

Between:
THE CHIEF CONSTABLE OF
WILTSHIRE POLICE
- and -
FORMER SPC 5477 Sonny WEBB
- and -
FORMER SPC 4189 Tyrone DUNCAN

Appropriate Authority

Officers Concerned

Chair's report giving findings and reasons

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A. Summary of the case

- 1 At the misconduct hearing of 13-14 December 2022, the panel found allegations against former SPC Webb and former SPC Duncan proven.
- 2 On 22 August 2020 SPC Webb and SPC Duncan failed to act diligently and appropriately in dealing with a man who had been assaulted and injured, and with the suspects of the serious assault, resulting in a delay to the police investigation that impaired it. They also failed to properly assist in the police investigation into the incident; and improperly colluded with each other to “get our story straight” about the incident.
- 3 The panel found that SPC Webb and SPC Duncan each breached five of the Standards of Professional Behaviour, that their conduct as a whole amounted to gross misconduct and decided that they would have been dismissed if they had still been police officers.

B. References and abbreviations

- 4 Page numbers mentioned in this report are page numbers of the hearing bundle, unless otherwise stated (such as of the Home Office Guidance of 2020, the College of Policing outcomes guidance).
- 5 In this report:
 - 5.1 “the 2020 Regulations” means the Police (Conduct) Regulations 2020. Reference to a regulation is, unless otherwise stated, to a regulation in the Police (Conduct) Regulations 2020.
 - 5.2 “the 2020 Home Office Guidance” or “the Home Office Guidance” refers to the Home Office Guidance *Conduct, Efficiency and Effectiveness: Statutory Guidance on Professional Standards, Performance and Integrity in Policing* (issued under section 87 and 87A of the Police Act 1996) published on 5 February 2020
 - 5.3 “the College of Policing Code of Ethics” and “Code of Ethics” refers to the College of Policing Code of Ethics: A Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession of England and Wales (issued under section 39A of the Police Act 1996) published in July 2014
 - 5.4 “the College of Policing outcomes guidance” and “the outcomes guidance” refers to the College of Policing *Guidance on outcomes in police misconduct proceedings* (issued under section 87 the Police Act 1996) published on 17 August 2022.
 - 5.5 “the officers concerned” or “the officers” means former SPC Webb and former SPC Duncan
- 6 In this report (or in documents quoted in it) the following abbreviations are used:
 - 6.1 BWV = body worn video
 - 6.2 CCC = crime communication centre *or* command and control centre
 - 6.3 CCTV = closed-circuit television
 - 6.4 CPS = Crown Prosecution Service
 - 6.5 DCI = Detective Chief Inspector
 - 6.6 DEMS = Digital Evidence Management System
 - 6.7 IO = investigating officer
 - 6.8 IPM = independent panel member
 - 6.9 LQC = legally qualified chair
 - 6.10 OIC = officer in the case
 - 6.11 PNB = pocket notebook
 - 6.12 PNC = Police National Computer
 - 6.13 PS = Police Sergeant
 - 6.14 PSD = Professional Standards Department

6.15 SPC = Special Police Constable

6.16 STORM = System for Tasking and Operational Resource Management

C. Status of this report

7 Regulation 43(1) of the 2020 Regulations (as modified in its application to former officers by paragraph 33 of Schedule 1, indicated by strikethrough and underline) provides:

43. Notification of outcome

(1) The person ~~conducting or chairing~~ the misconduct proceedings must, before the end of a period of 5 working days beginning with the first working day after the completion of the misconduct hearing ~~or misconduct meeting~~, submit a report to the appropriate authority or, where functions have been delegated under regulation 26(1), to the originating authority setting out—

- (a) the finding of the ~~person or~~ persons conducting the misconduct proceedings;
- (b) the reasons for that finding;
- (c) ~~any disciplinary action imposed~~; whether disciplinary action for gross misconduct was imposed.
- (d) any direction that the matter be dealt with under the reflective practice review process.

8 This document is the “report” submitted “to the appropriate authority” of regulation 43(1).

9 As the misconduct hearing was completed on Wednesday 14 December 2022, the “5 working days” deadline for submission of this report is the end of Wednesday 21 December 2022.

D. Parties, representatives, panel members and other attendees

10 Regulation 2(1) of the 2020 Regulations provides:

“officer concerned” means the police officer in relation to whose conduct there has been an allegation;

11 The officers concerned in the current case are former SPC 5477 Sonny Webb and former SPC 4189 Tyrone Duncan.

12 As recorded in paragraphs 32-33 of the chair’s summary of the misconduct pre-hearing of 28 November 2022, there was no objection to the proceedings being conducted jointly (under regulation 25(4) or otherwise).

13 At the time of his resignation (with immediate effect) on 23 September 2020 Tyrone Duncan was a Special Inspector, and that happened before “the Wiltshire Police reorganisation which removed the Special Constable rank structure” (page 52) and abolished the rank of Special Inspector, so technically he should be referred to in these proceedings as former Special Inspector Tyrone Duncan. For simplicity, both officers are referred to as “former SPC”.

14 Neither officer attended the misconduct hearing of 13-14 December 2022.

15 At the misconduct pre-hearing of 28 November 2022 the officers were represented by Ms Sarah Barlow, barrister, of Exchange Chambers, as their “relevant lawyer”. PS Philip Matthews of Wiltshire Police Federation also attended the misconduct pre-hearing as the officers’ police friend. Neither Ms Barlow nor PS Matthews attended the misconduct hearing (and no one else attended the misconduct hearing on the officers’ behalf). Neither Ms Barlow nor PS Matthews had indicated that they had ceased to act for the officers. Therefore, the most accurate description of the officers’ situation regarding representation is that they were unrepresented *at the misconduct hearing*.

16 The appropriate authority is the Chief Constable of Wiltshire Police, who was represented during the proceedings, including at the misconduct pre-hearing of 28 November 2022 and the misconduct hearing, by counsel, Ms Alice Meredith, barrister of 5 Essex Court, who is a “relevant lawyer” as defined in regulation 2(1).

17 The Legally Qualified Chair (LQC) was Mr Adrian Phillips, the author of this report.

18 The senior police officer panel member at the misconduct hearing was Superintendent Phil Staynings.
19 The independent panel member (IPM) was Ms Adrienne Lintzgy.
20 The Investigating Officer (IO) DC 1993 Steph Brazier attended the misconduct hearing.
21 Mr Simon (Sammy) Bettles, the original Investigating Officer attended the misconduct hearing. For reference, Mr Bettles is mentioned on pages 1 and 352-354.
22 Ms Julie Ridley, PSD investigator, attended the misconduct hearing.
23 Mrs Theresa Katus, Professional Standards Co-ordinator, and Mrs Stephanie Brame, Professional Standards Co-ordinator, attended the misconduct hearing.
24 DCI Helen Jacobs, PSD, attended the misconduct hearing on one day, 13 December 2022.
25 No media representative or member of the public attended the misconduct hearing.

E. Function of a misconduct hearing, and record of hearing

26 The function of a misconduct hearing can be derived from the definitions of “misconduct hearing”, “disciplinary action” and “disciplinary action for gross misconduct” in Regulation 2(1) of the 2020 Regulations (as modified and substituted in its application to former officers by paragraph 1 of Schedule 2, indicated by strikethrough and underline), which are as follows:

“misconduct hearing” means a hearing to which the officer concerned has been referred under regulation 23 to determine whether the conduct of the officer amounts to misconduct or gross misconduct or neither and whether disciplinary action for gross misconduct should be imposed;

“disciplinary action” means, in order of seriousness starting with the least serious action—

- (a) a written warning;
- (b) a final written warning;
- (c) reduction in rank, or
- (d) dismissal without notice;

“disciplinary action for gross misconduct” means a finding that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable;

27 The misconduct hearing was held on 13-14 December 2022 at Wiltshire Police Headquarters, London Road, Devizes, Wiltshire SN10 2DN.
28 The misconduct hearing was audio recorded. The audio recording stands as the verbatim record of the misconduct hearing under regulation 44(1).

F. Misconduct pre-hearing

29 In this case, a misconduct pre-hearing was held by Microsoft Teams on 28 November 2022.
30 Regulation 33(15) of the 2020 Regulations provides that:

Within the period of 5 working days beginning with the date of the misconduct pre-hearing, the chair must serve on the parties a summary of the key matters discussed and a record of any directions issued.

31 On 29 November 2022 the chair served on the parties that summary and record of directions in respect of the misconduct pre-hearing of 28 November 2022. The summary runs to 116 paragraphs over 10 pages.
32 In accordance with regulation 33(6), the misconduct pre-hearing was conducted in private. By extension, I consider that my summary of it is private between the parties.

G. Publicity notice, public hearing

33 As recorded in paragraph 110 of the summary of the misconduct pre-hearing, the chair directed (pursuant to regulation 36(1)) that the appropriate authority give notice of the misconduct hearing in a specific form.

- 34 In accordance with regulation 36(2), the appropriate authority published notice of the misconduct hearing on the “Upcoming misconduct hearings” webpage of its website at:

<https://www.wiltshire.police.uk/police-forces/wiltshire-police/areas/misconduct/upcoming-misconduct-hearings/>

- 35 The publicity notice read as follows:

Misconduct hearing: SPC Sonny Webb and former SPC Tyrone Duncan

Notice of misconduct hearing: 13th December 2022

On 13 December 2022 at 10.00am at Wiltshire Police Headquarters, London Road, Devizes, Wiltshire SN10 2DN a misconduct hearing under the Police (Conduct) Regulations 2020 will take place in relation to former SPC 5477 Sonny Webb and former SPC 4189 Tyrone Duncan. These are joint misconduct proceedings. The allegations against each officer are similar and relate principally to the same incident on 22 August 2020.

It is alleged that each officer has breached the Standards of Professional Behaviour for police officers, specifically the standards of:

- 1. Authority, Respect and Courtesy;
- 2. Orders and Instructions;
- 3. Duties and Responsibilities;
- 4. Honesty and Integrity; and
- 5. Discreditable conduct.

It is alleged that on 22 August 2022 SPC Webb (who was then a special constable) and former SPC Duncan (who was then a special inspector):

failed to act diligently and appropriately in dealing with a man who had been assaulted and injured, and with the suspects of the serious assault, resulting in a delay to the police investigation that impaired it.

failed to properly assist in the police investigation into the incident; and

improperly colluded with each other to “get our story straight” about the incident.

And it is contended that (if proven) the allegations amount to gross misconduct.

The hearing will be in public and will chaired by Mr Adrian Phillips, the Legally Qualified Chair (LQC). Any written legal representations should be made in writing to the LQC c/o Ms Stephanie Brame, PSD Co-ordinator at Wiltshire Police Headquarters, London Road, Devizes, Wiltshire SN10 2DN by 4pm on 6 December 2022.

- 36 Paragraph 111 of the summary of the misconduct pre-hearing of 28 November 2022 said:

111 Pursuant to Regulation 36(6) of the 2020 Regulations, the chair specifies the date and time of 4pm on 6 December 2022 as the time by which any written representations made in accordance with Regulation 36(3) and 36(5) must be provided.

- 37 By the deadline of 4pm on 6 December 2022, and indeed by the beginning (and end) of the misconduct hearing, the chair had not received any written representations made in accordance with regulation 36(3) or 36(5).

- 38 Paragraph 107 of the summary of the misconduct pre-hearing of 28 November 2022 said:

107 There is no equivalent in the Police (Conduct) Rules 2020 to the Civil Procedure Rules rule 5.4C (“Supply of documents to a non-party from court records”) paragraph (1)(a) which gives a person who is not a party to civil proceedings (e.g. a media representative or a member of the public) the right to obtain from court records a copy of the statements of case, or rule 32.13 (“Availability of witness statements for inspection”) paragraph (1) which similarly gives a public right of inspection to any witness statement confirmed by a witness in a civil hearing.

108 The misconduct hearing in this case will be conducted on the understanding that a reference in the public hearing to a document or to a page in a document would not automatically lead to that document or page being made public (so only the words read out aloud from a document automatically become public).

39 In accordance with regulation 39(1), the misconduct hearing was in public.

40 The record of the misconduct hearing (referred to at paragraph 28 above) is not available to the public.

H. Decision to proceed in the officers' absence

41 Neither officer attended the misconduct hearing.

42 Regulation 37(3)(b) of the 2020 Regulations says:

the proceedings may be proceeded with and concluded in the absence of the officer concerned whether or not the officer is so represented.

43 There is no equivalent in the Police (Conduct) Rules 2020 to the Magistrates' Courts Act 1980, section 122 ("Appearance by counsel or solicitor") sub-section (2), whereby an absent party who is represented in a magistrates' court by a legal representative is "deemed not to be absent". Therefore, the presence in a misconduct hearing of the police friend or legal representative (or both) of an officer does not lead to the officer being deemed present. Nevertheless, the presence of an officer's representative is a factor to be taken into consideration when deciding whether to proceed in the officer's absence. In the current case, the legal representative and police friend of the officers were also absent.

44 The panel decided to proceed with the misconduct hearing in the officers' absence (and not wait or adjourn the hearing), for the following reasons:

44.1 On 3 October 2022 (page 23, duplicated at page 49; paragraph 36 of the pre-hearing summary) the officers were given notice of the date, time and place of the misconduct hearing on the Regulation 30 Notice (at pages 21 and 48), albeit with the earlier start time of 9.30am, in compliance with regulation 35(1) of the 2020 Regulations.

44.2 The notices informed each officer of his right to legal representation under regulation 8(1)-8(3) of the 2020 Regulations, which complies with regulation 41(2) of the 2020 Regulations.

44.3 The officers were legally required to attend the misconduct hearing under regulation 37(1) of the 2020 Regulations.

44.4 The email of police friend PS Philip Matthews dated 25 October 2022 at 09:21 at page 24 (duplicate at page 50) says:

I am aware that the regulation 31 Responses for Webb / Duncan are due today. I can confirm that they will not be submitting any and as both are resigned as specials and have no intention of re joining policing in any capacity, They are not going to engage with the process and if it need continue, it will be in their absence.

44.5 The officers had not attended the misconduct pre-hearing of 28 November 2022, despite being entitled to attend under regulations 33(5)(a) and 33(1)(b)(i).

44.6 The officers had consciously and deliberately decided not to attend the misconduct hearing, and had done so with the benefit of legal advice being available to them.

44.7 The other participants were in attendance and ready to proceed on 13 December 2022.

44.8 The appropriate authority wished to proceed in the officers' absence

44.9 There was no application to postpone or adjourn the misconduct hearing.

44.10 Delaying or adjourning the hearing would achieve nothing.

45 The decision to proceed in the officers' absence was made on the basis that if one or both subsequently arrived before the point at which the panel retired to review the facts of the case under regulation 41(15) of the 2020 Regulation, the panel would review the situation.

I. Allegations against former SPC Webb

46 The details of the allegations against former SPC Webb are set out in the Regulation 30 Notice served on 3 October 2022 (pages 45-48) as follows:

[page 46]

It is alleged that your conduct fell below the Standards of Professional Behaviour, in that:

1. On 22 August 2020 you, along with two other special constables, attended in uniform and in a marked police vehicle at the scene of an incident of grievous bodily harm.
2. At the time of your arrival, the victim, and all parties who had been involved in the altercation, were still present at the scene.
3. The victim was visibly injured and stated that he had been assaulted.
4. Neither you nor your fellow officers took adequate positive action in relation to the incident, and in particular:
 - i. None of the suspects were arrested.
 - ii. None of the suspects' details were recorded.
 - iii. No statement was obtained from the victim.
 - iv. No steps were taken to document the victim's injuries.
 - v. No steps were taken to ensure that the victim received medical attention or appropriate care.
 - vi. No witnesses details were obtained and recorded, and no witness statements taken.
 - vii. No PNC checks were conducted on the suspects, victim or victim's friend.
 - viii. No steps were taken to obtain vehicle dashcam footage.
 - ix. BWV was not used.
5. Neither you nor either of your fellow officers made any contemporaneous report of the incident to the Control Room or otherwise.
6. Neither you nor either of your fellow officers informed other colleagues of the incident, or requested assistance in responding to it, or locating the vehicle the suspects had left in.
7. Neither you nor either of your fellow officers made any record of the incident, or requested that any record be made, on a STORM control log, on a NICHE occurrence report, or on other police systems.
8. You did not make any entry in your PNB in relation to the incident.
9. Your failure to take action in response to the incident was in breach of your training, guidance and instructions, and in breach of the victim code.
10. As a result of your inaction, the police investigation into the matter did not commence at the time, or at all until the victim later independently made a report to police. This resulted in a significant delay to the investigation, which greatly inhibited investigative opportunities.

[page 47]

11. When you became aware that the incident was being investigated by other police officers, you did not contact them and inform them of your involvement or provide any information to them. You did not provide a statement for the purposes of the criminal investigation or prosecution.
12. Following the incident, you participated in messages on WhatsApp with ex-SPC Duncan discussing what you would say had happened during the incident if asked about it. You sent messages including:

- i. “But just say he was intoxicated and did I [sic] want to make a complaint on the night”
- ii. “We need to get our story straight”
- iii. “Just say he wouldn’t engage at all”
- iv. We deffo need to do a statement / To put our point across before they come to u”
- v. “You’ve looked at the niche / Can hardly plead ignorance”

Breaches of the Standards of Professional Behaviour

1. It is alleged that your actions above were in breach of the Standards of Professional Behaviour:
 - i. Your conduct was in breach of the Standard of Authority, Respect and Courtesy. You failed to carry out your role and responsibilities in an efficient diligent and professional manner, and failed to support the victim, and to treat either the victim of the incident, or your colleagues who later investigated the incident, with respect and courtesy.
 - ii. Your conduct was in breach of the Standard of Orders and Instructions. You failed to follow orders and instructions in relation to responding to an incident.
 - iii. Your conduct was in breach of the Standard of Duties and Responsibilities. In your failure to take appropriate action in relation to the incident, at the time or subsequently, you failed to act diligently in the exercise of your duties and responsibilities, and failed to carry out your duties and obligations to the best of your ability. You failed to keep proper records of your actions.
 - iv. Your conduct was in breach of the Standard of Honesty and Integrity. In failing to take appropriate action in response to the incident, you failed to act with integrity. When you became aware that the incident was being investigated, you failed to act with honesty or integrity.
 - v. Your conduct was in breach of the Standard of Discreditable Conduct. Your conduct could discredit the police service and undermine public confidence in policing.
2. Your conduct as set out above, taken individually or together, constituted a breach of the Standards of Professional Behaviour specified and was so serious as to amount to gross misconduct.

It is considered that this conduct amounts to Gross Misconduct.

J. Allegations against former SPC Duncan

- 47 The details of the allegations against former SPC Duncan are set out in the Regulation 30 Notice served on 3 October 2022 (pages 18-22) as follows:

[page 19]

It is alleged that your conduct fell below the Standards of Professional Behaviour, in that:

1. On 22 August 2020 you, along with two other special constables, attended in uniform and in a marked police vehicle at the scene of an incident of grievous bodily harm.
2. At the time of your arrival, the victim, and all parties who had been involved in the altercation, were still present at the scene.
3. The victim was visibly injured and stated that he had been assaulted.
4. Neither you nor your fellow officers took adequate positive action in relation to the incident, and in particular:
 - i. None of the suspects were arrested.
 - ii. None of the suspects’ details were recorded.
 - iii. No statement was obtained from the victim.
 - iv. No steps were taken to document the victim’s injuries.
 - v. No steps were taken to ensure that the victim received medical attention or appropriate care.

- vi. No witnesses details were obtained and recorded, and no witness statements taken.
- vii. No PNC checks were conducted on the suspects, victim or victim's friend.
- viii. No steps were taken to obtain vehicle dashcam footage.
- ix. BWV was not used.
- 5. Neither you nor either of your fellow officers made any contemporaneous report of the incident to the Control Room or otherwise.
- 6. Neither you nor either of your fellow officers informed other colleagues of the incident, or requested assistance in responding to it, or locating the vehicle the suspects had left in.
- 7. Neither you nor either of your fellow officers made any record of the incident, or requested that any record be made, on a STORM control log, on a NICHE occurrence report, or on other police systems.
- 8. You did not make a full or dated entry in your PNB in relation to the incident. Your PNB contains an entry recording only the name of the victim and his friend, and their addresses. The entry is undated and untimed, and there is no evidence as to whether it was recorded contemporaneously. It does not contain any other details of the incident, or details of the suspects. You did not enter the information from your PNB into police systems.
- 9. Your failure to take action in response to the incident was in breach of your training, guidance and instructions, and in breach of the victim code.

[page 20]

- 10. As a result of your inaction, the police investigation into the matter did not commence at the time, or at all until the victim later independently made a report to police. This resulted in a significant delay to the investigation, which greatly inhibited investigative opportunities.
- 11. When you became aware that the incident was being investigated by other police officers, you did not contact them and inform them of your involvement or provide any information to them. You did not provide a statement for the purposes of the criminal investigation or prosecution.
- 12. Following the incident, you participated in messages on WhatsApp with ex-SPC Webb discussing what you would say had happened during the incident if asked about it. You sent messages including:
 - i. "Yeah we'll say he wasn't engaging"
 - ii. "I reckon leave it and don't get involved"
 - iii. "I reckon don't do one [a statement] / And wait for them to come to us"
 - iv. "I reckon leave it and plead ignorant"
- 13. At the time of the incident you were a Special Inspector.

Breaches of the Standards of Professional Behaviour

- 1. It is alleged that your actions above were in breach of the Standards of Professional Behaviour:
 - i. Your conduct was in breach of the Standard of Authority, Respect and Courtesy. You failed to carry out your role and responsibilities in an efficient diligent and professional manner, and failed to support the victim, and to treat either the victim of the incident, or your colleagues who later investigated the incident, with respect and courtesy.
 - ii. Your conduct was in breach of the Standard of Orders and Instructions. You failed to follow orders and instructions in relation to responding to an incident.
 - iii. Your conduct was in breach of the Standard of Duties and Responsibilities. In your failure to take appropriate action in relation to the incident, at the time or subsequently, you failed to act diligently in the exercise of your duties and

- responsibilities, and failed to carry out your duties and obligations to the best of your ability. You failed to keep proper records of your actions.
- iv. Your conduct was in breach of the Standard of Honesty and Integrity. In failing to take appropriate action in response to the incident, you failed to act with integrity. When you became aware that the incident was being investigated, you failed to act with honesty or integrity.
- v. Your conduct was in breach of the Standard of Discreditable Conduct. Your conduct could discredit the police service and undermine public confidence in policing.

[page 21]

- 2. Your conduct as set out above, taken individually or together, constituted a breach of the Standards of Professional Behaviour specified and was so serious as to amount to gross misconduct.

It is considered that this conduct amounts to Gross Misconduct.

K. Documents before the panel and witness attending the misconduct hearing

48 In advance of the hearing, the panel members were given two files:

- 48.1 The file <Master Bundle - Webb and Duncan Paginated.pdf>, a PDF file with 494 pages. The table of contents “Page reference guide” at the beginning of the bundle lists the documents within the hearing bundle. Some of the documents are redacted.
- 48.2 The file <Converted, edited and compiled CCTV from exhibit 2593-2408-20 CCTV.mp4>, a silent video file of 7 minutes and 50 seconds in duration.

49 In addition, pursuant to a direction made by the chair at the misconduct pre-hearing of 28 November 2022 (see paragraphs 78-81 of the chair’s summary), the panel had a 25-page opening note on behalf of the appropriate authority, prepared by Ms Meredith, dated 7 December 2022, which was served on the officers’ representatives by email on 8 December 2022 at 01:17.

50 As the officers refused to engage in the process, the contents of the bundle, in the sense of the choice of which documents were included and not included in the bundle were not agreed between the parties. The officers had not even indicated acceptance of the authenticity of the documents in the bundle.

51 During the misconduct hearing, the panel had a copy of the following additional eight documents, which were served on the officers’ representatives by email at the times indicated:

- 51.1 The file <Code of Practice Victims of Crime October 2015.pdf>, a PDF document with 104 pages, *Code of Practice for Victims of Crime* published by the Ministry of Justice in October 2015. Emailed 13 December 2022 at 11:19.
- 51.2 The file <ID photos.pdf>, a one-page PDF document, a clearer version of page 149 of the bundle. Emailed 13 December 2022 at 13:46.
- 51.3 The file <persons.docx>, a one-page Microsoft Word document, a photograph with five named people identified. Emailed 13 December 2022 at 13:46.
- 51.4 The file <CCTV Compilation script.docx>, a two-page Microsoft Word document, giving details about the CCTV footage. Emailed 13 December 2022 at 13:46.
- 51.5 The file <CPS Advice on Case.docx>, a ten-page Microsoft Word document, REPORT TO CROWN PROSECUTOR FOR CHARGING DECISION, form MG3, dated 26/10/2020. Emailed 13 December 2022 at 14:19.
- 51.6 The file <Body Worn Video Procedure v5 (in bundle).doc>, a 21-page Microsoft Word document, dated December 2021, a clearer version of pages 461-481 of the bundle. Emailed 14 December 2022 at 11:21.
- 51.7 The file <Body Worn Video Procedure v3 (3.6).doc>, a 19-page Microsoft Word document, dated June 2019. Emailed 14 December 2022 at 11:21.

51.8 The file <Body Worn Video Procedure (Comparison v3.6 to 5).docx>, a 21-page Microsoft Word document. Emailed 14 December 2022 at 11:21.

52 Any additional documents beyond those in the (first version of the) hearing bundle were allowed to be considered at the proceedings under Regulation 41(11) of the 2020 Regulations.
53 At the stage of considering outcome, the panel had a copy of the following additional two documents, which were served on the officers' representatives by email at the time indicated:

53.1 The file <ANTECEDENTS Webb.docx>, a two-page Microsoft Word document, the record of police service of former SPC Webb. Emailed 14 December 2022 at 15:47.

53.2 The file <ANTECEDENTS Duncan.docx>, a two-page Microsoft Word document, the record of police service of former SPC Duncan. Emailed 14 December 2022 at 15:47.

54 In the misconduct hearing, the panel heard from one witness.

55 On Wednesday 14 December 2022 the panel heard from Investigating Officer DC 1993 Steph Brazier as a witness, giving commentary on the CCTV footage (see paragraph 48.2 above). Paragraphs 59-63 of the summary of the misconduct pre-hearing of 28 November 2022 made provision for DC Brazier to give evidence at the misconduct hearing notwithstanding regulation 39(5) and 39(6) and her attendance for the rest of the misconduct hearing.

L. Response of the officers

56 Following service of the Regulation 30 Notices on the officers on 3 October 2022, the email of police friend PS Philip Matthews dated 25 October 2022 at 09:21 at page 24 (duplicate at page 50) said:

I am aware that the regulation 31 Responses for Webb / Duncan are due today. I can confirm that they will not be submitting any and as both are resigned as specials and have no intention of re joining policing in any capacity, They are not going to engage with the process and if it need continue, it will be in their absence.

57 This response (such as it is) does not comply with Regulation 31.

58 Compliance with regulation 31 is a legal requirement. Regulation 31(1) says "the officer must comply...". Regulation 31(2) says "The officer concerned must give...". Regulation 31(4) says "the officer concerned must...". None of these is optional. However, the reality is that there is no sanction for failure to comply with the regulations.

59 As the Opening Note points out at paragraph 6 (on page 2) and paragraphs 24 and 25(ii)(a) (on page 10), neither officer submitted a short Regulation 31 Response that simply adopted their previous Regulation 18 responses or (in the case of former SPC Duncan) account given in interview.

60 Regulation 41(5) of 2020 Regulations (as modified in relation to former officers by paragraph 31 of Schedule 1, indicated by strikethrough) says:

At the beginning of the misconduct proceedings, the person ~~conducting or~~ chairing the misconduct proceedings must give the officer concerned the opportunity to say whether or not the officer accepts that the officer's conduct amounts to ~~misconduct or gross misconduct, as the case may be.~~

61 At the beginning of the misconduct hearing, the chair put the question required by Regulation 41(5) in the officers' absence as a formality.

M. Principles applicable to fact-finding and decision-making by the panel

62 The onus of proof is on the appropriate authority.

63 The standard of proof to be applied in a misconduct hearing is given by regulation 41(16) of the 2020 Regulations (as modified in its application to former officers by paragraph 31 of Schedule 1, indicated by strikethrough), as follows:

(16) The ~~person or~~ persons conducting the misconduct proceedings must not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless—

(a) they are satisfied on the balance of probabilities that this is the case, ...

64 Guidance on the standard of proof is given at paragraphs 9.10-9.11 (on pages 103-104) of the 2020 Home Office Guidance.

65 Findings of fact in this case were made to the civil standard of proof: the balance of probabilities.

66 The panel relied upon the expertise of the senior police officer member of the panel in considering matters relating to policing.

67 Regulation 41(15) of the 2020 Regulations (as substituted in relation to former officers by paragraph 31 of Schedule 1, indicated by strikethrough) provides:

(15) The ~~person or~~ persons conducting the misconduct proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts—

(a) in the case of a misconduct meeting, to misconduct or not, or

(b) ~~in the case of a misconduct hearing, to misconduct, gross misconduct or neither.~~

68 Regulation 2(1) of the 2020 Regulations (as modified in its application to former officers by paragraph 1 of Schedule 1, indicated by strikethrough and underline) provides:

“misconduct” , other than in regulation 23(2)(a) and the first reference to “misconduct” in regulation 23(2)(b), means a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action not so serious that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable;

69 Regulation 2(1) of the 2020 Regulations (as modified in its application to former officers by paragraph 1 of Schedule 1, indicated by strikethrough and underline) provides:

“gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious ~~as to justify dismissal~~ that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable;

70 The Standards of Professional Behaviour are contained in Schedule 2 to the 2020 Regulations (incorporated by regulation 5). The Standards of Professional Behaviour include the following five standards that the appropriate authority alleges were breached by the officers (in the order in which they appear in Schedule 2):

Honesty and Integrity

Police officers are honest, act with integrity and do not compromise or abuse their position.

Authority, Respect and Courtesy

Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

Police officers do not abuse their powers or authority and respect the rights of all individuals.

Orders and Instructions

Police officers only give and carry out lawful orders and instructions.

Police officers abide by police regulations, force policies and lawful orders.

Duties and Responsibilities

Police officers are diligent in the exercise of their duties and responsibilities.

Police officers have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness.

Discreditable Conduct

Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.

Police officers report any action taken against them for a criminal offence, any conditions imposed on them by a court or the receipt of any penalty notice.

- 71 Paragraph 2.6 (on page 10) of the 2020 Home Office Guidance says:

The Code of Ethics should inform any assessment or judgement of conduct when deciding if formal action is to be taken under the Conduct Regulations.

- 72 The panel considered the College of Policing Code of Ethics (included in the bundle at pages 384-411), which includes the following paragraphs of relevance to the allegations against former SPC Webb and former SPC Duncan (quoted in the order in which they appear in the guidance):

[page 3]

Policing principles

Integrity

You always do the right thing.

[page 5]

1 Honesty and integrity

1.1 According to this standard you must:

- act with honesty and integrity at all times

...

Examples of meeting this standard are when you:

- are sincere and truthful
- show courage in doing what you believe to be right

...

- do not knowingly make false, misleading or inaccurate oral or written statements in any professional context

[page 6]

2 Authority, respect and courtesy

2.1 According to this standard you must:

- carry out your role and responsibilities in an efficient, diligent and professional manner
- avoid any behaviour that might impair your effectiveness or damage either your own reputation or that of policing

...

Examples of meeting this standard are when you:

- recognise the particular needs of victims and witnesses for policing support
- step forward and take control when required by the circumstances

...

[page 9]

5 Orders and instructions

...

- 5.4 Any decision to not obey orders or follow instructions, or that transgresses policing policies and other guidance, must be able to withstand scrutiny.

[page 10]

6 **Duties and responsibilities**

6.1 According to this standard you must:

- carry out your duties and obligations to the best of your ability
- take full responsibility for, and be prepared to explain and justify, your actions and decisions

...

Examples of meeting this standard are when you:

...

- support your colleagues, to the best of your ability, in their work

...

- ensure that accurate records of your actions are kept – both as good practice and as required by legislation, policies and procedures

[page 13]

9 **Conduct**

9.1 As a police officer, member of police staff or other person working for the police service, you must keep in mind at all times that the public expect you to maintain the highest standards of behaviour. You must, therefore, always think about how a member of the public may regard your behaviour, whether on or off duty.

9.2 You should ask yourself whether a particular decision, action or omission might result in members of the public losing trust and confidence in the policing profession.

Examples of meeting this standard are when you:

...

- avoid any activities (work-related or otherwise) that may bring the police service into disrepute and damage the relationship of trust and confidence between the police and the public
- comply with the National Crime Recording Standard
- avoid any activities that may compromise your or any colleague's position in policing or compromise a police operation

73 Regulation 4(9) provides:

- (9) Where an appropriate authority is considering more than one allegation in relation to the same police officer, or person in relation to whom these Regulations apply by virtue of paragraph (2), the allegations may be taken together and treated as a single allegation for the purposes of any provision of these Regulations which requires a person to make an assessment, finding, determination or decision in connection with conduct which is the subject matter of an allegation.

74 The 2020 Home Office Guidance has a section headed "CASES INVOLVING MORE THAN ONE ALLEGATION" at paragraphs 7.78-7.80 (on page 72) and a section headed "MULTIPLE FINDINGS OF MISCONDUCT" at paragraph 11.132 (on pages 140-141).

75 The effect of regulation 4(9) and paragraphs 7.78-7.80 and 11.132 is that the panel may, as it sees fit (and regardless of how the allegations are itemised in the Regulation 30 Notice), when it considers if a particular Standard of Professional Behaviour has been breached by a particular officer concerned, make one (combined) finding or make more than one finding that that Standard of Professional Behaviour has (or has not) been breached in particular ways or in particular respects.

76 The effect of regulation 4(9) and paragraphs 7.78-7.80 and 11.132 is that the panel may, as it sees fit (and regardless of how the allegations are itemised in the Regulation 30 Notice), when it determines if the conduct of a particular officer amounts to misconduct, gross misconduct or neither, just make one global finding or just make separate findings or make both separate findings and a global finding.

77 Regulation 4 (“Application”) and regulation 2 (“Interpretation and delegation”) taken together indicate that conduct a former police officer has engaged in since ceasing to be a police officer may not be used as the basis of police disciplinary proceedings. To explain:

78 Regulation 2(1) provides:

“police officer” means a member of a police force or special constable;

79 In Schedule 1 (“Modifications to these Regulations in their application to former officers”), paragraph 1 (“Modification to regulation 2 (interpretation and delegation)”) provides, at paragraph 1(a)([x]i)

for the definition of “police officer”, except in its application to regulations 4, 7 and 8, there were substituted—

““police officer” and “officer” mean a person who has ceased to be a member of a police force or a special constable;”;

80 The exception about regulation 4 means that regulation 4 can simply be read as it is.

81 Regulation 4(1) provides:

Subject to paragraph (6), these Regulations apply where an allegation comes to the attention of an appropriate authority which indicates that the conduct of a police officer may amount to misconduct, gross misconduct or practice requiring improvement.

82 “the conduct of a police officer” means conduct of a person who is currently a police officer.

83 Regulation 4(2) allows for allegations to be considered regarding “the conduct of a person who at the time of the alleged conduct was a police officer” if one of three conditions (“A, B or C”) is satisfied.

84 There is no provision for allegations to be considered in relation to a person who is no longer a police officer with respect to conduct that occurred when he was not a police officer (i.e. before becoming a police officer or since ceasing to be a police officer).

N. Findings of fact and decisions

85 Sonny Webb resigned with immediate effect on 23 September 2020. Tyrone Duncan resigned with immediate effect on 29 September 2020. As explained at paragraphs 73 to 84 above, conduct that post-dates these resignations cannot be the basis of primary allegations against the officers, although it can be used (carefully) as evidence relating to earlier events, and when considering the purpose of the police conduct regime “to maintain public confidence in, and the reputation of, the police service” (page 4 of the outcomes guidance) and “the importance of maintaining public confidence in and respect for the police service” (page 34 of the outcomes guidance), and when considering any personal mitigation that post-dates the resignations.

86 This case arises from an incident on 22 August 2020 in the early hours of the morning in Chippenham. The officers were on patrol in police van and noticed an incident at a petrol station as they drove past. They turned around and turned into the petrol station.

87 The officers were faced initially with a chaotic situation with five people: one, Mr Tobias Rendell, who was drunk and his friend, who had arrived together in a taxi. And three other men who had arrived in another taxi and who the officers allowed to leave two minutes after their police van pulled up.

88 If nothing else untoward had happened then at this point the officers’ conduct up to this point could perhaps be described as poor performance in a confusing situation and explained as flowing from their training not being extensive or up-to-date, but their failure then that evening

to conduct basic enquiries, keep records and log the incident and their treatment of the victim was so inadequate that it was an issue of conduct and not performance.

89 Mr Rendell said “I spoke with the Officers and told them what had happened. I asked them to help me” (page 91).

90 The panel found the factual allegations, which were not challenged by the officers in their Regulation 31 Responses or in the misconduct hearing, proven in full. To the extent to which there are discrepancies between the evidence of Mr Tobias Rendell and the officers, the panel preferred the evidence of Mr Rendell.

91 Specific aspects of the evidence found by the panel are as follows:

92 The witness statement of DC 2260 James Fry dated 20 January 2022 says, at page 100:

The officers shown in these pictures and subsequently labelled are known to me as SPC Sonny Webb and SPC Tyrone Duncan.

93 This links the officers to the scene at the time.

94 Former SPC Duncan said in his Regulation 18 response at page 11:

Now having a proper look at the 2 males, I could see that RENDELL had a small cut underneath his right eye. The cut wasn’t swollen or bruised, but it was clear that it was a fresh injury.

95 On 24 February 2022 Wiltshire Police conducted an interview under investigation (regulation 20) of former SPC Tyrone Duncan. The record of interview (MG15), which begins at page 112, says on page 117:

0949	1993	When you were at scene Mr. Tobias RENDELL was identified as a victim, yeah. He said he’d been assaulted.
	R	Yes.
	1993	So he’s classed as a victim yeah, okay. ...

96 In saying this, former SPC Tyrone Duncan accepted that he knew at the time that Mr Tobias Rendell had been assaulted.

97 The officers subsequently became aware of an appeal on Facebook on 24 August 2020 for witnesses to the incident (page 310) but chose to ignore it.

98 The officers discussed giving false and misleading information to the investigators (page 73-75), which was dishonest. Webb said to Duncan “We need to get our story straight” (pages 47, 74, 79, 129, 167) and they colluded.

99 The officers’ failures to log the incident delayed the subsequent investigation. The officers refused to provide police statements regarding the incident (page 70, 95). This made the job of the CPS harder (see REPORT TO CROWN PROSECUTOR FOR CHARGING DECISION referred to at paragraph 51.5 above). Whilst it is impossible to know what would have happened if the officers had co-operated with the criminal prosecution, it is possible that more (or more serious) criminal convictions would have been secured against the three suspects.

100 The panel found that, in doing the things they did, each officer breached five standards of professional behaviour, namely:

100.1 Authority, Respect and Courtesy;

100.2 Orders and Instructions;

100.3 Duties and Responsibilities;

100.4 Honesty and Integrity; and

100.5 Discreditable conduct

in the manner described in the respective Regulation 30 Notice.

101 The panel decides that, taken as a whole, the conduct of each officer amounts to gross misconduct, that is, a breach of the Standards of Professional Behaviour that is so serious that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable.

O. Principles applicable to considering outcome

102 Regulation 42(1)(a) of the 2020 Regulations (modified in relation to former officers by paragraph 32 of Schedule 1, indicated by strikethrough and underline) provides:

42. Outcome of misconduct ~~proceedings~~ hearing

(1) The persons ~~conducting or chairing misconduct proceedings~~ a misconduct hearing may, subject to the provisions of this regulation—

(a) ~~impose any disciplinary action mentioned in paragraph (2) or (3) as appropriate...~~ where they find the conduct amounts to gross misconduct, impose disciplinary action for gross misconduct...

103 Regulation 42(14)(a) of the 2020 Regulations (modified and renumbered as regulation 42(2)(a) in relation to former officers by paragraph 32 of Schedule 1, indicated by strikethrough and underline) provides:

~~(14)(2)~~ Where the question of disciplinary action for gross misconduct is being considered, the ~~person or~~ persons considering it—

(a) must have regard to the record of police service of the officer concerned as shown on the officer's personal record;

104 At this stage of the hearing, the appropriate authority provided the panel with a copy of the officers' record of police service (see paragraph 53 above) and the panel had regard to it.

105 In accordance with regulation 42(14)(c)(iii) (renumbered as regulation 42(2)(c)(iii)), the panel heard further oral submissions from Mr Meredith at this stage of the hearing.

106 There were no further written submissions from the officers. In compliance with regulation 42(14)(c)(ii) (renumbered as regulation 42(2)(c)(ii)), the panel would have invited further oral submissions from Ms Barlow or PS Matthews at this stage of the hearing if either had been present.

107 The 2020 Home Office Guidance says, at paragraph 11.116 (on page 139):

In determining an appropriate outcome at a misconduct hearing, the panel must consider and have due regard to “Guidance on outcomes in police misconduct proceedings” issued by the College of Policing pursuant to section 87 of the Police Act 1996.

108 Although the Home Office Guidance published in February 2020 was primarily referring to the College of Policing “Guidance on outcomes in police misconduct proceedings” published in October 2017, it also says “Check for updates.” (page 91, footnote 20), so can reasonably be interpreted as also referring to any current version of the “Guidance on outcomes in police misconduct proceedings”.

109 When considering outcome, the panel took into account the College of Policing outcomes guidance (the version published on 17 August 2022).

110 At section 4 (on page 15), the outcomes guidance cites the case *Fuglers LLP v Solicitors Regulation Authority* [2014] EWHC 179 (Admin) and says:

As Mr Justice Popplewell explained, there are three stages to determining the appropriate sanction:

- assess the seriousness of the misconduct
- keep in mind the purpose of imposing sanctions
- choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

- 111 (Identical guidance was contained at paragraph 4.2 (on page 12) of the 2017 outcomes guidance.)
- 112 This guidance is repeated at section 7 (on page 37) of the outcomes guidance (and was repeated at paragraph 7.2 (on page 29) of the 2017 outcomes guidance).
- 113 The College of Policing outcomes guidance says, at section 4 (on page 15):

Assess the seriousness of the proven conduct, by reference to:

- the officer's culpability for the misconduct
- the harm caused by the misconduct
- the existence of any aggravating factors
- the existence of any mitigating factors

- 114 (Identical guidance was contained at paragraph 4.4 (on page 12) of the 2017 outcomes guidance.)
- 115 Pages 17 and 30 caution against "double counting" (as paragraph 4.55 (on page 21) and paragraph 4.69 (on page 24) of the 2017 outcomes guidance did).

P. Assessing seriousness – Culpability

- 116 Page 16 of the College of Policing outcomes guidance says, (as paragraphs 4.11-4.12 (on page 13) of the 2017 outcomes guidance did):

Conduct that is intentional, deliberate, targeted or planned will generally be more culpable than conduct that has unintended consequences, although the consequences of an officer's actions will be relevant to the harm caused.

Where harm is unintentional, culpability will be greater if the officer could reasonably have foreseen the risk of harm.

- 117 The panel concluded that the officers are culpable for their behaviour.

Q. Assessing seriousness – Harm

- 118 The officers actions hindered a criminal investigation. If the officers had co-operated with the criminal prosecution, it is possible that more (or more serious) criminal convictions would have been secured against the three suspects.
- 119 The officers' conduct, if known by the public, would be liable to undermine confidence in policing and cause reputational harm.

R. Assessing seriousness – Aggravating factors

- 120 The College of Policing outcomes guidance says, on page 29:

Factors which indicate a higher level of culpability or harm include:

- premeditation, planning, targeting or taking deliberate or predatory steps
- malign intent, such as sexual gratification, financial gain or personal advantage
- abuse of trust, position, powers or authority
- deliberate or gratuitous violence or damage to property
- concealing wrongdoing in question and/or attempting to blame others
- regular, repeated or sustained behaviour over a period of time
- continuing the behaviour after the officer realised, or should have realised, that it was improper
- serious physical or psychological impact on the victim
- vulnerability of the victim
- multiple victims
- additional degradation – for example, taking photographs as part of a sexual offence
- any element of unlawful discrimination
- significant deviation from instructions, whether an order, force policy or national guidance
- failure to raise concerns or seek advice from a colleague or senior officer

- scale or depth of local or national concern about a particular issue
- leadership responsibility, where there is an expectation of acting as a role model
- multiple proven allegations and/or breaches of the Standards of Professional Behaviour

121 With one exception (which is not relevant in the current case) these factors are identical to those listed in the 2017 outcomes guidance at paragraph 4.67 (on page 23). For reference, the one exception is the addition in the 2022 outcomes guidance of the aggravating factor:

- leadership responsibility, where there is an expectation of acting as a role model

122 Of these factors, the panel finds the following are applicable in this case:

- premeditation, planning... or taking deliberate ...steps
- in relation to the discussion about giving false and misleading information
- ... sustained behaviour over a period of time
- continuing the behaviour after the officer realised, or should have realised, that it was improper
- failure to raise concerns or seek advice from a colleague or senior officer
- leadership responsibility, where there is an expectation of acting as a role model

In relation to Tyrone Duncan, who was a Special Inspector

- multiple proven allegations and/or breaches of the Standards of Professional Behaviour

S. Assessing seriousness – Mitigating factors

123 The College of Policing outcomes guidance says, on pages 30-31:

Factors indicating a lower level of culpability or harm include:

- misconduct confined to a single episode or brief duration
- the officer's involvement in the misconduct being limited in extent
- any element of provocation, threat or disturbance that may have affected the officer's judgement – for example, in relation to the use of force in the heat of the moment
- acting pursuant to a legitimate policing purpose or in good faith (ie, a genuine belief that there was a legitimate purpose but getting things wrong)
- mental ill health, disability, medical condition or stress that may have affected the officer's ability to cope with the circumstances in question
- whether the officer was required to act outside their level of experience and/or without appropriate training or supervision
- open admissions at an early stage
- early actions taken to reduce the harm caused
- evidence of genuine remorse, insight and/or accepting responsibility for one's actions.

124 With a few very minor textual differences, the same factors were listed in the 2017 outcomes guidance paragraph 4.71 (on page 24).

125 In relation to the mitigating factor

- whether the officer was required to act outside their level of experience and/or without appropriate training or supervision

the panel finds that whilst Wiltshire Police's record-keeping of the training actually received by each officer, the system of continuing professional development (CPD) for special constables and the quality assurance/performance management (e.g. checking that special constables continue to perform to standard) could have been better, the officers' training understanding of basic concepts such as the "golden hour" was sufficient for this mitigating factor not to apply to them.

T. Personal mitigation

126 Guidance on personal mitigation is given at section 6 of the outcomes guidance.

127 The officers put forward no personal mitigation.

128 As mentioned at paragraphs 103 to 104 above, the panel had the officers' record of police service.

U. Purpose of imposing sanctions

129 The College of Policing outcomes guidance says, at section 2 (on page 4):

When determining the appropriate outcome to impose, consider the purpose of police misconduct proceedings.

The purpose of the police misconduct regime is threefold:

1. to maintain public confidence in, and the reputation of, the police service
2. to uphold high standards in policing and to deter misconduct
3. to protect the public.

130 (Identical guidance was contained at paragraphs 2.2-2.3 (on page 4) of the 2017 outcomes guidance.)

131 The 2020 Home Office guidance lists these “three over-arching purposes for police disciplinary proceedings” at paragraph 4.26 (on page 28).

132 In determining the appropriate outcome to impose, the panel considered the purpose of police misconduct proceedings.

V. Finding on outcome

133 As mentioned in paragraph 13 above, at the time of the incident of 22 August 2020 and at the time of his resignation (with immediate effect) on 23 September 2020, Tyrone Duncan was a Special Inspector. However, there was subsequently “the Wiltshire Police reorganisation which removed the Special Constable rank structure” (page 52) and abolished the rank of Special Inspector. This means that, had Tyrone Duncan still been a serving officer, he would have held the rank of special police constable (SPC). Therefore, the option of “reduction in rank” in (unmodified) regulation 42(3)(b)(ii) would not have been available at the misconduct hearing on 14 December 2022.

134 The panel considered that no sanction less than dismissal would have been appropriate had Sonny Webb and Tyrone Duncan still been police officers. A final written warning (the only alternative for a police officer of the rank of SPC following a finding of gross misconduct – unmodified regulation 42(3)(b)) would not have been appropriate (even bearing in mind the power of the panel under regulation 42(10) to extend the standard period of a final written warning).

135 The panel imposed on the officers disciplinary action for gross misconduct. In other words, the panel made a finding (in respect of each of Sonny Webb and Tyrone Duncan) that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable.

W. Police Barred List and report to the College of Policing

136 Wiltshire Police will be required to report former SPC Webb and former SPC Duncan to the College of Policing under the Police Act 1996, section 88A (“Duty to report dismissals etc to College of Policing”) in a report containing the information set out in the Police Barred List and Police Advisory List Regulations 2017, Part 2 (“The Barred List”), regulation 3(2).

137 Curiously, the deadline for the appropriate authority to submit its report to the College of Policing is the working day before the chair’s deadline to submit his/her report to the appropriate authority. This is because the appropriate authority’s deadline of “5 working days” under Regulation 3(1) of the Police Barred List and Police Advisory List Regulations 2017 begins on the date of the relevant finding or dismissal (which will be the last day of the misconduct hearing), whereas the chair’s deadline of “5 working days” under Regulation 43(1) of the 2020 Regulations begins with “the first working day after the completion of the misconduct hearing”.

138 Nonetheless, this current report (the Chair’s report) is written in the expectation that Wiltshire Police will at some point send a copy of it to the College of Policing.

139 This report is a convenient place to record what information (if any) I consider, in accordance with regulation 42(16) of the 2020 Regulations (regulation 42(4) after modification of the paragraph numbers by paragraph 32 of Schedule 1), ought to be included in the appropriate

authority's report by virtue of Regulation 3(2)(l) of the Police Barred List and Police Advisory List Regulations 2017.

140 In my opinion, there is no additional information I am aware of that the College of Policing should have in order to consider whether publication of information about SPC Webb and former SPC Duncan "would result in a significant risk of harm to any person (including P)" under regulation 10(4)(c) of the Police Barred List and Police Advisory List Regulations 2017.

X. Right of appeal

141 Paragraph 11.158 (on page 144) of the 2020 Home Office Guidance says:

A police officer has the right to appeal against the finding or outcome of a misconduct hearing to a Police Appeals Tribunal (see Chapter 26 of this guidance on Appeals). The officer must be informed of their right to appeal when notified of the outcome (Regulation 43(2) of the Conduct Regulations).

142 Paragraph 9(1) of the Police Appeals Tribunals Rules 2020 provides:

- (1) Subject to rule 10, a police officer or a former police officer who wishes to appeal to a tribunal must give notice of the appeal before the end of 10 working days beginning with the first working day after the day on which the officer is first supplied with a written copy of the relevant decision.

Y. Publicity, openness, anonymity and redactions

143 See also section "G. Publicity notice, public hearing" at paragraphs 33 to 40 above.

144 Regulation 43(6) of the 2020 Regulations provides:

- (6) Subject to the harm test and to paragraph (10), the person chairing a misconduct hearing must require the appropriate authority or, as the case may be, the originating authority, to publish the report submitted under paragraph (1).

145 I am, therefore, required to require (and do require) the appropriate authority to publish this report under regulation 43(6) of the 2020 Regulations.

146 This report is required by regulation 43(7) and (8) of the 2020 Regulations to be published by the appropriate authority on its website for a period of not less than 28 days as soon as practicable after it receives the report and notifies the officer concerned.

147 Regulation 43(10) of the 2020 Regulations provides:

- (10) The person chairing the misconduct hearing may dispense with the requirement under paragraph (6) to publish the report if in the particular circumstances of the case the person considers it is appropriate to do so on any of the grounds set out in paragraph (9)(a) or (b).

148 I have written this report so as not to include information that I consider should not be made public. For the avoidance of doubt, if I had included more information in the report, then pursuant to regulation 43(10) of the 2020 Regulations, I would have dispensed with the requirement under regulation 43(6) to publish that information on following grounds:

148.1 that redaction is "otherwise in the public interest" (regulation 43(9)(a)(vi)).

149 If either officer concerned exercises his right to appeal under the Police Appeals Tribunals Rules 2020, the appropriate authority will in due course be required to re-publish this report under regulation 26(11)(b) of those Rules.

Adrian Phillips, Legally Qualified Chair

Date: 19 December 2022