

POLICE AND CRIME COMMISSIONER FOR LEICESTERSHIRE

ETHICS, INTEGRITY AND COMPLAINTS COMMITTEE

PAPER MARKED

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Report of	CHIEF CONSTABLE
Subject	ETHICAL SCENARIOS
Date	FRIDAY 21 SEPTEMBER 2018 – 2:00 P.M.
Author	DCC NIXON

Purpose of Report

1. The purpose of this report is to seek members' views on ethical scenarios outlined within the Appendices.

Recommendation

2. It is recommended that members consider the ethical scenarios and provide their views.

Commentary

3. The Terms of Reference provide for the Committee to be a forum for debate concerning professional standards and make recommendations about ethical dilemmas facing the Force. As such a standing item of 'Ethical Scenarios' will be included on all future agenda for members to discuss and provide their views.

Implications

Financial :	None.
Legal :	None.
Equality Impact Assessment :	None.
Risks and Impact :	<ul style="list-style-type: none">• The scenarios provided are anonymised in order that no individual can be identified. The views of the Committee will be taken into account on any future similar incidences.• Public perception and reputational issues for the Force.
Link to Police and Crime Plan :	Links to the Nolan Principles and Code of Ethics contained within the Plan.
Communications :	Communications Plan will be approved by the Committee at this meeting.

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Background Papers

None

Person to Contact

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Crime Recording

- A 7 year old male child playing out at a local park, he has come back home with an injury on his head and states he has been assaulted by some other children of similar age.

Mum rings 999 and reports the assault and states the suspects are still at the park.

Police attend 40 mins later, they speak to the 7yr old child the injuries are very minor it's a small cut on his head after he has had a fight with some other children. His Mum wants the Police to actively deal with this. The children are no longer at the park but he can point out where one of them lives. It was a 6yr old boy that he knows from school who is in the year below.

An officer attends the address and the 6yr old boy admits there has been an argument and that he did hit the 7yr old. The officer has encouraged the two boys to shake hands and the younger boy has apologised to the victim.

Under Home Office Crime Recording we have had to record this as an assault of Actual Bodily Harm, the 6 year old child is recorded as an offender as he has admitted the assault. He is below the age of criminal responsibility. Is this proportionate that the Police get involved in this minor incident amongst 6yr old and 7 yrs olds? This is recorded on police computer systems so would be searchable and the suspect details are recorded.

- Female contacts the police as her 14 year daughter is causing her concerns, she is staying out late and mixing with older men, as a result she has been told she is grounded, she has become angry and is shouting at her mum who is worried that her daughter will leave the house and put herself in danger.

Mum wants the police to attend to talk to her daughter to try and make her realise she is putting herself at risk. Police attend and speak with mum and daughter and it is disclosed that during the incident daughter has thrown a glass at a wall causing it to smash. The glass is owned by mum and under the Home Office Crime Recording an offence of criminal damage must be recorded, this is irrespective of whether mum wishes to make a complaint or not, the daughter is recorded as a suspect. Due to the circumstances this also means it is a domestic incident.

This is an appeal for help from a Mum with a teenager who is causing problems, she has never intended to criminalise her daughter in any way, the crime recording guidance has forced this incident into being crimed with domestic risk assessments being completed. She is at an important age where background checks could be commissioned.

Technology fuelling crimes involving children

- A girl aged 13 is chatting on social media to a male whom she believes is 13, he is actually a 45 year old male. The male asks her to send him a naked photograph of herself which she does willingly without undue pressure being applied by the male. Under crime recording standards the male commits an offence of inciting a child to engage in sexual activity and the girl commits an offence of distribute an indecent image of a child, both offences must be recorded. In relation to the sending of indecent images by children NPCC guidance is education not criminalisation and this would inform an appropriate investigation. The male would be arrested and if convicted placed on the sex offenders register.

A child is deemed to be a child up until they are 18 years old and any sending or possession of such images if indecent would be an offence. Is it ethical that the female is recorded as a suspect for sending it to a person she thinks is of the same age and has willingly sent it?

- Two girls aged 13 and 15 are together, the 13 year old receives an unwanted video from a 15 year old boy which shows him masturbating. The 15 year old girl forwards the video to a friend of the 15 year old boy asking him to tell the boy to stop sending videos. The 15 year old boy commits an offence of distribute an indecent image of a child when he sends the video of himself to the 13 year old girl. The 15 year old girl commits an offence of distribute an indecent image of a child when she sends the video to the friend of the boy. Under HOCR/NCRS both offences must be recorded.

Ethically the female 15yr old who has challenged the behaviour is deemed per the national recording standards as committing the same type offence as the 15 yr old boy who sent it in the first place, is this right? She has not sent it with any sexual intent and is still a suspect.

Transporting persons

- Phone call received from an Adult mental health practitioner requesting that we assist in taking an elderly male patient to the Leicester Royal Infirmary for a life threatening medical emergency. He has Alzheimer's and has historically hit out and spat in the past at people. He is currently aggressive but hasn't been violent.

This is primarily a health issue, East Midlands Ambulance Service are the most suitable agency to deal with this and have a duty to equip their staff to deal with foreseeable risks and are trained in restraint. Do we attend? Do we assist East Midlands Ambulance Service? Due to his age and frailty if we attended any use of force would have to be proportionate, but does immediately place the officers and organisation under scrutiny.

- Female contacts the crisis team and discloses that she has taken an overdose of various drugs. The crisis team then contact East Midlands Ambulance Service who then deploy a resource but will take 30 mins to get to the female. The Ambulance Service then contact the Police control room and request that we go. The female has a history of mental health issues.

This is primarily a medical issue and EMAS are attending do we send an available mobile if we can get there earlier? To preserve life is one of our building blocks. However so is the Fire brigade but do EMAS contact them as well? They are well

equipped to deal with medical emergencies. If we did deploy and another emergency came in but we were committed to dealing at this one is that ethical?

Appendix 'D'

Primacy agencies contacting the police to manage and assist their victim

- An elderly male has reported that he has been a victim of fraud, this is being investigated by Action Fraud and not the Police. The male has reported to them that his health is severely deteriorating due to the stress of the offence. They have requested that the Police conduct a welfare check on the victim. Should the Police complete this as it is a medical condition? What if the male did pass away would this reflect on the police in any way as he is a victim of crime that is under investigation albeit by a partner law enforcement agency?
- A female has a history of mental health problems and has an allocated social worker. The social worker has been unable to contact her and it appears that she is actively avoiding contact with the outside world. Neighbours haven't seen her for over 6 weeks. The social worker has made enquiries with local hospitals but can't locate her and she hasn't been to the Drs for over 3 months. It's Friday afternoon and the social worker is concerned that they still haven't made contact so have contacted the Police to locate the person. They are finishing work for the weekend and won't be contactable and would like an update on Monday morning.

Is this person deemed a missing person? Is it the Police's responsibility to locate this person? Do the police have sufficient information to force entry to the female's house if she doesn't open the door?

- A member of the CRISIS team contacted police to say that they have a patient who was released from the Bradgate Unit a week ago and is described that she is still in a mental health crisis. She receives daily visits from the CRISIS team however they were really late and this had upset the patient significantly. The female lives alone with her dog is a recluse and rarely goes out. She can be aggressive and was annoyed at the delay. Two hours later when the CRISIS team arrived they couldn't get into the address and they couldn't reach the female on the phone. There was no dog at the address nor was her car there. She contacted the Police to assist her. There is a key safe at the address and the control room hold the code but she was refusing to enter the house alone due to her aggressive behaviour previously. The code was passed. No information known as to the car registration. PNC checks didn't have any vehicle registered to the address.

What is required of the Police? Should we take any action, is it our responsibility? There are no grounds for powers of entry into the address as it's believed she isn't there. Should we treat her as a MFH given her previous suicidal tendencies and actively try and locate her?

An exploited vulnerable child or gang member of a serious and organised crime group

- A 14 year old male child, with no family in England. He is a looked after child and managed by London social care. He is involved with established gangs in the Metropolitan Police area and is heavily involved in drugs, knives and violence.

He was placed into Leicestershire to safeguard him from this lifestyle however he does not want to sever any ties with these gangs and in a matter of months he has been reported missing 27 times to Leicestershire Police.

He has been found on each occasion down in London. He is actively involved in drug supply. He has befriended a number of girls of similar age from Leicestershire and they too have been reported missing and have been located down in London with this 14 year old and his gang associates. The girls are vulnerable and also looked after children in social care. It's believed that they are being recruited and exploited by the gang but are refusing to disclose any information to Police about their lifestyle. The 14 year old male is pivotal in exposing them to drugs and violence. He will not engage with agencies.

Is he a victim? Or should he be managed as a suspect? How do we manage him? How do we manage the girls and any other future vulnerable people he befriends?

MFH Police or Social Services issue

- A male child repeatedly goes missing. 52 times recorded so far. He has just turned 10 years old but has the mental age of 5yrs old he suffers from ADHD. He does smoke cannabis. He will literally leave his house whilst parents are asleep and wonder around at all times of the day and night. He has been found in various parts of the city and will ask strangers for money. Harbours warnings have been issued to anybody he is found in company of. His parents do report him missing each time. Due to his vulnerabilities he is always deemed a high risk Missing from Home and it is resource intensive on each occasion. There is extensive social care involvement. Social care are the lead agency for child safeguarding but it's the Police that have to respond to each and every missing episode.
- 16 year old female is looked after by social care and lives in a residential placement managed by them. She has historically been involved in Child sexual exploitation which made her high risk as she was often in possession of new clothes, expensive trainers, cash and mobiles. She would never make any disclosures around her activities when away from home and believes she is fully capable of making decisions and doesn't feel she is at any risk.

Her risk assessment was high when she was suspected of being involved in CSE. One tactic to assist police is to track her mobile phone signal. In the absence of any other information is it appropriate that we use these tactics regularly to locate her?

She has since begun a relationship with a male. She will often stay out overnight and spend time with this male. She is allowed to legally have sex with him and to marry him as she is 16 years old. However she is reported missing if she refuses to answer

her phone or return home. She will remain under social care's responsibility until she is 18 years old and an adult.

Is she officially missing if she is with her boyfriend? Is this a breach of her human rights if she chooses to remain in a relationship with this male and stay with him overnight? Should the police deal with her as a missing from home?

Appendix 'G'

Agency shortfalls that force further police detention of persons in custody

- Male arrested lawfully and taken into police custody. It became very apparent that he was not well and was assessed by a mental health custody nurse. He was deemed as unfit to detain in police custody due to his mental health.

Contact was made with the place of safety unit and the Mental Health team however there were no beds available. It was another 13 hours before a bed became available so he remained in custody for this whole duration.

Legally he should have been released as there is no power to detain him, is this ethical? He is a danger to the public and a risk to himself. Should he have been taken to another place of safety? Who's responsibility does he become at the point he is no longer a prisoner and requires mental health intervention?

- 17 year old male juvenile was arrested at around 6pm one evening, he was charged with numerous offences the following day at 1.15pm, he was unable to be charged and bailed to a suitable address, he had missed the deadline to go straight to Youth court. Social care were contacted throughout the remaining day and night but had no suitable accommodation for him to be released to from police custody. He remained in police custody until 8.15am the following morning where he was conveyed to court. He had been in custody legally for approximately 38hrs. Due to his age he should have been provided with suitable accommodation by the local authority but there wasn't any.

There are always provision issues for juvenile accommodation, should we charge them a penalty for this? Should we have released them irrespective of offence and address due to his age?

Appendix 'H'

Investment of investigations

- A 44 year old female leads a dysfunctional life, drinks excessively, is unemployed, is a regular caller to several agencies. She has 656 reports listed on police databases. There are 23 separate reports of being raped where she claims the suspect is an ex-partner, or a neighbour or persons unknown or a group of persons unknown. 12 of these reports are since the start of 2017. There has never been any convictions or persons charged as a result of any of these investigations. Some reports she has admitted to being false. The issue for any future prosecution has to be balanced with credibility and consistency and all these reports would have to be considered against any future investigation.

Should we continue to investigate any future allegations of serious sexual assaults? Should we arrest any persons she names as responsible taking into account forensic timescales of evidential material? Is their arrest proportionate against the likelihood of a conviction? Is it ethical that their names are recorded as a suspect in light of a filed undetected report and DBS checks?

Freedom of Information Act or journalist story

- Request by the BBC to disclose interview tapes in relation to Grenville Janner, even though he was deceased. This was reviewed by Leicestershire Police who refused the request based on the risk of harm this would cause to the victims. This was appealed by the journalist with the Information Commissioner and we were overruled. A non-police professional then reviewed the information and agreed that it would pose a risk to the victims and supported our submission and the information was not disclosed.

Legally freedom of information needs to be transparent vs victims right to anonymity and safeguarding. Should suspects who are not convicted be named in investigations prior to any trial or public hearings?

- The FOI law came into force in 2005. Since its introduction Leicestershire Police have had only 10,000 requests. This is increasing over 20% every year. This has equated to 80,000 operational staff hours and 3333 days spent dealing with FOI requests. 75% of requests are from journalists and academics. Only a small proportion are from the public themselves. We have to provide this information by law but should the police be charging for this information? Is it used just for negative judgements of the Police as positive new stories/ statistics are not readily requested.

Fairness in the workplace

- Police officers can often be the subject of complaints for carrying out their duties with members of the public. When complaints are made they are assessed by the Professional Standards Dept who will review the nature of the allegation and allocate the complaint for investigation. Per regulations sometimes officers have to be served with misconduct or gross misconduct paperwork whilst the investigation is completed. This can often take months to resolve.

If an officer who has been served papers wants to apply to get promoted or applies for a temporary supervisory position should they be considered? Or should they have to wait until its formally been resolved irrespective of the outcome? They may be fully exonerated of any allegation or the allegation could instigate full misconduct proceedings.

- Following a Police Complaint being made a member of staff attends a misconduct meeting and is given a written warning that will remain on their file for 12 months. The officer then seeks a move under career pathways but is informed that due to the written warning they will not be allowed to move until the written warning has expired.

Is this a case of double punishment for the officer and the process challenged?

Is the written warning the conclusion of the punishment or is it the end date of the warning?

Has the member of staff got grounds for victimisation if they are not allowed to move as part of career pathways?

Disclosure and volume of information

- Serious sexual offences have raised issues of disclosure material within trials. There is an ever increasing number of phone data/ social media information, devices store thousands and thousands of messages and other data. These are not ordinarily reviewed for other offences that go to trial, but do form a large proportion of painting a picture of both victims and suspects in sexual offence trials. The impact of obtaining this data and the relativity of it versus privacy and the human rights of both parties is a question of is it really necessary to review this. Where do we stop looking for undermining material?

The scale of volume of material for large investigations some of which include murder investigations are as follows just to give an indication as to some of the quantity of material reviewed.

• ACTIONS	• STATEMENTS	• EXHIBITS	• NOMINALS
461	165	347	244
1821	461	2017	643
641	170	607	289
219	90	255	207
624	228	372	284
102	30	57	65
548	242	454	339
452	230	197	208
164	59	79	89
369	153	136	255
263	99	190	143
185	35	48	180
366	164	207	237
669	236	695	313
105	70	121	92
1056	385	643	499