspondingly high levels of prosecutions for wasting police time and/or large numbers of recorded robberies being de-classified as 'no crimes'. So, for audit purposes, a robbery would be recorded, investigated and, if found to be false, the offender reported for wasting police time. In these circumstances a new crime report would be created for the offence of 'wasting police time' and the original robbery report de-classified as 'no crime'. In view of the level of bogus reports circulated to the media by the police, it was anticipated that something in the region of 20 per cent of all robberies would be de-classified as 'no crimes'.<sup>30</sup> However, when the 'no crime' data of forces known to have introduced false reporting policies was examined, the levels were low, in line with a national average of three per cent.<sup>31</sup> This finding suggested that reports were not being recorded, thus indicating the application of an evidential crime recording standard – a conclusion unanimously supported by the panel of experts who reviewed the policy and associated recorded crime patterns:

Ironically, the old system was saying 'we don't believe you'; the new system is saying, 'officially we

don't believe you'. So previously it was the CID who were the guardians of this unofficial knowledge. Now it's everybody, it's official!

(Interviewee C: Retired ACPO officer)

It was also established that false reporting procedures were being applied across the board, not just to street crimes, and that the forces involved, like Nottinghamshire, were posting impressive reductions in recorded crime.<sup>32</sup>

Whilst it has been argued that false insurance claims are a major problem for the insurance industry,<sup>33</sup> the form they take appears more likely to involve inflated claims following a genuine crime rather than completely bogus reports. What limited research was carried out by forces employing false reporting policies suggested that the problem was minimal. British Transport Police reviewed 68,000 crime records in 2006 and found only 2,000 reports that were of concern. After a filtering and grading process, 221 were highlighted as the worst examples of suspected false reporting. These were subjected to further intelligence measures, including checks with the Association of British Insurers, and 211 target packages were created. These were then actioned and 211 individuals were seen. These investigations resulted in six arrests. Despite these results, British Transport Police still introduced a 'false reporting' policy, indicating that the motivation was a desire to improve performance. The lack of enthusiasm to extend such policies to reports of lost property, also an attractive means of pursuing a bogus insurance claim, supports that conclusion. 'Let's not get this reported as a crime, it keeps the figures down. That seemed to be the emphasis.' (Interviewee E)



## The Home Office response to the threat

The suspicion that the NCRS was being interpreted literally and the 'balance of probability' rule applied to all reports was raised by the author with the National Crime Registrar at the Home Office in 2005. This senior statistician, whose role was to oversee and offer guidance on the NCRS, was of the opinion that victim sovereignty was still the overriding consideration, and the 'balance of probability' test was only to be used in relation to third party reports when a witness reported a possible crime. However, at a further meeting in 2006, the same individual confirmed that the 'balance of probability' test was in fact being applied universally. It should be noted that, at the time of the second meeting, the Home Office statistician had been replaced as National Crime Registrar by a police superintendent on secondment. At the same time, the British Crime Survey was indicating that police recording rates were declining, thus suggesting that under-recording was re-occurring: 'Comparing with the previous year, there have been reductions in the estimated recording rate for burglary (77 per cent to 64 per cent), bicycle theft (62 per cent to 54 per cent) and robbery (53 per cent to 44 per cent).'<sup>34</sup>

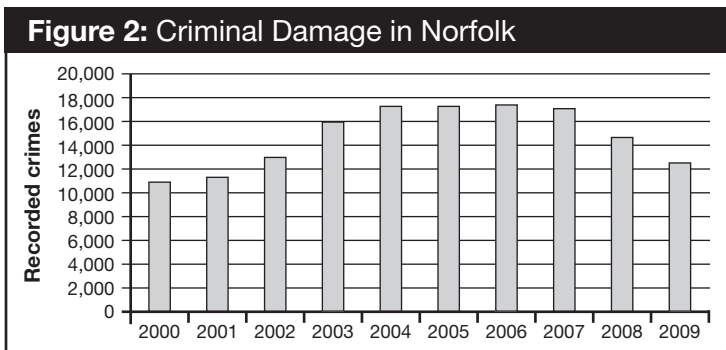
What is of particular concern is the fact that, after this result, the BCS cross-validation tests on the reliability of police recorded crime rates were discontinued, suggesting that political expediency was hampering the role of those bodies charged with ensuring probity. Certainly it would appear that the panel invited to review the way in which crime data was compiled and published<sup>35</sup> was not made aware of the evidence suggesting that 'cuffing' had enjoyed a renaissance.

Whilst the Smith Report (2006) recommended that responsibility for compiling crime data should be

transferred to the Office for National Statistics (ONS), in order to increase public confidence in the way statistics were prepared and presented, evidence of police manipulation of the figures continued to emerge. ‘Gaming’ was a subject of debate at the Police Federation Conference in 2007<sup>36</sup> and officers regularly exposed such practices on police websites such as the Police Oracle and The Thin Blue Line.

The lack of any intervention by the Home Office to defend the initial interpretation of the NCRS led to a force-by-force adoption of the new interpretation, and the associated ‘cuffing’ spread like an infection. The impact on Norfolk, one of the forces which appeared to resist the practice for some time, is evident from a review of recorded levels of criminal damage (Figure 2) which fell dramatically after it was revealed by a whistleblower that officers had been instructed to record criminal damage as accidental unless there was irrefutable evidence that it had been caused deliberately:

Police officers are being ordered not to record criminal damage as crime. A leaked memo has revealed that rank-and-file officers in the Norfolk force have been told that incidents such as car vandalism should not be classed as an offence when there ‘is no idea how it happened’.<sup>37</sup>



Data supplied by the Home Office

A presentation of the author's findings to a National Police Federation conference for detectives confirmed that officers were able to circumvent the NCRS to control recorded crime levels: 'Name any crime and I'll tell you how it can be fiddled.'<sup>38</sup>

## The 'no crimes' scam

One way in which the figures were being fiddled was by the abuse of the 'no crimes' procedures whereby a supervisor could declassify a crime recorded by an officer. This device has a legitimate purpose, which is to rectify a mistaken report such as someone assuming that their car has been stolen when they have confused the floor of a multi-storey car park on which they parked it. However, audit checks overseen by the Audit Commission on behalf of the Police Standards Unit made this a more difficult trick to employ. The results of one such audit carried out in the West Midlands in 2004 discovered that one Command Unit (D2) could only achieve a 37 per cent success rate on the category when a supervisory officer had to justify the declassification of a recorded crime. However, these checks merely resulted in more pressure being placed on operational officers to 'cuff' crime. The following email from a crime manager (E1 Command Unit), who had only achieved a 57 per cent success rate from the same audit, demonstrates the point and confirms the continued application of the 'balance of probability' rule:

The counting rules boil down to one simple test, on the balance of probabilities has a crime taken place or not? If YOU do not think it has, then YOU should not record it. Either have the log endorsed accordingly or if need be submit a short report but

do NOT record it asking for it to be 'no crimed'. The only way I can 'no crime' something that has been recorded is if new evidence has come to light showing that a crime had not taken place – I cannot simply over rule your decision once you have committed pen to WC 200 [Crime Report].<sup>39</sup>

However the official stance that police-recorded crime rates were still reliable persisted, and the results from the British Crime Survey on the limited offences they measure appeared to confirm the downward trend.<sup>40</sup> That said, a note of caution was starting to emerge in such reports:

Despite the existence of the NCRS, the quality of recorded crime data will vary as there will always be an element of subjectivity in recording against the crime categories, and interpretation of the HOCA that guide that coding. Police recording policies and processes may also vary, leading to inconsistencies in recording.<sup>41</sup>

By 2013 the cracks were certainly appearing, with a report from the Office for National Statistics corroborating the findings presented in this paper:

Given the consistent pattern, one possible hypothesis is that there has been a gradual erosion of compliance with the NCRS such that a growing number of crimes reported to the police are not being captured in crime recording systems. There are a range of possible drivers for this including:

- lack of awareness or adequate understanding of the NCRS as time passes from its launch leading to some officers recording 'as charged' or 'if detected' which might result from staff turnover and lack of sufficient on-going training;

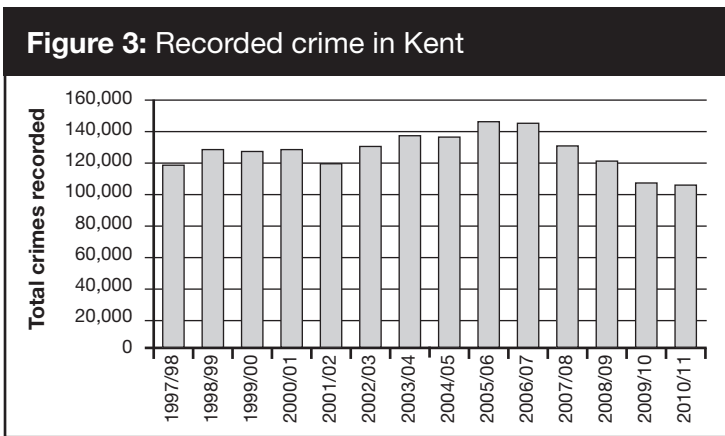
- performance pressures associated with targets (e.g. to reduce crime or increase detection rates) acting as perverse incentives for some crimes to be downgraded from notifiable into non-notifiable categories or as ASB or as crime-related incidents (which are not captured in data returned to the Home Office);
- though forces have continued with their own internal audits, the cessation of independent audits from 2006/07 onwards may have reduced the focus on addressing non-compliance;
- the move to Neighbourhood Policing in recent years may also have led to more low-level crimes being dealt with informally and outside the formal crime recording system; and,
- in the context of pressure on police budgets and a general policy shift to promote greater officer discretion, a return to a more evidential recording model.<sup>42</sup>

This appeared to contradict the findings of HMIC, which carried out a review of crime statistics in 2011<sup>43</sup> and in general found little of concern. This stands in contrast to the investigation into Kent Police<sup>44</sup> following allegations of abuses in relation to detections by a whistleblower in November 2013. It is not unusual for one form of ‘gaming’ practice to be employed in company with other forms and, as can be seen from the following chapters, this appears to have been the case in Kent.

## **An examination of Kent Police**

An examination of the total recorded crime profile for Kent Police (Fig. 3) shows an increase in reported crime in 2002/03 in line with the introduction of the National Crime Recording Standard (NCRS) in April 2002.

The fall in the total recorded crime for Kent Police between 2006/7 and 2008/9 is consistent with a change in the recording standard observed in other forces suspected of reverting to an evidential standard.<sup>45</sup> This also corresponds with the period identified by the local police federation representative as the start of the perverse impact of performance management.<sup>46</sup>



Data supplied by the Home Office

A check of the Kent Police website in November 2012 reveals that the ‘balance of probability’ test is being applied to all individuals attempting to report a crime: ‘This term is used to describe a record of an incident where a report of an incident has come to police attention which, on the balance of probabilities, would normally amount to a notifiable crime.’<sup>47</sup> The suspicion that Kent Police were ‘cuffing’ reported crime in order to enhance performance was strengthened by a report by the BBC on the variations between forces of ‘no crime’ rates for offences of rape:

‘No crime’ figures by police force

- 2 per cent: Gloucestershire

- 5 per cent: Humberside
- 10 per cent: Devon and Cornwall
- 15 per cent: Norfolk
- 22 per cent: Gwent
- 30 per cent: Kent

Figures are rounded and relate to offences in year to March 2011.<sup>48</sup>

Whilst HMIC had at that time found little of concern regarding overall crime recording in Kent (January 2012) they were concerned about ‘no criming’:

HMIC sampling indicates that Kent Police almost always records crimes accurately as required by the NCRS. However, the approach to crime recording taken by Kent Police is inconsistent with the approach adopted by other forces in the area of ‘no crimes’. HMIC will undertake a more in-depth review of Kent’s approach at the police authority and force’s invitation in order to resolve this outstanding issue.<sup>49</sup>

The revelations from the investigation of Kent Police,<sup>50</sup> confirming the prevalence of ‘cuffing’ in general and abuse of ‘no criming’ in particular in this force, resulted in the new Chief HMIC reconsidering the methodology employed in the previous HMIC audit.

## **The human cost**

Whilst the evidence presented in this chapter is technical, the human cost of such perverse behaviour should not be overlooked. The failure to record crimes prevents offences being investigated and offenders brought to justice. In a number of cases this has allowed

criminals free rein to commit serious crimes, including murder. In 2006 the IPCC investigated the contact Colette Lynch had with Warwickshire police prior to her death. In this case it emerged that Warwickshire officers had failed to record and investigate a report of criminal damage involving the victim's estranged partner. The IPCC commented on the force's crime recording procedures: 'A review should be undertaken of the extent to which those who are required to implement the policies on domestic violence, crime recording and call handling are aware of their responsibilities.'<sup>51</sup>

## What is the true level of crime in England and Wales?

So what is the true level of crime? The answer to that would appear to be that we don't know. The police data is being manipulated to such an extent that it amounts to little more than sophistry and the Crime Survey for England and Wales (CSEW) only covers a limited range of offences such as burglary and vehicle crime. That said, we can be confident that some offences such as homicide, burglary of dwelling houses and vehicle crime are reducing, partly due to improvements in medical services and target-hardening measures such as car immobilisers and house alarms. However, it has been suggested that criminals are changing their offending behaviour as new opportunities present themselves, such as credit card and internet fraud. Reluctance by the Home Office to include such offences in the Crime Survey and leaving it to financial institutions and insurers to investigate these forms of crime (rather than the police) has denied citizens a true picture of the state of crime in the UK.



## 2

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### Nodding: The Invitational Edge of Corruption

The administrative procedures allowing offenders to admit additional offences to be 'taken into consideration' (TIC) have a long history of abuse,<sup>1</sup> first exposed by PC Ron Walker of Kent Police in 1986. These have featured twice in the BBC Radio 4 *Law in Action* programme, the most recent being on 1 November 2011. Whilst a chief superintendent from South Yorkshire interviewed on the programme was eager to consign the corrupt practices associated with TICs to the 1970s, the evidence available suggests the problem remains. The Independent Police Complaints Commission was also keen to dismiss any 'wider systemic abuse' when they investigated South Wales Police following the case of a young offender being plied with cider in return for admissions,<sup>2</sup> but this may reflect their failings as opposed to any indication of reality. This chapter will explain the administrative processes being manipulated to facilitate what it is argued are corrupt practices. These include both pre- and post-conviction TICs (prison write-offs now being converted to TICs).

#### On the edge

The administrative procedures enabling offenders to admit large numbers of offences either at the point of sentence or later after incarceration both reduce the

bureaucratic burden on the courts and allow offenders an opportunity to make a fresh start without the fear of arrest for a past offence. These procedures are commendable, but they do create an environment in which offenders and officers may be tempted to negotiate or bargain to their mutual benefit. This may result in deals being struck which are not in the public interest, most notably where an offender avoids a justifiably long custodial sentence. In some cases such negotiation amounts to perverting the course of justice.

The risk lies in the pressure on officers to obtain detections, thus improving their performance by securing admissions to offences unlikely to be solved by conventional means. When a suspected offender is arrested for a criminal offence, such as burglary or vehicle crime, the interviewing officer will be conscious that the suspect may have committed a number of other offences, some likely to yield forensic evidence enabling the suspect to be prosecuted when the identification is confirmed. The suspected offender is also likely to be aware of this. If there were no pressure to achieve detections, the officer would maintain the upper hand as he/she would be able to explain to the suspect that there was an opportunity to admit more offences at that stage and thus avoid arrest and prosecution for outstanding offences which subsequently came to light. The choice would then be left to the suspect. However, there is also a good chance that further evidence will not be forthcoming and officers may then be tempted or coerced by senior officers to offer some inducement to the suspected offender to admit further offences. Such inducements could involve charging the offender with a less serious offence, e.g. the value of property stolen was less than in other offences or no violence was used

in the commission of the offence, and then TIC more serious offences. The result of such a deal would, in most cases, be a reduced sentence for the offender. Such a conspiracy has obvious attractions for the offender and, although such offers are illegal, they are unlikely to come to light as they are usually made outside the restrictive environment of the formal interview where tape recording and defence solicitors may be present. This was the substance of the complaints of defence solicitors aired on the Radio 4 *Law in Action* programme on 5 June 2007. Suspects may also try to initiate such negotiations. This situation could be viewed as an 'invitational edge to corruption'. Manning and Redlinger argued that the nature of some types of policing such as under-cover operations and/or the use of informants put officers at risk of involvement in dubious behaviour, as they were tempted to cross legal boundaries in pursuit of organisational objectives.<sup>3</sup>

### A new take on an old trick

The same risks as detailed above apply to 'prison write-offs', where a deal may be struck before sentence agreeing that the offender will admit a number of offences after they are imprisoned. However, the incentive to detect offences in this way was minimised in 1997 when 'prison write-offs' were relegated to the category of non-sanctioned detections. Non-sanctioned detections are offences which have been solved by means other than charge or caution. They are of less value as they are excluded from the national performance league tables. However TICs remained 'sanctioned' detections. It was then discovered that it was possible to 'convert' prison write-offs into TICs by producing prisoners from prison for interview when

police were investigating offences that had subsequently come to light as a result of, for example, forensic evidence. If there was sufficient evidence to charge an offender serving a custodial sentence, the Crown Prosecution Service (CPS) would be contacted to authorise the most suitable means of disposal. The CPS would take into account the sentence the offender was currently serving and the likelihood of that sentence being increased by a further court appearance. Most likely, the CPS would decide that no increase in sentence would result and that it was therefore not in the public interest to pursue the charge against the offender at court. Home Office counting rules allow offences dealt with in this way and any other offences the offender is willing to have TIC'd to be categorised as sanctioned detections. However, in many cases the CPS is not made aware of the details of the TIC offences. Both offender and investigating officer are aware of the likely outcome of these post-sentence TICs and the incentive for collusion and exploitation are increased. The practice was explained by one experienced detective:

The second approach [was] where people were serving time and interviewed regarding other offences and they were charged with a piddling little offence and then all the rest were TIC'd. There was clearly no interest in a court case because they knew if they consulted with CPS, as they were supposed to have done, as far as national policy was concerned, CPS would say 'not in the public interest discontinue', get your detection. So they would only see the charges; so because this person has signed the TICs and this person was subject of a charge, the reading of the Home Office counting rules to take them into the TIC remit as opposed to 'prison write-offs'.  
 (Interviewee D)

The procedures allowing prisoners to be taken from prison into police custody also provide the opportunity to offer them a range of inducements in the form of meals out, access to partners or alcohol in return for admissions.

### A recurring problem.

The abuse of post-sentence procedures resulting in offences being detected as prison write-offs was well known when the Chief Constable of Greater Manchester Police (GMP) ordered the cessation of prison write-offs circa 1995. This had a dramatic impact on detection rates, particularly for burglaries and vehicle crime. GMP's overall detection rate fell from 33 per cent in 1994/5 to 18 per cent in 1996/7. However, the impact varied by the type of crime, as shown at Table 1.

**Table 1: Detection rate of Greater Manchester Police**

		1994-95	1996-97
All crime	Recorded	307,023	291,624
	Detected	33.3 per cent	18.2 per cent
Home burglary	Recorded	53,516	48,172
	Detected	38.4 per cent	9.7 per cent
Burglary other	Recorded	35,731	33,177
	Detected	23.4 per cent	8.9 per cent
Autocrime	Recorded	99,125	89,898
	Detected	27.3 per cent	7.9 per cent

Source: HMIC 1997 Primary Inspection of Greater Manchester Police 1997, p.42

## Her Majesty's Inspector of Constabulary knew all along

Whilst the abuse of prison write-offs was apparently addressed by designating such admissions as non-sanctioned detections, thus excluding them from

performance league tables, forces discovered a way of converting prison write-offs into TICs. This was uncovered by HMIC during their inspection of the West Midlands Police.<sup>4</sup> The inspection commented unfavourably on the over-reliance on TICs and identified two problem areas: TICs which had been claimed as detections when they had not been accepted by the defendant at court, and no follow-up action had been initiated;<sup>5</sup> and the ‘conversion’ of prison write-offs to TICs:

It is recognised that there are potential pressure points within a performance culture and it is recommended that a system be adopted similar to that required under the Byford/Morris Rules for PSVs<sup>6</sup> for the independent verification and authorisation of detections obtained by TICs, particularly those relating to further charges and TICs of persons already serving custodial sentences.<sup>7</sup>

The conversion from prison write-offs to TICs was quantified by HMIC:

Detections from post-sentence visits (PSVs), or ‘prison write-offs’ have significantly decreased over the last three years from representing 45 per cent of all detections in 1995/96 (equivalent to 33,103 detections) to 4.1 per cent of all detections in 1998/99 (equivalent to 2,759 detections). This downward trend has continued into the current fiscal year and currently stands at only 0.9 per cent of the total detections achieved in the first six months (equivalent to 412 detections)... However, the most significant change has been the exceptionally large increase in the proportion of detections achieved from TICs which accounted for a quarter of the total detections in 1997/98.<sup>8</sup>

The audit of detections conducted by HMIC staff officers suggested that collusion, in the form of 'deals', was occurring between officers and suspects:

There are other examples where the more substantive and serious offences have been subject of TIC with 'lesser offences' being charged: letter from subject in custody on remand suggests the possibility that some inducement may have been suggested to the subject regarding bail or interpreted by the subject in this fashion – 'Well what the f... happened to bail? I'm in court on Monday so if you could be there to get me bail I will come with you straight from the Courts and TIC all offences that I can remember'.<sup>9</sup>

Whilst it is clear that HMIC staff were aware that 'prison write-offs' were being converted to TICs and the dangers that such procedures posed, they did not instigate any action at a national level to address this threat and, in their thematic report on integrity, maintained that unethical practices were not widespread.<sup>10</sup> Designating TICs as non-sanctioned detections would have been a potential technical solution.

In the absence of any effective deterrent, incidents involving the abuse of TICs and inducements in the form of alcohol, drugs and sex continued to surface:

1. Cleveland: drugs and alcohol, 2002<sup>11</sup>
2. West Midlands Police: drugs, 2003<sup>12</sup>
3. Greater Manchester Police, Stockport Division: access to relatives, 2004<sup>13</sup>
4. Bedfordshire Police: sex, 2006<sup>14</sup>
5. Merseyside: alcohol, 2007<sup>15</sup>
6. South Wales Police: alcohol, 2012<sup>16</sup>
7. Kent police, 2013<sup>17</sup>

## A new meaning for 'drug enhanced performance'

A closer examination of the incident involving officers from the West Midlands is informative. Officers had 'produced' a suspect from prison in order to interview him about further offences. The officers entered a fast food outlet for lunch (a practice strictly forbidden by force procedures) and the prisoner was passed prohibited substances by a relative. Acting on a 'tip-off', the force's professional standards department had been keeping covert observations on the officers and their prisoner. All the parties were arrested. The press were alerted and the story appeared in the local newspaper.<sup>18</sup>

None of the officers were charged with any criminal offence. However, the incident resulted in the force management team instigating a review of the procedures involving post-sentence TICs. This review found similar abuses to those found by HMIC (1998) some six years earlier:

In a few cases, defendants are admitting to offences that they could not have committed due to being in custody. Those cases are still being subject to TIC... More serious offences are often taken into consideration than those offences that have been charged. There are examples in which the values on the TIC schedules are consistently well below those on the crime reports. This would 'minimise' the offence in the eyes of the court.<sup>19</sup>

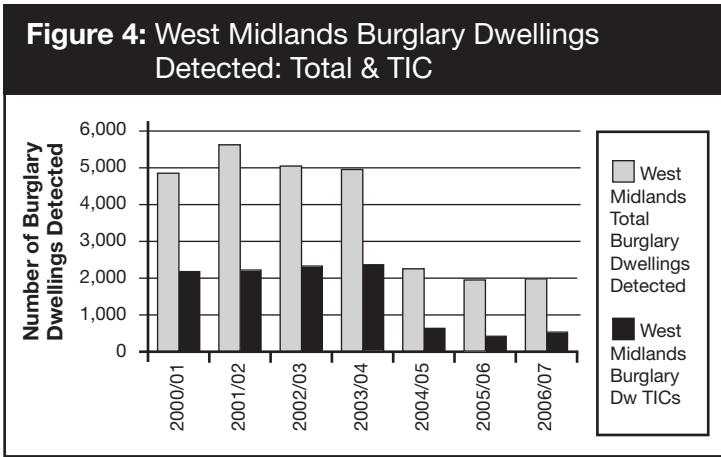
The motivation to improve performance was highlighted as the main contributory factor:

It should be noted that there was widespread concern about the use of production<sup>20</sup> prisoners with OCUs (Operational Command Units) effectively competing to



become the first to obtain the visit and thereby boost their own detection figures, even if the prisoner was being dealt with already by another OCU. Force records are being trawled to gain an advantage in such matters, with little organised collaborative effort.<sup>21</sup>

The impact on the West Midlands Police detections for burglaries of dwellings demonstrates the point:



Data supplied by the Home Office

Similar patterns are evident in the performance profiles of all the other forces experiencing similar incidents, suggesting that the phenomenon is organisational.<sup>22</sup>

### The finger is pointed

Following the October 2003 incident involving West Midlands Police officers, the Assistant Chief Constable (Crime) Stuart Hyde publicly addressed the reversal of his force's performance on detections by indicating that probity came at the cost of reduced performance: 'We have very rigorous and ethical methods of detection and set ourselves the highest possible standards. We will not record something until it comes back from

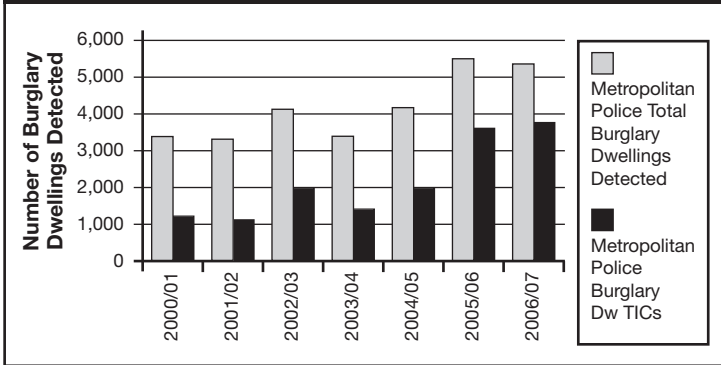
court whereas other forces will record it as a detection from the point it has been signed for by the defendant.<sup>723</sup>

He was explaining that the force no longer allowed TICs, post- or pre-sentence, to be recorded as detected unless the defendant/suspect had actually admitted them before a court of law. Of course, this court admission posed the risk of an increased sentence for the suspects and, not surprisingly, they were reluctant to comply with the new arrangements. The procedural change also curtailed the negotiating position of officers seeking to offer inducements to offenders. His comment also explicitly questioned the integrity of other police forces and by implication that of the West Midlands Police force, which had relied on such questionable methods since at least 1997.

It would appear that his assessment was accurate, as further incidents involving TICs and inducements continued to surface, Kent police being but one of a number of forces caught up in such revelations. However there have also been indicators relating to other forces. Essex officers were quick to highlight an increased emphasis on TICs when a new chief constable was appointed<sup>24</sup> and the earlier *Law in Action* programme<sup>25</sup> indicated that 'intelligence' interviews were being conducted by Metropolitan Police officers. It is known that these unrecorded interviews provide an opportunity for negotiations involving TICs to occur.<sup>26</sup> A corresponding increase in the use of TICs in the Metropolitan Police is evident from an analysis of its performance profile (Figure 5).

The *Law in Action* report<sup>27</sup> also highlighted the large variations between forces in the use of TICs, with West Yorkshire, South Yorkshire and Gloucestershire detecting approximately four per cent of all reported

**Figure 5: Met. Burglary Dwelling Detections:  
Total & TIC, 2000–2007**



Data supplied by the Home Office

crime by this means compared with the one per cent for forces which had experienced ‘problems’. However the Independent Police Complaints Commission (IPCC) still appeared blind to the organisational nature of the abuse:

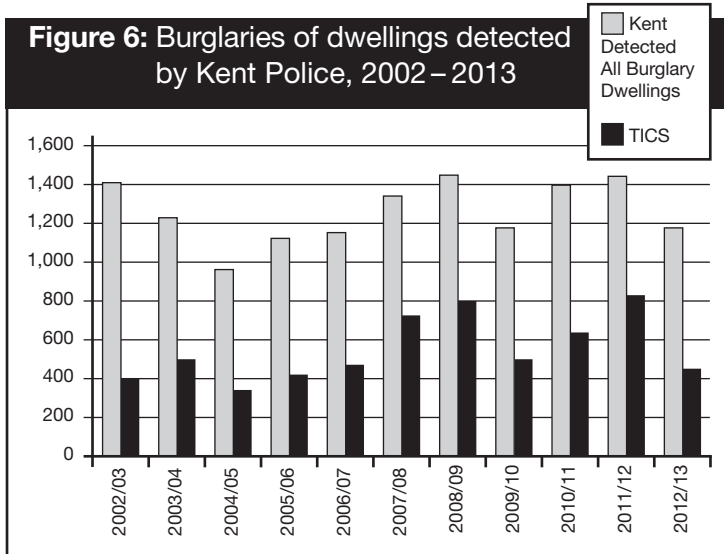
The IPCC investigation also looked at whether what happened to Sean was indicative of a wider systemic abuse by South Wales Police officers and found no evidence to suggest that this was anything more than two officers acting completely inappropriately. There are clear rules and safeguards governing how police forces can get somebody to admit to other offences so that the court can take them into consideration, but they were ignored in this case.<sup>28</sup>

The IPCC investigation compared the number of detections obtained by TIC by South Wales Police with those from similar forces and concluded that, as they were not out of kilter with those forces, then the abuse was not organisational. This methodology is flawed in that it excludes the possibility that the abuse is occurring in the other forces. Comparing their TIC

levels with other forces known to have experienced similar issues is a much more illuminating exercise.<sup>29</sup>

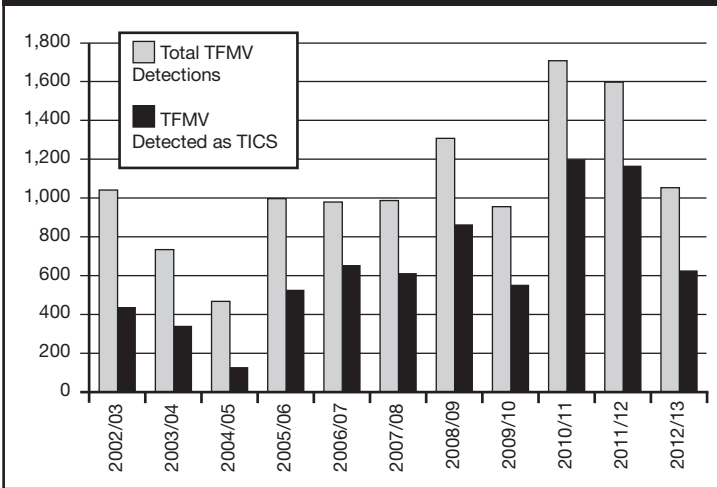
## Kent Police: 25 Years on and nothing changes

In November 2012 five officers from an offender management unit in Kent were arrested following allegations by another officer about the abuse of TIC procedures. An examination of the number of detections of burglaries of dwellings (Figure 6) and theft from motor vehicles (Figure 7) by detection type suggests that the practice emanates from 2006, thus corroborating the claims made by the Police Federation representative that the abuses stemmed from this period.<sup>30</sup> The fall in TICs for the period following the disclosure by the ‘whistle blower’ in 2012 is of note, particularly as the figures include TICs both before and after the arrests in November 2012. The force was also graded ‘poor/red’ for the standard of TICs in the HMIC Detections Audit for the year 2006/07.<sup>31</sup>



Data supplied by the Home Office

**Figure 7: Thefts from motor vehicles detected by Kent Police, 2002 – 2013**



Data supplied by the Home Office

In June 2013 HMIC published the results of its investigation into this matter and its concerns about other forms of ‘gaming’ being employed by the Kent force. Whilst the report confirmed and condemned the other forms of ‘gaming’, it was fairly muted on the issue of TICs other than to say an internal investigation carried out by the force failed to uncover any criminal offences.<sup>32</sup> The nature of the allegations made by the officer are not included in the report, which appears to accept the findings of an internal investigation that no criminal offences were disclosed. HMIC’s investigation amounted to an audit of 30 cases:

We examined 30 cases of TICs and found that 25 complied with all of the requirements. Three failed to comply because there was no record that the victim had been informed that the crime had been detected in this way. In the other two cases, we could

not find evidence of a clear and reliable admission to the specific offence that had been detected.<sup>33</sup>

This approach is consistent with HMIC's previous performance in addressing this type of abuse.<sup>34</sup> One would expect any credible investigation into an allegation of this type of abuse to check the seriousness of the TICs relative to the seriousness of the offences charged and whether the offences were recorded as detected as a result of being taken into account at a court appearance or post-sentence after the Crown Prosecution Service had agreed no further action. Interviews with local judges would discover if police officers are making representations for non-custodial sentences when large numbers of TICs are admitted. Local prison governors would also be able to testify to any abuse of the production process, whereby prisoners are produced at police stations for further offences to be investigated.

## 3

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# Skewing: What Gets Measured Gets Done

## A methodological dilemma

One might imagine that it would be a relatively straightforward process to test the hypothesis that crude overall detection targets were achieved by concentrating effort and resources on easy-to-detect offences. It would involve comparing the detection rates for more serious offences such as robberies and sexual assaults with those for less serious and easier-to-detect offences. However the 'gaming' of recorded crime and detection rates makes such an exercise of little value. This conclusion was reinforced by the experience of Her Majesty's Inspectorates of Constabulary (HMIC) and Crown Prosecution Service (HMCPSI) when they tried to gain an understanding of the low convictions rate for rape:

Failure to adhere to the relevant HOCR (Home Office Crime Recording) criteria is not only skewing recorded crime figures for rape but is also undermining the ability to gain accurate understanding of attrition.<sup>1</sup>

That said, it was noted that the sudden improvements in the overall recorded crime and detection rates by one force, West Yorkshire, were not accompanied by similar

improvements in the detection rates for sexual offences. These improvements were therefore attributed to a re-interpretation of the NCRS, indicated by the introduction of a 'false reporting' policy and an increase in offences detected as TICs.<sup>2</sup>

## A different approach is adopted

In order to overcome this methodological obstacle, it was decided to undertake a review of HMIC reports and individual investigations into serious cases by the IPCC where police action was being reviewed. The object was to detect any evidence that under-resourcing or lack of prioritisation were contributing factors. The review confirmed that 'skewing' was a consistent theme.

Her Majesty's Inspectorate of Constabulary reported on the dangers of 'skewing' as early as 1999 and viewed the practice as unethical:

The drive for continuing improvements in detections should, however, be controlled to ensure high-volume crimes are not unnecessarily pursued at the expense of proper investigation of more serious crime. There was evidence in one force that a divisional commander refused to allow his detectives to put more than minimal resources into a serious sexual crime investigation, preferring instead they concentrate their efforts on less serious crime such as car theft. This occurred because whether they solved a rape or the theft of a car radio, the division would only be credited with one detection.<sup>3</sup>

## Deadly consequences

The deaths of Police Constable Malcolm Walker, a police motorcyclist killed whilst trying to stop a vehicle driven



by gang members in 2001, and of Letisha Shakespeare and Charlene Ellis, caught in a hail of bullets in 2003, exposed the failure of the West Midlands Police to respond to the rise in gang-related criminality as neighbourhood policing took priority over the allocation of officers, and specialist units such as mobile surveillance were not increased in response to this emerging threat. The force had been warned about 'skewing' by HMIC in 2001<sup>4</sup> and patrolling officers were reporting exchanges of fire between rival gangs prior to these deaths. Similar deployment trends were apparent from the reports on Nottinghamshire Police following the Chief Constable's declaration that his force could not cope with a rise in murders:<sup>5</sup>

Resources were devolved to the BCU's officers and staff were realigned with community beats and response teams. Detective capacity at headquarters was reduced and this included the disbandment of the force drug squad. In March 2003 HMIC noted some aspects of the reorganisation had not been handled well and the challenges were exacerbated by a rise in serious crime, both in terms of drug-related gun crime and an abnormal level of murders committed in 2002.<sup>6</sup>

The rise in organised crime, particularly gang- and gun-related activity, led HMIC to undertake a thematic study of this threat.<sup>7</sup> The resulting report felt able to commend only three forces (Avon and Somerset, Greater Manchester Police and the Metropolitan Police Service) for their investment in measures to counter more serious crime.

## The Independent Police Complaints Commission remains blind to the obvious

The IPCC had also investigated a number of cases where ‘skewing’ appeared to have been a feature. A focus on easy-to-detect crimes was proffered as a factor in the lack of resources attached by Derbyshire Police to the investigation of the brutal beating and robbery of riding instructor Tania Moore.<sup>8</sup> The report on the force’s handling of the case prompted the following media response:

A police force failed to investigate properly the violent robbery of a show jumper which led to her murder because its officers were busy inquiring into stolen chickens.<sup>9</sup>

The IPCC investigation into the fatal shooting of Peter Woodhams in East London in 2006 also uncovered a poor level of response to an earlier stabbing by the same assailants (IPCC 2007). Whilst the standards of supervision were commented on, the lack of priority given to this type of crime was not identified as a major organisational issue, although operational officers in the Met were raising concerns about the lack of focus on the investigation of serious crime:

Every borough is playing the game; those that are not are seen as under-performing. Policing has completely lost its way. We only investigate crimes that matter in terms of performance data.<sup>10</sup>

Further investigations overseen by the IPCC also indicated a lack of priority and/or resources devoted to the investigation of more serious crimes. The investigation into the death of Craig Hodson-Walker,

the postmaster's son, in Bromsgrove, Worcestershire found that evidence of involvement in armed robberies against some of those responsible had been available to West Mercia Police prior to the murder but this had not been pursued with due diligence.<sup>11</sup> The investigation into the way the Met dealt with the handling of the serial rapist Kirk Reid also indicated that other performance-related priorities had hampered the case.<sup>12</sup> As in earlier cases, the IPCC refrained from criticising the leadership of the forces involved, being content to hold operational officers responsible for the failings:

There was pressure on the borough in relation to performance and the targets set by the centre, which at the time were robberies, street crime and burglary. Investigating sexual assaults was never a priority on the borough. But in my view none of these factors provides real mitigation for the actions of those senior supervisory officers.<sup>13</sup>

## The IPCC exposed

It did appear that the IPCC was unwilling to consider the organisational nature of the failings that they were uncovering, despite the consistent pattern that was emerging. It was therefore thought beneficial to examine one of their investigations in more detail. The investigation into the contact that West Midlands Police officers had with the killer of Jordan McGann prior to her death provided an opportunity to explore this tendency in more detail.<sup>14</sup>

Jordan McGann was 16 months old when she was murdered on 6 August 2004 by her mother's boyfriend. The case was referred to the IPCC in 2006 after publication of a serious case review revealed failings by

a number of statutory agencies, including the police. Released on licence from a prison sentence imposed for an assault on a mother and her child, the murderer had not been subject to the interagency monitoring arrangements normally associated with such offenders. Soon after release from prison, he assaulted a woman and child. The child protection officers assigned to investigate this offence contacted him by telephone to try to arrange for him to attend the police station for interview. He did not keep these appointments and the officers did not make vigorous efforts to track him down or circulate him as wanted. By this time he had moved in with Jordan's mother. A few days prior to Jordan's death, he was stopped by police and checked on the Police National Computer. Had his details been circulated as wanted he would have been arrested for the previous assault. The IPCC took up the case and indicated an intention to look more widely at the way the West Midlands Police dealt with child protection issues.<sup>15</sup>

Jordan's case appeared a relatively straightforward investigation. HMIC had criticised the West Midlands Police for under-resourcing child protection units during their inspection of the force.<sup>16</sup> This criticism was pre-dated by two internal reports on child protection: one examined staffing levels and found that in 22 per cent of cases (122 out of a sample of 563) the level of investigation was unsatisfactory;<sup>17</sup> the other included the following comment:

The results of the HMIC Thematic Audit would appear to indicate vulnerabilities in strategic direction, force ownership, and force training strategy. To reinforce the above concerns we are now met with an increasing amount of serious

case management reviews into the death and serious injuries of children where the Force is being found wanting.<sup>18</sup>

The officers interviewed by the investigating officer appointed by the IPCC cited high workloads as reasons for their deficiencies. However the IPCC concluded that:

The actions taken and the resources committed by West Midlands Police demonstrate an open-minded approach to learning and improved working by a generally high-performing force, which is good news for the public of the West Midlands.<sup>19</sup>

The failings of the IPCC were the subject of a Home Affairs Committee review and critical report in 2013.<sup>20</sup> It has yet to be seen whether any improvement ensued.

## What deployment trends tell us

The geographical 'skewing' of police resources in the form of the deployment of officers from deprived areas, traditionally more difficult to police, to more affluent suburbs again came to the fore in the aftermath of the 2010 riots.<sup>21</sup>

Tarique Gaffur, a former Assistant Commissioner of the Metropolitan Police Service, suggested that a strategy to respond to the threat of gangs by concentrating police resources on the deprived areas of the capital had not been implemented as 'it would have taken officers away from the politically favoured policy of neighbourhood policing'.<sup>22</sup> Councillors in the Ladywood Ward of Birmingham had disclosed prior to the riots, in which three young men from that ward died, that the local police command unit responsible for

policing the area had seen officer numbers reduced by seventy when the force was restructured in 2010.<sup>23</sup> Whilst the impact of that particular deployment had been reversed prior to the riots, it did confirm the findings of an earlier study of police deployment trends in the West Midlands which showed how this force systematically re-deployed officers from inner-city areas to more affluent suburbs.<sup>24</sup>

### The problem persists

The investigation into Kent also found evidence that 'skewing' still persisted, with evidence of: 'some officers actively seeking out cannabis users to administer formal warnings; and a proactive policing team, set up to tackle burglary, being inappropriately redeployed to deal with cases of shoplifting'.<sup>25</sup>

## 4

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### Stitching: It's a Fit-up

#### Something from the past?

The withholding of evidence supporting a suspect's case or the fabrication of evidence, known as 'stitching', resulted in a number of high-profile cases of miscarriage of justice which led to the 1984 Police and Criminal Evidence Act (PACE) designed to counter such police malpractice.

HMIC (1999) was of the opinion that the fabrication of evidence or the false attribution of admissions to suspects was something from the past. Cases being considered for charge and appearance before the courts are subject to stringent quality controls maintained by custody officers and the Crown Prosecution Service (CPS), who check the evidence before deciding on whether to prosecute or not. Not all investigations result in an appearance before a court, although they can result in the crime being recorded as detected. These administrative forms of detection present opportunities for 'stitching'. Offering a suspect a caution when the evidence is weak is one way of obtaining a detection, as the suspect can be persuaded to accept this outcome in order to secure their freedom and avoid defending themselves in court, despite conviction being unlikely.<sup>1</sup> Again, operational officers were making public their concerns about abuses of this method of detection:

The police service is criminalising people. A so-called crime's been reported so you have to crime it in accordance with the National Crime Recording Standards. You can't get rid of it. There's an offender so the way you resolve it is by cautioning him because the senior management don't want an undetected violent crime.<sup>2</sup>

Cautions have to be authorised by a supervisory officer and are recorded on the Police National Computer (PNC). Another way of detecting an offence is for an officer to issue a suspect with an informal warning, after which the recipient's details are recorded on a local police database. Supervisory oversight and quality control of this process are generally minimal, facilitating abuse and leading to a person receiving a local police record when the evidence would not support a conviction in court.

### Stitching and the 'inflammatory consequences' rule

Prior to the introduction of the provisions of the Data Protection Act 1998, a suspect could be shown as being responsible for an offence without their knowledge. Detections obtained by this method were allowed by the Home Office's 'inflammatory consequences' counting rule. This required victims to state that they were unwilling to give evidence in court against the perpetrator and feared that alerting them to the fact that they had reported the crime to the police would result in them being put at risk. In such cases a senior police officer would have to be satisfied that there was sufficient evidence to secure a conviction before authorising the detection of the offence and before



recording the suspect's details as the person responsible. Such offences would be categorised as 'detected no further police action' (DNFPA). Wilson *et al.* (2001) commented on how this procedure could be abused, resulting in an innocent person having a police record of which they were unaware and hence unable to challenge – 'stitching'. The Data Protection Act made such practices unlawful. The Home Office withdrew the 'inflammatory consequences' rule in 2002. However it would appear that the practice continued.

### **A frightening finding**

In 2007, HMIC carried out an audit of detections for the years 2005/6 and 2006/7.<sup>3</sup> The 2006/07 audit is shown in Table 2.

The full results of this audit were not made public, although police authorities were provided with a copy of the results on their own force. This was a deviation from the policy of publication pursued by HMIC since 1991. However HMIC did subsequently publish a summary of the results (Table 2) on their website in response to a request made under the provisions of the Freedom of Information Act. The audit showed that 33 out of 44 forces had been graded 'poor' on non-sanctioned detections, made up in the main of informal warnings. It appears that this audit uncovered cases where offences had been recorded as detected without the suspect being made aware that this had occurred.

### **An arrangement is reached between the professionals: public not admitted**

The findings from the audit described above resulted in the Association of Chief Police Officers writing to the

**Table 2: Detections, all forces England & Wales, 2006/7**

Force	Data Testing	Cautions (adult)	TICs	PNDs	Cannabis warnings	Non-sanction detections
Avon & Somerset	Fair	Good	Poor	Fair	Good	No judgement
Bedfordshire	Poor	Poor	Excellent	Poor	Fair	Poor
BTP	Poor	Fair	Poor	Poor	Poor	Poor
Cambridgeshire	Good	Excellent	Good	Poor	Fair	No judgement
Cheshire	Poor	Poor	Poor	Fair	Poor	Poor
City of London	Poor	Poor	Poor	Poor	Poor	No judgement
Cleveland	Poor	Poor	Good	Poor	Poor	Poor
Cumbria	Fair	Fair	Poor	Fair	Fair	Poor
Derbyshire	Poor	Fair	Poor	Poor	Fair	Poor
Devon & Cornwall	Poor	Poor	Poor	Poor	Fair	Poor
Dorset	Poor	Fair	Poor	Poor	Poor	Poor
Durham	Poor	Poor	Poor	Poor	Poor	Fair
Dyfed Powys	Fair	Good	Poor	Poor	Excellent	Poor
Essex	Poor	Poor	Poor	Poor	Poor	Poor
Gloucestershire	Poor	Fair	Poor	Poor	Poor	Poor
GMP	Poor	Good	Poor	Poor	Poor	Poor
Gwent	Fair	Good	Poor	Poor	Poor	Poor
Hampshire	Poor	Poor	Poor	Poor	Poor	Poor
Hertfordshire	Poor	Good	Poor	Poor	Poor	Poor
Humberside	Good	Excellent	Fair	Fair	Poor	Poor
Kent	Fair	Good	Poor	Fair	Poor	Poor
Lancashire	Poor	Fair	Poor	Poor	Poor	Poor
Leicestershire	Good	Excellent	Poor	Good	Good	Poor
Lincolnshire	Good	Excellent	Fair	Fair	Poor	Poor
Merseyside	Poor	Good	Poor	Good	Poor	Poor
MPS	Poor	Fair	Poor	Poor	Poor	Poor
Norfolk	Good	Excellent	Poor	Fair	Excellent	No judgement
North Wales	Fair	Excellent	Fair	Fair	Fair	Poor
North Yorkshire	Fair	Good	Poor	Fair	Excellent	Poor
Northamptonshire	Poor	Fair	Poor	Poor	Poor	Poor
Northumbria	Fair	Fair	Poor	Poor	Fair	Poor
Nottinghamshire	Good	Good	Excellent	Poor	Good	Fair
South Wales	Poor	Fair	Poor	Poor	Good	Poor
South Yorkshire	Fair	Fair	Poor	Poor	Excellent	Fair
Staffordshire	Excellent	Excellent	Excellent	Excellent	Excellent	Excellent
Suffolk	Poor	Fair	Poor	Poor	Fair	Poor
Surrey	Good	Excellent	Good	Poor	Poor	Poor
Sussex	Fair	Fair	Poor	Good	Fair	Poor
Thames Valley	Good	Excellent	Fair	Good	Excellent	Excellent
Warwickshire	Good	Excellent	Fair	Fair	Good	No judgement
West Mercia	Fair	Excellent	Fair	Poor	Poor	Poor
West Midlands	Fair	Good	Good	Fair	Poor	No judgement
West Yorkshire	Fair	Good	Fair	Poor	Good	Poor
Wiltshire	Fair	Good	Poor	Poor	Excellent	Poor

Source: HMIC archived online report, no longer accessible electronically

Information Commissioner to inform him of the breaches of the Data Protection Act:

The nub of the issue faced by the service is that a proportion of the offences detected by non-sanction means fail the 'administrative test' in that they do not comply with Home Office Counting Rules (HOOCR). The most frequent errors are:

- The sufficiency of evidence (this is a judgement issue with the HMIC and forces coming to a different view) to justify/support a non-sanctioned detection.
- A failure to record whether the victim has been informed that the offence has been detected through non-sanctioned means, and
- A failure to record that the suspect has been informed.<sup>4</sup>

The Information Commissioner articulated the crux of the matter in his response:

From my perspective I am most concerned that individuals were not being informed that they were considered to be the perpetrator of an offence even though this did not involve a legal process, especially if such information could be used in future Enhanced Disclosure relating to them. This clearly breaches the requirement of the first data protection principle that the processing of personal data must be done fairly. I am also worried by the sufficiency of evidence used. If a police force is going to label an individual as the de facto perpetrator then they must have a good objective reason for doing so. Not having this could lead to a record being viewed as inadequate or inaccurate (breaches of the third and fourth principles respectively).

However, he declined to take any action to alert the public:

I would prefer to work with chief officers to ensure compliance. I would like to know more detail about how this has come about and what action is being taken to ensure future compliance.<sup>5</sup>

Further correspondence from ACPO provided assurances:

Please rest assured that the issues that have come to light as a result of the recent Association of Chief Police Officers' and HMIC audits have been taken extremely seriously by the police service. To this end a series of meetings have taken place in fast time with all relevant parties, including the Home Office, to consider how best to address the concerns that you raised to which we are alive.<sup>6</sup>

## A joint enterprise

This correspondence demonstrated that ACPO, together with HMIC, its principal regulator, and the Home Office, to which it is politically accountable, as well as the Information Commissioner, had all decided to deal with a major failing without making the public aware of the nature or scale of the issue. ACPO was particularly vague:

ACPO has reviewed a snapshot of disclosures for the period 2003 – 2005 (for a range of 'high risk' offences). Whilst the process has (but for a handful of cases) worked effectively – clearly the issue of data protection compliance has a bearing on the disclosure process.<sup>7</sup>

In order to provide some context to the exchange of correspondence, it is worth examining the type of evidence considered sufficient for a senior police officer to authorise a 'detected no further police action' under the inflammatory consequences rule. The following is a witness statement considered to contain sufficient evidence to justify a detective chief inspector recording of the offence as detected:

At 2350 hours on Monday 17 May 1999 I attended ----- police station to report that I had been kidnapped and held against my will at a flat in ----. This incident happened on Saturday 15 May 1999 up until Monday morning. The man who kidnapped me is [name provided] and he lives at [address provided] which is the address he took me to. I have thought about this a lot and have made the decision that under no circumstances will I attend court to give evidence. I have my own personal reasons for this and do not want to discuss them further. The police have explained their procedures to me and the support that I will receive however I still do not wish to take this matter further.<sup>8</sup>

The retired senior officer who reviewed this statement highlighted a number of issues:

1. The pro-forma nature of the statement which indicated that the procedure was routine
2. The message such a procedure sent out to junior officers about what was an acceptable standard of professional behaviour
3. The appearance that what could have been an expensive investigation had been solved for minimum effort and cost

4. The fact that a potentially dangerous offender had not been brought to justice and remained a threat to society, which is pertinent in this case as the offender went on to murder a child in the most horrifying circumstances

He also identified the risk of labelling someone guilty of a serious offence on the flimsiest of evidence without them having the opportunity to defend themselves against the accusation:

Yes, this just smacks of the old serious crime squad. We know who did it, therefore we'll set them up to do it, or we're convinced they did it. It's even better; you don't even need to speak to them. Whoa, there's no need to even have dustbin liners<sup>9</sup> or anything. Mad! (Interviewee C)

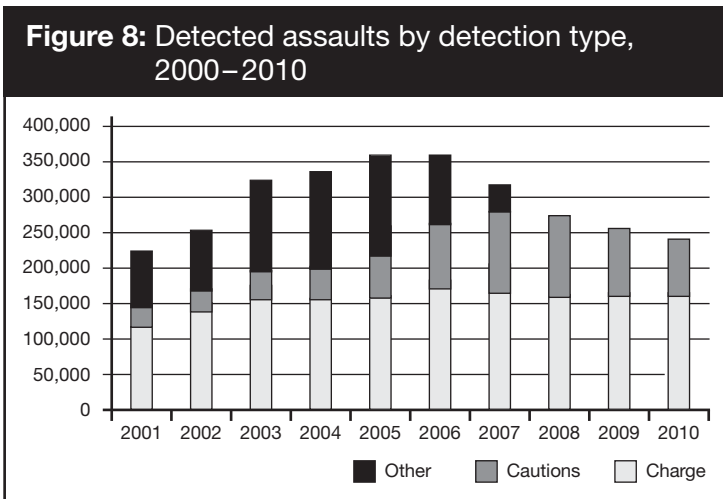
Whilst the West Midlands Police ceased to use the 'inflammatory consequences' rule in 2002, it is apparent from the correspondence between ACPO and the Information Commissioner that the practice continued elsewhere.

## The scale of the abuse

When it came to quantifying the scale of the wider problem of the insufficiency of evidence in the category 'detected no further police action' (DNFPA), the writer decided to examine the detection data on assaults. Informal warnings were a common way of detecting assaults and were particularly prone to 'stitching', as the suspect is unlikely to realise that a police record, which could be cited in subsequent criminal record checks, is being created. They also have limited recourse to challenge the officer's decision. Apart from that, the

incident appears settled with the minimum inconvenience. To a certain extent, informal warnings are similar to cautions but with less supervisory oversight. The scale of the problem may have been considerable, as the Home Office had discontinued the use of ‘detected no further police action’, which outcome was included in the category ‘other’ detections<sup>10</sup> up until 2007.

Assaults are also a useful offence to examine, as they would be disclosed in Criminal Record Bureau checks and could debar the individual concerned from certain areas of employment – a point recognised by the Information Commissioner. If the problem was minimal, then assaults detected by informal warnings would most likely be categorised as cautions from 2007 onwards. If there was a widespread problem with insufficiency of evidence, then they would be left as unsolved crimes or, more likely, not recorded – ‘cuffed’. Total detected assaults by detection type from 2000/1 to 2009/10 are shown at Fig.8:



Data supplied by the Home Office

What is striking about this data is the relative stability of the assaults resulting in charges from 2002/3, when the National Crime Recording Standard was introduced. This would seem to indicate that the levels of assaults reported also remained roughly constant. The major reduction in overall detections has been in 'other' detections. This category includes informal warnings. It does not appear that the changes have resulted in all those assaults which prior to 2006/07 would have been dealt with as an informal warning being converted into cautions.

It could be that the data indicates that assaults are genuinely reducing, a conclusion reached by Killelea (2013). However, forces were criticised for failing to record assaults correctly or not at all,<sup>11</sup> suggesting that 'cuffing' is a contributory factor in the overall fall in recorded assaults from 2006/7 onwards.

If the hypothesis is correct that stitching was inflating the detection rate for assaults and the introduction of quality controls post-2007 was responsible for the substantial reduction in detected assaults, then it can be assumed that the numbers previously recorded as detected above that level were unwarranted or unjustified. This would indicate that considerable numbers of innocent British citizens now have police records which could be a blight on their futures, particularly as criminal record checks become more widely sought by employers and other bodies.

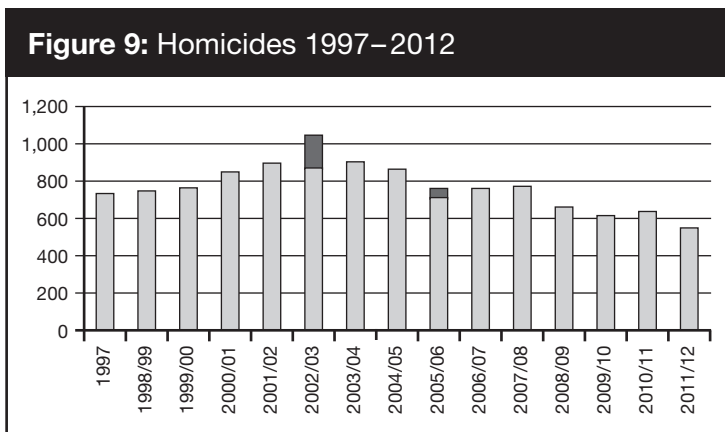
### **A dangerous double-edged sword**

The 'other side of the coin' in relation to this type of gaming practice is the fact that offenders escape justice, as their offending behaviour is minimised or goes



unchallenged. In the case used to highlight this, the suspect recorded as responsible for kidnapping was never spoken to by the police and went on to murder a baby boy.<sup>12</sup> It should also be noted that Ian Huntley received an informal warning for a sexual offence prior to murdering two young girls, Holly Wells and Jessica Chapman. However, it is in the inappropriate use of cautions and informal warnings in dealing with domestic assaults that the greatest impact is likely to be felt. A classic abuse would require an officer to classify and record a serious assault such as wounding or actual bodily harm (ABH) as a common assault. This would enable the officer to conclude the investigation by warning the suspect without attracting the undue attention of auditors.

The remedial actions taken to prevent the abuse of the caution and informal warning procedures should have resulted in more appropriate interventions being employed to tackle criminality, particularly assaults where the offender is known to the victim, and this may provide a partial explanation for the reduction in homicides from 2006/7 (Figure 9). However, this would require further research.



Data supplied by the Home Office

**Notes:** 2002 /03 includes 172 homicides attributed to Harold Shipman;  
 2005/06 includes 52 homicide victims of the 7 July London bombings.

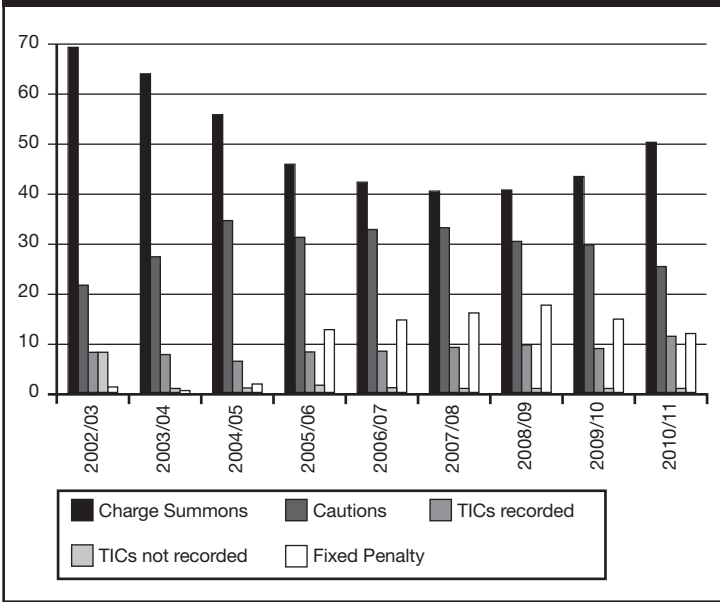
## **An emerging opportunity for 'stitching'**

Whilst the action taken by the Home Office and HMIC in the wake of the 2006/7 audit did appear to address the worst abuses of the informal warning procedures, the advent of 'restorative justice' and 'community resolutions' presents an opportunity for their resurrection. Like formal cautions, these forms of addressing offending behaviour are cost-effective and, if carried out correctly, appear to improve victim satisfaction.<sup>13</sup> Abuse of such procedures again involves minimising the offence, i.e. recording the reported crime as a less serious offence in order to qualify for an informal resolution, or relying on it to deal with a case where there is insufficient evidence to support a charge. Again, a record would be kept and could be disclosed for employment checks carried out by the Vetting and Debarring Agency (which replaced the Criminal Record Bureau). The author has first-hand knowledge of both types of abuse occurring: in one case a victim was threatened with a knife and the suspect dealt with via a restorative approach without the victim's consent; in another an individual's employment was put in jeopardy when an assault was dealt with in this manner, despite the fact that he had a valid defence.

## **The problem won't go away**

The investigation into Kent Police also confirmed that such practices were still being employed in 2013. There were problems identified in the administration of cautions, fixed penalty notices, cannabis warnings and restorative resolutions, confirming the suspicions raised by the data on detections and type of disposal (Figure 10).

**Figure 10:** Different methods of detection as a percentage of all sanction detections, Kent, 2002–2011



Data supplied by the Home Office

The report confirms that offenders were avoiding being brought to justice by the inappropriate use of non-judicial disposals, e.g. in the case of offenders cautioned for burglaries. It was also clear that those accepting warnings were not being informed of the consequences of such an action. This means that they will have had their future employment prospects blighted as the warnings will be disclosed in any subsequent enhanced disclosure by the Vetting and Debarring Agency (CRB checks).<sup>14</sup>

# Conclusion

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The preceding chapters have exposed the nature and scale of the distorting impact of gaming behaviours on the data which forms the basis of the public accountability of the police. It hides from public view the shortcomings in the leadership of the service. Whilst it should come as no surprise that the public remains sceptical about official statistics and crime levels, successive governments have continued to deny or minimise the extent of manipulation, responding to the re-occurring events by instigating another audit or review in a never-ending circle. This makes an assessment of the police regulatory and governance arrangements pertinent.

## **Questions persist over police leadership**

Official statistics indicate that the police service has been achieving its objectives and continuing to record impressive reductions in recorded crime, despite cuts in its budget following the general election in 2010. Nevertheless, there appears to have been a loss of confidence in its leadership, culminating in a review by the Home Affairs Select Committee in 2013. This was a reaction to a number of chief officers 'moving on' in the wake of investigations into their personal behaviour, including inappropriate relations with the press,<sup>1</sup> and a poor showing during the riots in August 2011.<sup>2</sup>

Running in conjunction with this loss of confidence in the police was the introduction of radical reforms to police governance, with the replacement of police authorities by directly elected police and crime commissioners with power to select and dismiss their chief constables. The plethora of centrally set targets was discarded in 2010, although the Home Secretary still expected crime to be reduced and public satisfaction improved. A review of officers' terms and conditions of service was conducted by the former rail regulator Tom Winsor, who was appointed Her Majesty's Chief Inspector of Constabulary in 2013. None of these developments was designed to assess the impact of performance management on police leadership and none appeared specifically designed to address gaming.

### **Performance management and quality control**

In theory, performance management should have led to an increase in the efficiency of the service as effective leaders would be evident from their performance and good practice would spread as they were promoted to the highest positions. However, at the time performance management control systems were making chief officers more accountable to the Home Secretary, the remit of the principal regulator, Her Majesty's Inspectorate of Constabulary, was subtly shifted from maintaining efficiency and probity to ensuring value for money. The incompatibility of these distinct roles was clear from the collapse of Enron, for whom the auditors Andersen had also acted as consultants on performance. HMIC appeared to have grasped the significance of this fact

## CONCLUSION

and the following comment is included in their report on integrity:

Her Majesty's Inspector is confident HMIC will increasingly monitor integrity, the systems and the investigative and corrective measures for maintaining it, and Inspectors will become aware at an early stage of any failings. In the same way forces are urged to keep in view the human side of policing, HMIC, in its new role as 'best value' inspectors, will not lose sight of this important responsibility.<sup>3</sup>

However, from the evidence presented in the earlier chapters, it would appear that they have failed to meet their own expectations and are very much the authors of their own misfortune due to a tendency to underplay or fail to publicise the nature of what they uncover.<sup>4</sup>

From a theoretical perspective, it is crucial for regulators to prevent cheating or gaming when performance regimes are introduced. It is difficult for lay members to judge whether or not probity or quality controls are being maintained when they are presented with data on organisational performance. The market, which performance management systems in the public sector seek to replicate, does self-regulate on price and quality and, even in the case of the banking sector, where regulation was woefully lacking, would have exposed and disposed of institutions and their managers if national and political interests had not intervened. However, there is no evidence of such ruthless action to maintain standards by the various police regulators, and the evidence suggests that they are guilty of applying what Bevan and Hood refer to as a 'Nelson's eye game' in their approach to such perverse behaviours. Bevan and Hood also went on to categorise

the types of responses that managers may adopt when confronted with such a system:

*Rational maniacs* who do not share the goals of central controllers and aim to manipulate data to conceal their operations

*Reactive gamers* who broadly share the goals of central controllers but aim to game the target system if they have reasons and opportunities to do so

*Honest triers* who broadly share the goals of central controllers, do not voluntarily draw attention to their failures, but do not attempt to spin or fiddle data in their favour

*Saints* who may not share all of the goals of central controllers, but whose public service ethos is so high that they voluntarily disclose shortcomings to central authorities<sup>6</sup>

In such an environment, the 'saints' and 'honest triers' are likely to fall by the wayside as their career prospects are blighted by what is perceived as under-performance. This has two detrimental effects: firstly, genuine knowledge of what works and what doesn't is denied to the service, as failure can destroy careers; and secondly, 'rational maniacs' and 'reactive gamers' are likely to thrive. In the absence of effective regulation, this type of individual is likely to reach the highest echelons of the police service, including the inspectorate and beyond. Once there, they will be in a position to distort the past and continue to exert an unwarranted level of influence on the service. The parallels with the banking sector are self-evident.

## Avoidance of managerial and legal liability

It is also a trait of managers employing gaming practices to distance themselves from the actual manipulation by bullying tactics, designed to ensure that subordinates are the ones taking all the risks. The legal and disciplinary principle of individual liability ensures that they can avoid any legal responsibility and sanction. Ending an instruction with the phrase 'with integrity' is one example of which the author has experience, e.g. 'you need to increase your TICs... with integrity'. Such tactics are not unique to the police.<sup>7</sup> However, individuals who rely upon them can be a liability in a critical operational situation such as a riot when the ability to make crucial decisions and be held to account for them is at a premium. This deficit appeared to manifest itself during the riots in August 2011 and led the Institute of Civil Protection and Emergency Management to conclude:

The key to successful public order policing does not rely on more equipment or more legislation but the careful selection and training of appropriate police commanders to deal effectively with outbreaks of public disorder. It is a fallacy to believe that every senior or middle-ranking police officer will make a good public order commander... Police public order commanders must have the character and personality to lead and inspire the police officers attempting to restore order.<sup>8</sup>

Managers who employ 'gaming' tactics and are willing to sacrifice their subordinates when something goes wrong are unlikely to inspire the trust of those under their command.



## Individual responsibility and the office of constable

Whilst management theory provides an explanation for the behaviour of senior officers, it still leaves a certain level of unease over the question of why so many junior officers go along with or submit themselves to such regimes. The academic literature provides an explanation:

It is important to recognise that these rules [written procedures] are almost purely negative in their effect: that is, police officers may be disciplined, prosecuted or otherwise get into difficulties if they are seen to break the rules but they will not necessarily be praised, enjoy their work or achieve their career objectives if they keep to them.<sup>9</sup>

One outcome of this rule-bound working environment is that officers become conditioned into a culture of rule-breaking or deviance:

The view [among officers] is that there are so many regulations, covering so many aspects of the job, that routine work will intrinsically require violation of one or more of the rules listed in the 10,000-paragraph General Orders.<sup>10</sup>

Smith went onto to identify three distinct categories of 'rules' governing police behaviour:

- 'Working rules' which officers actually operate to
- 'Inhibitory rules' which would include the need to get authorisation from a senior officer or Crown Prosecution Service lawyer for some action

## CONCLUSION

- 'Presentational rules' in which officers justify their actions or present the case to an external audience, for example as evidence at court. In these cases any rule bending will have been erased from the official record of events.<sup>11</sup>

Officers are fully aware of how the system operates. They also know that, if something goes wrong, then senior officers will deny any knowledge or complicity, maintaining that 'presentational rules' are applicable and that any deviation will not be tolerated. This phenomenon is referred to as 'organisational hypocrisy'.<sup>12</sup>

The need to comply with presentational rules also creates the need for a 'paper reality' where events are distorted in the written record.<sup>13</sup>

When this theory is applied to crime recording, it is all too evident that it fits the facts well. The re-interpretation of the NCRS has re-introduced officer-discretion into the equation<sup>14</sup> and this has created the opportunity for under-recording/cuffing. Senior officers, who are responsible for delivering the government's mandate to reduce crime, place pressure on junior officers to apply 'working rules'. This, in turn, results in officers having to justify their failure to record a reported crime in writing or electronically on an incident log. This could explain the disparity between a police record of an incident or encounter and the victim's recollection of the event; a feature of the Kent investigation.<sup>15</sup>

Research has also established that a form of translation occurs between callers and the police in the process of reporting incidents over the phone. Previous research noted the phenomenon of 'talking out', i.e. convincing callers that their report was not a

police matter.<sup>16</sup> Whilst the introduction of recording devices to most police control rooms could have been expected to limit such behaviour, Waddington still commented as late as 1999: 'If police discretion can thrive in this environment, imagine how rampant it must be on the street where supervision is virtually non-existent.'<sup>17</sup>

These suspicions were shared by Burrows *et al.* in 2000:

It seems plausible that crime allegations dealt with by telephone investigation are more likely to be accepted 'at face value' by the police. By comparison, it is inevitable that where police officers do attend crime scenes they will be in a position to be more discriminating about allegations made.<sup>18</sup>

After reviewing the recorded crime rate of a rural force which required officers to attend the scene of reported crimes and take a victim statement, they went on to conclude:

If the hypothesis posed by the research team – that forces which attend more crime scenes will tend to record fewer crime allegations (or categorise offences more rigorously) – is credible, this factor is likely to influence that force's low crime rate.<sup>19</sup>

This could explain why sending an officer to every reported crime has been adopted by a number of forces claiming impressive reductions in recorded crime, e.g. Merseyside, Essex and Kent. Of course, this policy is presented as good practice in customer care.

Although it is obvious that large numbers of officers engage in gaming behaviour, it is clear that they are far from satisfied with their involvement. The Police

## CONCLUSION

Federation, in response to its members' wishes, featured the issue in their national conference in 2007 and continue to raise the issue in the press.<sup>20</sup> Reports commissioned by the Federation also exposed officer disquiet on the matter.<sup>21</sup> The Police Superintendents' Association has also highlighted its members' disquiet over such perverse behaviour.<sup>22</sup> Individual officers also bravely continue to expose abuses to the press despite the risk of sanctions in the aftermath of the Leveson inquiry, which has empowered chief officers to punish those who speak to the press.<sup>23</sup> An example of such bravery was the call made by Liz, a support officer from the West Midlands, who rang the TV show *The Wright Stuff* to report that crime was increasing but the police weren't recording it: she cited the cuffing of common assaults as an example.<sup>24</sup>

## Compstat

The promotion of performance management was accompanied by the introduction of 'Compstat' conferencing, facilitated by much improved internal data collection systems that allowed senior officer management teams to assess virtually real-time performance. Compstat, which stands for comprehensive computer statistics, had been marketed by the New York Police Department (NYPD) as a major plank in its successful strategy to reduce crime.<sup>25</sup> The same approach was adopted in the UK, and area commanders met on a monthly basis with the chief constable or member of the chief constable's team to be held to account for their performance. The best performers were recognised and the worst exposed before their peers. The power that this system concentrates in the

hands of the chief constable and his/her command team is immense and the system is replicated at various levels within the organisational structures, as the pressure is passed down the chain of command.

It is therefore of little wonder that officers should seek to avoid humiliation by employing dubious means to improve their performance, and evidence is emerging that this has also been the experience in the United States and other countries where similar management techniques have been introduced. In New York the COMPSTAT system is being brought into disrepute by the findings of Eterno and Silverman (2012) who exposed cuffing in a number of guises. Their work was undoubtedly corroborated by the April 2013 report of the Crime Reporting Review Committee. This was commissioned by Police Commissioner Ray Kelly to examine New York Police Department's internal auditing and quality control procedures to ensure the accuracy of COMPSTAT.<sup>26</sup> The practice of downplaying the significance of the results of such reports also appears to be shared across the pond and John Eterno alluded to this factor when interviewed on the report:

Let's face it, it's crafted politically to try and assuage any ill-feelings on behalf of the police department. But if you read between the lines, there's a real problem in the police department.<sup>27</sup>

Similar findings are emerging in Chicago where even murders have been downgraded:

Chicago [Magazine] conducted a 12-month examination of the Chicago Police Department's crime statistics going back several years, poring through public and internal police records and interviewing crime victims, criminologists, and

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police sources of various ranks. We identified ten people, including Groves, who were beaten, burned, suffocated, or shot to death in 2013 and whose cases were reclassified as death investigations, downgraded to more minor crimes, or even closed as noncriminal incidents—all for illogical or, at best, unclear reasons.<sup>28</sup>

Press reports suggest cuffing is being employed by a number of police organisations around the globe and reports from Australia, Canada, South Africa and Israel are cited on the Thin Blue Line website on the issue.<sup>29</sup> The phenomenon has also been identified in France.<sup>30</sup>

### The spectre of corruption

Whilst many of those employing unethical means to improve performance will be reluctant participants, such a system rewards those who become proficient in the art. It should be borne in mind that gaming in its various guises is covered by more recent definitions of police corruption:

In attempting to define corruption, attention must be paid to the means, the ends and the motivation behind the conduct; corruption need not necessarily involve illegal conduct or misconduct on the part of a police officer (the goals of the action may be approved); corrupt acts may involve the use or abuse of organisational authority; corruption may be 'internal' as well as 'external', i.e. it may simply involve two (or more) police officers; and the motivation behind the act is corrupt when the primary intention is to further private or organisational advantage.<sup>31</sup>

The evidence presented in the earlier chapters would also suggest that gaming or administrative corruption is organisational in nature, thus supporting the conclusion of Home Office research on the subject:

This suggests that corruption arises in a systematic way from the nature and context of policing. Such an observation is in line with previous literature (e.g. Newburn, 1999, Sherman, 1978) which dismisses the idea that police corruption involves a few 'rotten apples' in an otherwise healthy barrel.<sup>32</sup>

Miller noted the correlation between high-performing officers and corrupt behaviour and suggested that 'performance measures such as crime and clear-up statistics' should be used as a means of detecting suspicious conduct in relation to individual officers.<sup>33</sup> Whilst this research may offer an explanation for the high number of senior officers under investigation, this theoretical trajectory was not extended to suggesting that high performing forces should also be suspected of widespread gaming. The 'light touch' inspection approach adopted by HMIC in relation to forces deemed to be performing well appears to ignore this possibility, and, in any case, HMIC, in common with other regulators, has been woefully inadequate in deterring such perverse behaviours.<sup>34</sup>

### **An 'Old Boys Club' approach to regulation**

An examination of the HMIC inspection reports on forces known to have experienced problems with gaming-type practices re-affirmed the reluctance of HMIC to expose such behaviours to public scrutiny.

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The correspondence between ACPO and the Information Commissioner discussed in chapter 4 illustrates this approach and it can be concluded that all the bodies involved (Home Office, HMIC and Information Commissioner) have been subscribing to a professional body approach to regulation, the antithesis of accountability in the democratic sense:

It is incompatible with the concept of accountability as a series of linkages leading from the people to those with delegated responsibilities via parliament and the managerial hierarchy since it brings on stage a set of actors who see themselves as answerable to their peers, rather than to the demos.<sup>36</sup>

In the absence of any effective deterrent, it is unsurprising that such practices have spread, partly through the promotion of individuals who have mastered gaming practices and have then employed them in new policing areas. Collier (2006b) described this process as 'competitive isomorphism', and Eterno and Silverman (2012) linked the spread of malpractice to the promotion of NYPD officers to other police departments in the US. Another reason has been the simplistic, superficial duplication of the NYPD system and model throughout the US. The Police Federation of England and Wales has also been at the forefront of exposing such abuses, commissioning research which highlighted the phenomenon:

Current pressure from the management system is inducing more competitiveness and compelling people to engage in even more dubious practices: 'We can't be truly ethical about this because the rest of the BCUs [Basic Command Units] aren't and we're not going to be the worst performing BCU.'



So as soon as you get a good performing BCU, people from other areas go there to find out what they are doing that is going to benefit victims of crime in their area [sarcastic]. And nine times out of ten, it's not to do with best practice; it's to do with how their housekeeping is better than our housekeeping. That's the way of life.<sup>37</sup>

This force-by-force infection is graphically illustrated by the sudden fall in recorded crime linked to the reinterpretation of the National Crime Recording Standard, heralded by a belief that large numbers of victims were falsely reporting crime in pursuit of bogus insurance claims, as discussed at chapter 2.

## **The encroachment of the political into the operational**

The genesis of the false reporting policy in the Street Crime Initiative instigated by the then Prime Minister Tony Blair raises the spectre of political involvement in the operational sphere. Whilst the assistance of politicians certainly helped to pull together a number of partners and overcome bureaucratic obstacles, the pressure to succeed no doubt contributed to a reluctance to stand back and objectively assess such a controversial hypothesis that considerable numbers of victims were dishonestly presenting themselves as such. To do so now would be to admit that the then government's pledge to be 'tough on crime and tough on the causes of crime' had been distorted in Orwellian fashion into being tough on victims because their reports were embarrassing for the prime minister. The impact of such an unsympathetic response to victims continues to dominate the web-based comments responding to

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reports suggesting that crime is on the wane. The experience of the parents of one Birmingham schoolboy who was robbed at gunpoint highlights the current state of affairs: 'The couple claim they were told they could sign a form to say they had made a false report and pay an £80 fine – or face a court summons.'<sup>38</sup>

At around the same time, the Home Office became reluctant to scrutinise and challenge the validity of police-recorded crime figures by checking recording rates via the British Crime Survey. This in turn raises concerns about the independence of the Civil Service and further damages trust in the state. Maintaining public trust is crucial for the task of government as public trust eases the exercise of state power by ensuring the compliance and/or maintaining the support of the majority of the populace:

Public trust, or faith in government to do the right thing, is closely aligned to the exercise of political liberties and popular acceptance of, or acquiescence towards, government actions within a democratic framework – what is sometimes known as popular consent: it presupposes a set of arrangements that makes popular consent, and trust, feasible and sensible.<sup>39</sup>

The greater reliance on performance management as a means of holding state institutions to account and of ensuring that the public receives value for money has resulted in official statistics becoming an integral part of the process of governance. This is particularly pertinent to crime statistics where public scepticism has remained difficult to overcome, despite reported reductions in recorded crime. If this were to be exposed as a deception, then public mistrust would be affirmed and the exercise of state power weakened:

To admit that ‘bending’ and ‘fiddling’ the account is the norm would be to acknowledge the fact that irreverence, disorder, and potential chaos sustains an institution which is allegedly geared to prevent its occurrence.<sup>40</sup>

Prior to the findings of the Public Administration Select Committee in 2014, the main political parties steadfastly defended the reliability of the data on which their record was based.

Whilst the Conservative Home Secretary Theresa May abandoned the previous administration’s stifling array of centrally set performance indicators, she still expected crime levels to fall and didn’t appear to acknowledge the relative ease with which such a measure could be manipulated through cuffing. However, the incentive for her to question the reliability of crime statistics is likely to be low, as any remedial action could result in her own policies on law and order being challenged. That said, the widening of the gap between the Home Office and operational policing created by the introduction of police and crime commissioners does, in theory, enable central government to distance itself from a fall in the statistical representation of performance. This could herald a return to a more traditional form of government<sup>41</sup> under which standards could be maintained without the risk of ministers being held to account for unpalatable truths.

### **A new beginning or just more of the same?**

The introduction of police and crime commissioners (PCCs) in November 2012 continued the theme of decentralisation and offered the opportunity to improve

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police accountability at the local level. The power to appoint and dismiss chief officers places PCCs in a position to hold to account any chief officer who subscribes to or ignores unethical practices. However, addressing the current malpractice unilaterally would leave reforming commissioners open to criticism for under-performance. Similar constitutional arrangements in the US have not been a bulwark against gaming there. The knowledge and skills required to identify gaming behaviours at an organisational level may also be lacking in some PCCs and they will require the assistance of HMIC and/or the Home Office to provide that level of professional expertise.

The establishment of the Crime Statistics Advisory Board to oversee the compilation of crime statistics is also a move in the right direction, particularly as the Board appeared to have some involvement in the commissioning of the ONS study exposing the disparity between the BCS and police-recorded crime levels.<sup>42</sup> (However, it also appeared to allow the ACPO representative on the committee free rein to undermine the significance of the ONS report.)<sup>43</sup>

The appointment in 2012 of Tom Winsor, a lawyer and former rail regulator, as the first non-police Chief HMIC offered an opportunity to address the previous apparent subscription to a 'professional body' approach to regulation. His answers during his appearance before the Home Affairs Committee prior to his appointment<sup>44</sup> certainly suggested that he would bring chief officers to account for organisational failings. The incident involving Kent Police where officers had been arrested after allegations by a whistle-blower that they were offering inducements in return for confessions provided the opportunity for him to demonstrate his resolve.

Despite the investigation uncovering evidence of all four gaming types and corroborating the local Police Federation representative's assessment that the failings were organisational in nature,<sup>45</sup> HMIC's response remained consistent with that taken in 1999 when the thematic inspection of police ethics was conducted:

HMIC found no evidence of corrupt activity in the way in which the crimes that we looked at had been recorded or resolved. We acknowledge that the force has made a number of important improvements to its processes and policies in relation to crime recording, and that it recognises the imperative in this regard. However, HMIC concludes that appreciably more needs to be done before the people of Kent can be confident that the crime and resolution figures published by the force are as accurate as they should be.<sup>46</sup>

Like the forces where similar organisational failings were identified during the thematic inspection on integrity in 1999, a repeat inspection in six months was the only sanction. Although no criminal charges were brought, four officers were subject to internal disciplinary procedures and dismissed for gross misconduct. It was alleged that they had encouraged suspects to admit to offences they had not committed.

### **A break from tradition**

In May 2013 the Gwent PCC, a retired Detective Chief Superintendent, offered his Chief Constable the opportunity to retire or face dismissal: she opted for retirement. Part of the stated grounds for his actions was his assessment that her claim to have reduced recorded crime by 25 per cent in the preceding twelve months was

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the product of manipulation. The audit of crime recording standards conducted by HMIC in 2011<sup>49</sup> appeared to suggest, in their characteristically muted fashion, that there were problems with the reliability of the force's crime recording procedures. However, a subsequent enquiry cleared the Chief Constable of any wrongdoing. The PCC's actions appeared totally congruent with the democratic principles on which the establishment of police and crime commissioners was based and necessary if performance management techniques were to be effective. Nevertheless, the Home Affairs Committee, before which both the PCC and ex-Chief Constable were invited to testify, was less supportive.<sup>50</sup>

Despite the negative response, the Gwent PCC has shown that decisive action can be taken. If he takes the opportunity to explain his actions to the local populace and to warn them of the anticipated rise in recorded crime that will ensue, he should be able to set an honest benchmark by which to judge both him and the local police service. This will avoid allegations of manipulation and deceit at a future election. Such an approach is certainly advocated by Lord Lytton, a representative of a group of cross-bench peers who have challenged the damaging behaviours and leadership of ACPO within the House of Lords.<sup>51</sup>

### **The contribution of the Home Affairs Select Committee**

The Home Affairs Select Committee has also shown a keen interest in standards of police leadership. It acknowledged that gaming practices display a 'basic disregard for scrutiny, for parliament and for the public',<sup>52</sup> but they see the solution to the fall in ethics

as better training and selection through the emerging influence of the College of Policing. The Committee again reaffirmed the doctrine of individual responsibility conferred on the office of constable and shied away from holding Chief Officers to account through effective regulation and governance. This stance was affirmed in its response to the actions of the Gwent Police Crime Commissioner. Such an approach appears to resonate with the optimistic view of the future espoused by Neyroud & Beckley (2001), who predicted that signing up to the Human Rights Act would lead to a sea change in police behaviour. It is likely that the College of Policing's approach will be similar. The government also appeared to support the position of the Home Affairs Select Committee in commissioning the College of Policing to conduct a review of the impact of performance management. However, whilst the commission undertaking the review acknowledges that 'the service is still suffering from the likes of numerical targets and binary and peer comparisons – which produce "hideous" and "perverse" outcomes',<sup>53</sup> it appears to define the problem as a 'systems' issue, not a failure in leadership, regulation and governance.

It would appear that the dilemma for the Coalition government is whether or not to alert police and crime commissioners to the current situation and to support them and the regulators in addressing the issue robustly. Such action risks a media frenzy and possible 'moral panic' as recorded crime will inevitably rise. The Labour Party has already adopted the stance that the gaming practices have emerged post-2010 and are associated with the government's austerity measures – a position given credence at the time by government statements on the reliability of the data.<sup>54</sup>

## A ray of hope from an unexpected quarter

In November 2013, the Public Administration Select Committee started to take evidence on the reliability of police crime statistics. This investigation had been prompted by a serving Metropolitan Police officer, Constable James Patrick (no relation to the author), approaching his local MP, Bernard Jenkin, with his concerns about the manipulation of crime statistics by the Met and the treatment that he had received when he raised the issue with senior officers within the organisation. He had articulated his concerns, with supporting evidence, in a short book, based on a collection of blogs from 2012-2014,<sup>55</sup> and found himself the subject of disciplinary proceedings for failing to declare a business interest, despite the fact that the proceeds from the book went to charity. He resigned from the Met in 2014.

Bernard Jenkin, as chair of the Public Administration Select Committee, was in a position to suggest to his fellow committee members that an inquiry into police crime statistics would be beneficial and within their remit. They agreed and, after written submissions had been received, witnesses were called to give evidence. In the first session, the committee heard evidence from four serving and retired officers including the present author and Constable Patrick who revealed the gaming practices used to distort police data. The evidence presented was consistent and corroborated what has already been outlined in previous chapters of this book.

At the end of the session, Bernard Jenkin made the following comment:

Personally, I would like to apologise on behalf of politicians of all parties, who are responsible for



creating this atmosphere in which targets must be achieved, creating the perverse incentives that have created this situation. This must be addressed by the political class as well as the police.<sup>56</sup>

On 11 December 2013, Professors Shute and Hough from the Crime Statistics Advisory Committee appeared before the committee and admitted that the recording of crimes reported to the police was falling:

If you take a view on long-term trends, in the 1980s and 1990s, around about 50 per cent or 60 per cent of reported crimes found their way into police statistics. Then with the introduction of the changes at the end of the 1990s and early 2000s, that was pushed up to 90 per cent—90 per cent of reported crimes got into police statistics. From 2007 or 2008 onwards, that proportion has been falling, so now about 70 per cent of reported crimes end up in police statistics.<sup>57</sup>

This is what the police call ‘a straight cough’: an admission – at last!

Whilst the problematic period they identify is a few years later than that identified in earlier chapters of this book, their admission corroborates the finding presented here. They made no reference to the change in the interpretation of the NCRS nor to the fact that the Home Office was alerted to the potential dangers in 2005. They also refused to be drawn on whether police crime statistics were deserving of the quality assurance mark of being designated national statistics.

### **Belated action**

On 15 January 2014, the UK Statistics Authority withdrew national statistics designation, i.e. the official

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kitemark, from police-recorded crime figures. This landmark decision was taken in response to the findings of the Public Administration Select Committee.

On 21st January 2014, the Committee continued its questioning of senior and academically well qualified figures responsible for overseeing the reliability of government statistics, including Sir Andrew Dilnot, Chair of the UK Statistics Authority which had stripped police statistics of their official designation. The committee members were clearly concerned that these regulators had failed to act earlier and the chair rebuked them in the following terms:

I would express some disappointment that, from a state of reasonable and fairly commonplace ignorance about the very technical matter of police-recorded crime statistics, we have stumbled into what appears to be a very well-kept and widely-shared secret: that these figures were never very reliable.<sup>58</sup>

The Home Affairs Select Committee had also returned to the fray and, on 7 January 2014, interviewed Lord Stevens, the retired former Commissioner of the Metropolitan Police Service, who admitted that crime figures were being manipulated: 'I was in a session with police sergeants nine months to a year ago in Cheshire... talking about what their feelings were about the police service... All of them said the biggest scandal that is coming our way is recording of crime.'<sup>59</sup>

Although Lord Stevens had not made an issue of this in the Labour Party-sponsored 'independent' review of policing he had headed (Stevens 2013), he went on to call for further action: 'I think every single force should be subject to an independent, laser-focused investigation into police crime figures on both

detections and the recording of crime... it should happen as a matter of urgency.’<sup>60</sup>

Taking up the baton again, the Public Administration Select Committee interviewed Tom Winsor, Her Majesty’s Chief Inspector of Constabulary, and he informed it of the national audit of crime recording planned by the inspectorate. However, Mr Winsor appeared reluctant to admit that gaming behaviour was widespread, deliberate and managerially driven: ‘I do not anticipate that we are going to find, as I said, institutional corruption. I would be extraordinarily surprised if we do.’<sup>61</sup>

This is not the best starting point for an investigation. Such a predisposition supports the findings of Bevan and Hood (2006) who suggested that a ‘Nelson’s eye’, i.e. blind eye, approach to regulation prevails. Certainly the response from a frontline officer contradicted the view of Mr Winsor:

My constable colleagues and I feel nothing but disgust for these practices. Many of us have been telling everyone who will listen about this for decades – I’m fed up of banging my drum about it. So why has this only just come to light? Tom Winsor and others are subtly hinting that the constables are responsible. Mr Winsor, please try to understand that police senior managers rule with iron fists and, in the Met at least, they have it all sewn up. They cannot bear dissent, and absolutely cannot bear light being shone upon their venality and incompetence.<sup>62</sup>

The evidence presented in this book would support the call for an independent judge-led inquiry to establish why the perverse behaviour underpinning the unreliable crime statistics was not challenged earlier.

## Caught red-handed

On 9 April 2014 the Public Administration Select Committee published its report on crime statistics. Its title left little doubt as to its findings: *Caught Red-handed: Why we can't count on police-recorded crime statistics*. The Committee provided a damning indictment of police leadership and those responsible for its regulation, while the following recommendations are supported by the findings presented in this book:

13. We commend UKSA for acting in response to the evidence exposed by PASC's inquiry, to strip police-recorded crime statistics of the quality designation 'National Statistics'. However, the fact that it took our inquiry, and a whistleblower from the Metropolitan Police Service, to expose sufficient evidence suggests serious shortcomings in UKSA's ability and capacity in their assessment function. We acknowledge their recent decision to remove the designation 'National Statistics', but this cannot mitigate what amounts to a long-standing failure of a number of bodies to address the thoroughness of the assessment of police-recorded crime, despite a series of previous reviews which identified shortcomings.
  
20. The Crime Statistics Advisory Committee (CSAC), which contains representation of all of the main stakeholders in the crime statistics production process as well as the Chief Inspector of Constabulary, has failed. It has not demonstrated sufficient independence and objectivity in carrying out its role to ensure recorded crime statistics are 'accurate, clearly

presented, comprehensive, transparent and trustworthy' as set out in its terms of reference. CSAC has a vital role in leading the efforts to provide that the system guarantees the reliability and integrity of all crime statistics emerge strengthened from this episode.

28. The attitudes and behaviours which lead to the misrecording of crime have become ingrained, including within senior leadership, leading to the subordination of data integrity to target-chasing. This can present officers with a conflict between achievement of targets and core policing values. HMIC recognises this in their first Annual Assessment of the state of policing, but we are disappointed that this vital issue received only cursory attention in over 200 pages.
30. The issues raised in this Report concerning the integrity of police-recorded crime statistics demonstrate the subordination of core policing values to the 'target culture'. This reflects broader concerns about policing values. We recommend that the Committee of Standards in Public Life conducts a wide-ranging inquiry into the police's compliance with the new Code of Ethics; in particular the role of leadership in promoting and sustaining these values in the face of all the other pressures on the force.
37. The Chief Inspector of Constabulary assured us that HMIC is 'completely independent' in its judgements and has 'no allegiance, other than to the public interest and to the law'. This is not self-evident, given the numerous instances of HMIC inspectors moving from

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and into senior positions within police forces. It is therefore vital to the credibility of HMIC's annual audit of crime recording that this independence of judgement be maintained and be seen to be maintained.

40. The Home Office, which claims credit for abolishing national numerical targets, should make clear in its guidance to PCCs that they should not set performance targets based on police-recorded crime data as this tends to distort recording practices and to create perverse incentives to misrecord crime. The evidence for this is incontrovertible. In the meantime, we deprecate such target setting in the strongest possible terms. Police-recorded crime data should not be used as the basis for personal performance appraisal or for making decisions about remuneration or promotion. We regard such practice as a flawed leadership model, contrary to the policing Code of Ethics.<sup>63</sup>

### HMIC grasps the nettle?

The Public Administration Select Committee's fears appeared to be validated by the findings of HMIC's interim report on crime-recording, published in May 2014. The report concluded:

We are seriously concerned at the picture which is emerging. It is one of weak or absent management and supervision of crime-recording, significant under-recording of crime, and serious sexual offences not being recorded (14 rapes). Some offenders have been issued with out-of-court disposals when their offending history could

not justify it, and in some cases they should have been prosecuted.

If the findings for the first set of forces are representative across all forces and all crime types, this implies that 20 per cent of crimes may be going unrecorded. Some forces have of course performed better than others.

The reasons for these failures will sometimes be a combination of factors, and sometimes one or two. In some cases, it is simply poor knowledge of the rules and inadequate or absent training in their content and application. In others, poor supervision or management of police officers will be responsible. Pressure of workload, where police officers have been managed in such a way as to overload them with cases, is also a likely factor.

We cannot establish in every case what were the motives – if any – of a police officer who has wrongly failed to record a crime. However, in the light of what we have so far found – which could conceptually be contradicted by later results – it is difficult to conclude that none of these failures was the result of discreditable or unethical behaviour. The failure rate is too high. What is not possible is any measurement of this factor; that is beyond the scope of this work.<sup>64</sup>

Closer examination of the methodology employed in this audit/inspection suggests that HMIC may have underestimated the extent of the under-recording. It would appear that only incidents initially logged as crime incidents have been checked to establish if they are subsequently recorded as crimes. This assumes control room staff and staff in other recording centres

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are correctly categorising the call they have received. The academic literature and the research behind this book suggest that this is a mistaken assumption.

HMIC state that they have only sampled calls from the public after they have been categorised as crimes, i.e. crime incidents. They have examined incident logs for reports initially classified as six crime types:

- violence
- sexual offences
- robbery
- burglary, criminal damage
- and other offences<sup>65</sup>

Their rationale is outlined as follows:

Our sampling technique is designed to provide auditors with sufficient records to test the accuracy of the individual crime types (listed above) with a similar level of confidence.

The sample will use the opening codes as they will include incidents which are closed incorrectly but may contain crimes. Take, for example, a call from a victim of burglary which is opened on the incident system as a burglary, the incident record contains enough information to record a burglary, but is then closed incorrectly as a suspicious incident. Were we to draw our sample on closing crime codes (rather than opening incident codes), this burglary would have been missed because it was not closed as a crime. Of course, if the situation were reversed – opening incident code ‘suspicious incident’ and closing code ‘burglary’ – then the nature of the risk is similar, but we judge that the scale of the risk is less.<sup>66</sup>



The risk HMIC are referring to is the wrongful categorisation of the initial call. Their assumption that the risk of initial reports of crimes being wrongly categorised as non-crimes is smaller, and therefore not catered for in their methodology, is ill-founded. The easiest way for forces engaged in gaming in the form of cuffing to avoid detection is to categorise reported crimes as non-crime incidents. These could be classified as suspicious incidents or domestic disputes. The underlying assumption being made by HMIC appears to be that the behaviour being investigated is not organisational in nature and/or managerially orchestrated. Establishing if this was the case should have been an object of the exercise.

The literature, discussed previously, on the dynamics of the interchange between police call-handlers and members of the public suggests re-interpretation does occur and the written record may deviate considerably from the verbatim:

Discretion, therefore, lurks in the process of translating a unique conversation with a particular caller into the organisational language of the police (Scott & Percy 1983) – a subjective process that is irrecoverable despite the technological paraphernalia of the control room.<sup>67</sup>

The translation or re-interpretation of what a victim has said is a technique employed as part of cuffing, with pertinent information being omitted from incident logs. This in turn allows the attending officers latitude on whether to record the incident as a crime or not. This tactic is used in tandem with policies requiring officers to attend incidents where a crime could have occurred. Attending officers and call-handlers are

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both aware of the organisational prerogative to keep recorded crime down.

This technique featured in the circumstances leading up to the death of Jordan McGann, discussed earlier (page 44–5):

The information contained in the call clearly indicates that a domestic assault has occurred and that there is concern regarding the safety of the children with (offender named). This information is not reflected in the wording of the log.<sup>68</sup>

In this case the IPCC were content to accept the investigating officer's assessment that this was not an organisational failing and did not insist on any audit of incident logs to verify his claim. The investigating officer was from the force under investigation. It would appear HMIC have also relied on advice from the West Midlands Police when devising the audit methodology and it is expected this force will achieve a high compliance rate:

The West Midlands Police Crime Registrar has been working closely with HMIC, along with colleagues from a selection of other forces, to help inform and shape the national Crime Data Inspection which is due to take place soon.<sup>69</sup>

The unreliability of incident recording by the Metropolitan Police Service was also highlighted by the Audit Commission in 2007 which concluded that the incident records were so unreliable that they should not be shared with partner agencies.<sup>70</sup>

It is also significant that the HMIC audit does not deal with the scenario in which a victim is rebuffed, when they initially contact the police, without any record being made of their call. A common theme identified in this research

was the victim calling the police and being informed that they would need to attend a police station with receipts, mobile phone identification number or other proofs that they were the victim of a crime. This is justified on the grounds that an officer would need to establish on the 'balance of probability' that a crime had occurred prior to recording it for investigation. This is where the majority of under-recording is likely to occur and is the crux of the cuffing confidence trick. It is also the reason why the re-interpretation of the National Crime Recording Standard (NCRS) is such a critical issue. Until the wording and interpretation of the NCRS is addressed, victims will continue to be presented with obstacles designed to prevent them reporting a crime. A reported crime should be recorded at the first point of contact by the victim. If it subsequently transpires that no offence has occurred then it can be declassified and the reasons documented.

It should also be noted that, whilst HMIC reviewed the use of restorative resolutions and, unsurprisingly, found abuses similar to those involved in the previously discredited informal warnings, they have not audited TICs. This is a glaring omission in view of the fact that it was the offer of inducements for admissions in Kent which triggered the HMIC action. One might surmise that they consider this is a stone best left unturned.

It is significant that as late as 2010 HMIC were encouraging police forces to improve their performance through the pursuit of TICs, fixed penalty notices and cannabis warnings. The following is an extract from an HMIC inspection report:

**Recommendation (1): Sanction Detection Improvement**

HMIC recommends that the BCU improves its sanction detection performance against key priorities

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through a range of co-ordinated activity under a single SMT lead. To include:

improved use of offences taken into consideration (TICs), fixed penalty notices (FPNDs) and cannabis warnings within a policy framework that ensures staff understand the requirements, and that promotes targeted activity; and

the reintroduction of a suite of checks to ensure that all legitimate detections have been identified, and to promote compliance with the Home Office Counting Rules (HOOCR) and National Crime Recording Standards (NCRS).<sup>71</sup>

### What hope for the future?

It is unlikely that the victims of police gaming behaviours will be able to mobilise the same critical mass that the families of victims of poor care in the NHS relied upon to force government action. This action resulted in the exposure of abuses in UK hospitals and the public humiliation of the Care Quality Commissioner, Cynthia Bower.<sup>72</sup> Despite the obvious parallels, a market-driven crisis such as that which led to the collapse of the banking system is also hard to envisage.

However, whilst the police continue to engage in the forms of perverse behaviour outlined in this book and the Home Office maintains the selective measurement of crime through the Crime Survey for England and Wales, then the public will no doubt continue to draw their own conclusions about crime levels. Even Judge Richard Bray used his retirement speech from Northampton Crown Court to question the reliability of official figures:

The figures have been massaged. Robbery is now classified as 'theft from a person', burglary downgraded to criminal damage. Cautions and reprimands are used to save police time. Magistrates courts are withering away and have been closed down as the number of criminal cases decreases. But you ask the people who walk down the streets of towns and cities at night if crime has gone down and they will give you a very different picture.<sup>73</sup>

If improvements to the current systems are not forthcoming, this scepticism is likely to persist, even when crime levels have genuinely gone down. Policymakers and operational police officers alike will also continue to be deprived of an accurate means of measuring the effectiveness of their actions and will be constrained in their ability to respond to new and emerging forms of criminality. The criminal fraternity are the main beneficiaries of such a situation.

The loss of trust in the state and those with the authority to challenge such perverse behaviour is the greatest threat, as the electorate is likely to look elsewhere for solutions. It is to be hoped that the example set by the members of parliament on the Public Administration Select Committee will be replicated elsewhere in government and appropriate reforms introduced.

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# Notes

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## Summary

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## Introduction

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Crime is going down – officially. The trouble is that most people don't believe it: they feel that society is becoming more crime-ridden. So what could explain the discrepancy between the claims made by politicians and the everyday experience of citizens?

In this hard-hitting exposé, Rodger Patrick, former Chief Inspector of West Midlands Police, shows how this has come about. He unpacks the gaming behaviours of police forces under pressure from central government to reduce crime rates and increase detection rates by any means – including some that are unethical and even criminal.

*A Tangled Web* takes the reader into the arcane world of 'cuffing' – making crimes disappear by refusing to believe the victims; 'nodding' – inducing suspects to 'nod' at locations where they can claim to have committed crimes that will be 'taken into consideration', sometimes in return for sex, drugs and alcohol; 'stitching', or fabricating evidence, which allows police forces to obtain convictions without ever going to court; and 'skewing', or concentrating resources on offences that are used as performance indicators, at the expense of time-consuming investigations into more serious crime.

Rodger Patrick cites the now considerable number of official inquiries into police forces that have uncovered evidence of these practices on such a scale, and over such a wide area, that they cannot be put down to a few 'rotten apples'. He argues that the problems are organisational, and result from making the career prospects of police officers dependent on performance management techniques originally devised for the commercial sector. Her Majesty's Inspectorate of Constabulary has long taken a relaxed view of the problem, putting a generous interpretation on evidence uncovered in its investigations, although in a small number of cases officers have had to resign or even face criminal charges.

*'Whilst the police continue to engage in the forms of perverse behaviour outlined in this book, the public will no doubt continue to draw their own conclusions about crime levels. The criminal fraternity are the main beneficiaries of such a situation.'*

